BOARD MEETING OF JUNE 28, 2010

C. Kent Conine, Chair

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

Gloria Ray, Vice-Chair
Leslie Bingham Escareño, Member
Tom Gann, Member
Lowell Keig, Member
Juan Muñoz, Member

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

A G E N D A

9:30 a.m.
June 28, 2010

Capitol Extension Auditorium
1100 Congress Avenue
Austin, TX

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

Kent Conine, Chairman

Celebration of June as Home Ownership Month and Announcement of "Lenders of the Year"

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.

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

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

Executive:

Brooke Boston
Board Secretary

a) Presentation, Discussion, and Possible Approval of Board Minute Summary for May 13, 2010

Multifamily Division Items - Housing Tax Credit Program

Robbye Meyer
Dir. Multifamily

b) Presentation, Discussion, and Possible Approval of Housing Tax Credit Extensions

07405	Alamito Terrace	El Paso
07416	Regent I	Beaumont
09019/09703	Timber Village II	Marshall

c) Presentation, Discussion, and Possible Approval of Trustees for the Multifamily Mortgage Revenue Bond Transactions

d) Presentation, Discussion, and Possible Approval of Senior Managing, Co-Senior Managing, Co-Managing and/or Remarketing Agent Investment Banking Firms for Multifamily Mortgage Revenue Bond Transactions

e) Presentation, Discussion, and Possible Approval of Housing Tax Credit Amendments

09313	Hampshire Court	Pasadena
09986	Greenhouse Place Apartments	Houston

HOME

Jeannie Arellano
Dir. HOME

f) Presentation, Discussion, and Possible Approval of the 2009 Single Family Owner-Occupied Housing Assistance, Tenant-Based Rental Assistance, and Homebuyer Assistance Programs Award Recommendations

Owner-Occupied Housing Assistance

2009-0093	Rockwall Housing Development Corporation	Rockwall
2009-0089	City of Beeville	Beeville
2009-0097	City of Queen City	Queen City
2009-0101	City of Bonham	Bonham
2009-0105	City of Deport	Deport

Homebuyer Assistance

2009-0091	City of Whitney	Whitney
2009-0094	City of Paris	Paris
2009-0098	City of Rio Hondo	Rio Hondo
2009-0099	County of Fannin	Fannin

Tenant-Based Rental Assistance

2009-0092	Affordable Housing of Parker County, Inc	Springtown

g) Presentation, Discussion, and Possible Approval of the Owner Occupied Housing Assistance Program for Disaster Relief Award Recommendation

Owner-Occupied Housing Assistance Disaster Relief

2009-0106	City of Lufkin	Lufkin

h) Presentation, Discussion, and Possible Approval of the 2010 Rental Housing Development (RHD) Program Award Recommendation

10502	Luling Senior Housing, Phase II	Luling
10503	Angelina Development	Lufkin
10507	Cherrywood Apartments	West

Community Affairs

Michael DeYoung
Dir. Community Affairs

i) Presentation, Discussion, and Possible Approval of Emergency Shelter Grant Program (ESGP) awards in accordance with the Resolution adopted by the TDHCA Governing Board on May 12, 2010

j) Presentation, Discussion, and Possible Approval of the Section 8 Program 2011 Annual Public Housing Agency (PHA) Plan

k) Presentation, Discussion, and Possible Approval of the Section 8 Program Housing Choice Voucher Administrative Plan

l) Presentation, Discussion, and Possible authorization to release a Request for Application for provision of Services for the Comprehensive Energy Assistance Program (CEAP) and Weatherization Assistance Program (WAP) in the geographic area currently served by Community Action Program Inc.

Housing Trust Fund

Brooke Boston
DED, Community Based Programs

m) Presentation, Discussion, and Possible Approval of the 2010-2011 Housing Trust Fund (HTF) Affordable Housing Match Program NOFA Award Recommendations:

2010-0011	Temenos Community Development Corporation	Houston
2010-0019	Motivation. Education & Training, Inc.	Austin

n) Presentation, Discussion, and Possible Approval of the 2010-2011 Housing Trust Fund (HTF) Rural Housing Expansion Program NOFA Award Recommendations and Authorization to Release NOFA on open cycle basis as needed:

2010-0020	Motivation, Education & Training, Inc.	Austin
2010-0014	Willacy County	Raymondville
2010-0017	Brazos Valley Affordable Housing Corporation	Bryan

o) Presentation, Discussion, and Possible Approval of the Use of Available Additional Funds from Housing Trust Fund

Housing Resource Center

Elizabeth Yevich
Mgr. Housing Resource

p) Presentation, Discussion, and Possible Approval of the Agency Strategic Plan for Fiscal Years 2011-2015

q) Presentation, Discussion, and Possible Approval to submit an application to the U.S. Department of Housing and Urban Development for Rental Assistance Vouchers for Non-Elderly Persons with Disabilities

r) Presentation, Discussion, and Possible Approval of a Request for Proposals (RFP) for a Comprehensive Analysis of Rural and Farmworker Housing and approval for further edits as recommended by the Texas Comptroller of Public Accounts

Texas Homeownership

Eric Pike
Dir. THI

s) Presentation, Discussion, and Possible Approval of a Participating Lender List for Single Family Mortgage Revenue Bond (MRB) Program(s)

Rules

Brooke Boston
DED, Community Based Programs

t) Presentation, Discussion, and Possible Approval to publish a proposed amendment to 10 TAC Chapter 5, Subchapter H, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative, for the, for public comment in the *Texas Register*

ACTION ITEMS

Item 2: Executive

Michael Gerber
Executive Director

a) Presentation, Discussion, and Ratification of the Conciliation Agreement between Texas Low Income Housing Information Service, Texas Appleseed, The State of Texas by and through the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Department of Rural Affairs (TDRA)

Item 3: Appeals

a) Presentation, Discussion, and Possible Action on Multifamily Program Appeals:

Robbye Meyer
Dir. Multifamily

Appeals Timely Filed

b) Presentation, Discussion, and Possible Action for Tax Credit Assistance Program Appeals:

Tom Gouris
DED Housing Programs

Appeals Filed Timely

c) Presentation, Discussion, and Possible Action for Exchange Program Appeals:

Tom Gouris
DED Housing Programs

Appeals Filed Timely

d) Presentation, Discussion, and Possible Action for HOME Program Appeals:

Tom Gouris
DED Housing Programs

Appeals Filed Timely

e) Presentation, Discussion, and Possible Action for Underwriting Appeals:

Brent Stewart
Director, REA

Appeals Filed Timely

f) Presentation, Discussion, and Possible Action for Housing Trust Fund Program Appeals:

Dee Patience
HTF Manager

Appeals Filed Timely

Item 4: Bond Finance

Tim Nelson
Dir. Bond Finance

a) Presentation, Discussion, and Approval of Resolution No. 10-025 authorizing application to the Texas Bond Review Board for reservation of 2010 single family private activity bond authority and approve Resolution No. 10-028 authorizing application to the Texas Bond Review Board to receive unexpended HERA single family private activity bond authority from other issuers

b) Presentation, Discussion, and Approval of No. 10-026 authorizing a range of mortgage interest rates under the First Time Homebuyer Program

c) Presentation, Discussion, and Approval of Resolution No. 10-027 authorizing the Department to enter into a backup warehouse agreement to be used in conjunction with the Department's First Time Homebuyer Program

Item 5: Tax Credit Assistance Program

Lisa Vecchietti
TCAP Administrator

a) Presentation, Discussion, and Possible Approval of a revision to the Tax Credit Assistance Program (TCAP) Policy Supplement with regard to the 75 percent federal expenditure deadline of February 16, 2011

Item 6: Rules

a) Presentation, Discussion, and Possible Approval to publish the proposed repeal of 10 TAC Chapter 53, HOME Investment Partnership Program, and a draft of proposed new 10 TAC Chapter 53, HOME Program Rule for comment in the *Texas Register*

Jeannie Arellano
Dir. HOME

Item 7: Disaster Recovery

Sara Newsom
DED, Emergency
Housing & Disaster

a) Approve Extension under CDBG Contract #706001 related to Rita Round I for Houston-Galveston Area Council of Governments Contract to expire August 31, 2010

b) Approve Action Plan Modification for submission to HUD for Ike/Dolly to correctly reflect Rental Program funds in the amount of $188 Million

c) Presentation, Discussion, and Possible Action to ratify a contract with a consulting firm, as coordinated through the Governor's Office, to perform an Interim Analysis of Impediments to Fair Housing

d) Disaster Recovery Division's Status Report on CDBG and FEMA AHPP Contracts Administered by TDHCA, including update on Ike/Dolly Round II

Item 8: Neighborhood Stabilization Program

Marni Holloway
NSP Manager

a) Presentation, Discussion, and Possible Approval of a Resolution authorizing emergency action by the Director as necessary for execution of the Neighborhood Stabilization Program

Item 9: Multifamily Division Items - Housing Tax Credit Program

Robbye Meyer
Dir. Multifamily

a) Presentation, Discussion, and Possible Approval to Issue a list of Approved Applications (as of June 21) for Housing Tax Credits ("HTC") in accordance with §2306.6724(e) of Texas Government Code

10007	Mexia Gardens	Mexia
10009	Creekside Village	Rowlett
10013	Artisan at Queens Retreat	Mercedes
10014	Artisan at Port Isabel	Port Isabel
10018	Granbury Seniors	Granbury
10020	La Posada del Rey Apts	San Antonio
10022	Presidio Dolores Apts	San Elizario
10023	Burkburnett Pioneer Crossing for Seniors	Burkburnett
10024	Canutillo Palms	El Paso
10026	Silverleaf at Chandler II	Chandler
10027	The Huntington at Greenville	Allen
10028	Pecan Ridge	Texarkana
10031	The Crossing	Beaumont
10033	Sulphur Springs Pioneer Crossing for Seniors	Sulphur Springs
10035	Zion Gardens	Houston
10039	Paris Retirement Village II	Paris
10040	Ashton Senior Village	Schertz
10044	Wynnewood Seniors Housing	Dallas
10045	North Court Villas	Frisco
10050	West Park Senior Housing	Corsicana
10051	Parkway Ranch II	Houston
10058	Guild Park Apts	San Antonio
10059	Westway Place	Corsicana
10061	Magnolia Trails	Magnolia
10062	Willow Bay Apts	Fort Worth
10064	Cypress Gardens	Houston
10075	Vermillion Park	Mesquite

10076	Darson Marie Terrace	San Antonio
10077	Fairways at Sammons Park	Temple
10080	Rolling Meadows	Kemah
10084	Perry Street Apts	Houston
10089	Silver Spring at Chapel Hill	Fort Worth
10090	Silver Spring at Forney	Forney
10092	Silver Spring Grand Heritage	Lavon
10093	Greenhaus at East Side Apts	Dallas
10094	Providence Town Square	Deer Park
10096	The Orchard at Westchase	Houston
10101	Lafayette Park Apts	Houston
10103	Gateway Plaza Apts	Midland
10107	Tenth Street Apts	Borger
10108	Griffith Road Apts	Abilene
10112	Country Village Apts	Mathis
10113	Promenade at Mercer Crossing	Farmers Branch
10114	The Terrace at Haven for Hope	San Antonio
10115	Tuscany Place	Kingwood
10117	Terrell Homes I	Fort Worth
10118	San Juan Square III	San Antonio
10119	Race Street Lofts	Fort Worth
10120	Montabella Senior	San Antonio
10121	Mesquite Place	Pearsall
10122	La Terraza at Lomas del Sur	Laredo
10124	Golden Bamboo Village III	Houston
10125	Costa Tarragona II	Corpus Christi
10126	Auburn Square	Vidor
10128	Ventana Pointe	Houston
10130	Meadow Vista	Weatherford
10131	Guadalupe Crossing	Comfort
10132	Seaside Manor	Ingleside
10134	Champion Homes at Copperridge	Dallas
10135	Champion Homes at Canyon Creek	Brownsville
10136	Evergreen at Richardson	Richardson
10137	Evergreen at Wylie	Wylie
10142	Mason Senior Apartment Homes	Houston
10143	Oak Creek Townhomes	Marble Falls
10150	Woodlawn Ranch Apts	San Antonio
10151	Sunflower Estates	La Feria
10152	Shady Oaks	Austin
10153	Britain Way	Irving
10158	Sedona Ranch	Fort Worth
10160	Creekside Place	New Braunfels
10162	Promontory Pointe	Austin
10169	La Risa	San Antonio
10171	HomeTowne at Garland	Garland
10176	Canyon Square Village	El Paso
10178	Cypress Creek at Fayridge	Houston
10183	Cypress Creek at Four Seasons Farm	Kyle
10184	Cypress Creek at Veterans Memorial	Houston
10186	Mariposa at Calder Drive	Dickinson
10198	Pinnacle at North Chase	Tyler
10200	Hillside West Seniors	Dallas
10202	Brae Estates	Fort Worth
10211	Riverplace Apts	Hooks
10212	Longbridge Apts	Groesbeck
10213	Heritage Square Apts	Wallis
10220	Casa Ricardo	Kingsville
10221	Residences at Rowlett Creek	Garland
10222	Citrus Gardens	Brownsville
10223	Sunset Terrace Senior Village	Pharr
10225	North MacGregor Arms	Houston
10226	Red Oak Apts	Red Oak

10227	Tarrington Court Apts	Houston
10228	Wintersprings Apts	Humble
10229	Hannover Estates	Spring
10232	Evergreen Residences-3800 Willow	Dallas
10233	Kleberg Commons	Dallas
10235	Villas of Giddings	Giddings
10236	Viking Road Apts	Amarillo
10238	Prince Hall Plaza	Navasota
10239	Prince Hall Gardens	Fort Worth
10241	Timberland Trails Apts	Lufkin
10246	Green Briar Village Phase II	Wichita Falls
10250	Willow Meadow Place Apts	Houston
10253	Brookswood Apts	West Columbia
10257	The Colony at Lake Granbury	Granbury
10262	Las Brisas Manor	Del Rio
10266	Travis Street Plaza Apts	Houston
10270	Gateway to Eden	Eden
10271	Hudson Manor	Hudson
10274	Grand Manor Apts	Tyler
10279	Hudson Green	Hudson
10283	Lufkin Pioneer Crossing	Lufkin
10284	Atmos Lofts	Dallas
10289	Comanche Crossing	Big Spring
10290	Magnolia Place Apts	Houston

b) Presentation and Discussion of the Status of Applications Awarded Housing Tax Credit Exchange Funds and Possible Action for an Extension of Deadlines for the Housing Tax Credit Exchange Program — Tom Gouris, DED Housing Programs

Item 10: ARRA Accountability and Oversight

Brooke Boston, DED Community Based Programs

a) Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

REPORT ITEMS

Kent Conine, Chairman

1. TDHCA Outreach Activities, May 2010

2. Report on homes considered and reviewed by the Executive Director for costs exceeding the accessibility cap of $15,000

3. Report on homes considered and reviewed by the Executive Director for costs exceeding the elevation cap of $30,000

4. Report on homes considered and reviewed by the Executive Director for services for municipal requirements that exceed the established cap of $10,000

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public): — Kent Conine, Chairman

1. The Board may go into Executive Session Pursuant to Tex. Gov't. Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

2. Pursuant to Tex. Gov't. Code §2306.039(c) to meet with the internal auditor to discuss issues related to fraud, waste, or abuse;

3. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:

   a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs*, et al filed in federal district court,

4. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Tex. Gov't. Code, Chapter 551

5. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person

OPEN SESSION

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

Kent Conine, Chairman

ADJOURN

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, 512-475-3934; TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Nidia Hiroms, 512-475-3934 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.

TEXAS HOMEOWNERSHIP DIVISION

LENDER OF THE YEAR AWARD
June 28, 2010

As part of June's celebration of Homeownership Month, the staff and TDHCA Governing Board would like to recognize the lending community for their contributions to affordable housing and their efforts to increase the homeownership rate in Texas during 2009. Through the issuance of mortgage revenue bond loans, TDHCA's network of participating mortgage lenders originated over $105 million in first lien mortgage loans under the Texas First Time Homebuyer Program. Through their efforts, even in a year that saw a slow down in the state's economy, over 850 individuals and families were able to experience the benefits of homeownership.

The Texas Mortgage Credit Program was also very successful as a result of our lender network with 565 Mortgage Credit Certificates (MCCs) issued during the past year. MCCs provide up to $2,000 annually towards a borrower's federal tax liability. Launched in 2003, the Texas Mortgage Credit Program has become one of the largest and most successful MCC Programs in the nation.

Additionally, as a result of efforts to monetize the $8,000 federal first time homebuyer tax credit through the creation of the 90-Day Down Payment Assistance and Mortgage Advantage Programs, an additional 854 families were able to experience the benefits of homeownership. Approximately $4.5 million was advanced to homebuyers through the use of a second lien to those interested in purchasing their first home. The funds were advanced at 0% interest over a short term in exchange for repayment once the borrower filed for an received their federal first time homebuyer tax credit. To date, approximately $2.5 million has been repaid. The second lien funding helped to originate over $111 million in first lien mortgage loans.

In recognition of their efforts, the TDCHA Governing Board is recognizing the top two lending institutions and top producing loan officer under these programs. The top lending institutions were selected for their overall production of mortgage loans under each of the programs and corresponding dollar volume. The loan officer was selected based on their overall production level under each of the three programs.

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

imortgage.com, Inc. – "Lender of the Year"
In 2009, imortgage originated 153 first and second lien loans totaling over $18 million. They have participated in TDHCA's homebuyer programs for a number of years and have offices located in the Austin, Dallas, El Paso and San Antonio areas.

NTFN, Inc. dba Premier Nationwide Lending – "Lender of the Year"
Premier Nationwide Lending originated 197 loans first and second lien loans totaling $15.7 million. They too have participated in TDHCA homebuyer programs for a number of years and have offices located throughout the state.

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

In 2009, Ms. Lewis helped originate 74 loans under the 90-Day Down Payment Assistance and Mortgage Advantage Programs and an additional 123 loans under the Texas Mortgage Credit and Texas First Time Homebuyer Programs. She has worked in the mortgage industry for 32 years and has participated in TDHCA's Homebuyer Programs for approximately 20 years. She has considerable experience working with first time homebuyers, is an asset to the mortgage banking industry and is truly committed to providing affordable housing to all Texans.

BOARD SECRETARY

BOARD ACTION REQUEST

JUNE 28, 2010

Recommended Action

Approve Board Meeting Minute Summary for May 12, 2010.

WHEREAS, the Board Meeting Minute Summary for May 12, 2010, are hereby approved, with the approval to make corrections as directed by the Board.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

A G E N D A

May 12, 2010; 9:30 a.m.

Capitol Extension, E1.026
Congress Avenue
Austin, TX

SUMMARY OF MINUTES

CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM

The Board Meeting of the Texas Department of Housing and Community Affairs of May 12, 2010 was called to order by Chair, Kent Conine, at 9:35 a.m. It was held at the Capitol Extension, E1.026 Congress Avenue, Austin, Texas. Roll call certified a quorum was present.

Members Present:

Kent Conine, Chair
Gloria Ray, Vice Chair
Leslie Bingham-Escareño, Member
Tom H. Gann, Member
Lowell Keig, Member
Juan Muñoz, Member

Mr. Conine recognized members of the Sunset Advisory Commission staff who were in attendance; Leah Daly, Michelle Downie, and Leonard Chan.

Resolution recognizing April as Fair Housing Month, Resolution No. 10-023

All board members approved resolution 10-023, by signing the resolution.

Resolution recognizing June as Homeownership Month, Resolution No. 10-024

All board members approved resolution 10-024, by signing the resolution.

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.

Michael Gaertner, of Galveston, provided testimony concerning §2306.514 as it relates to the disaster recovery division.

The Honorable State Representative Ed Kuempel, provided testimony in support of the Ashton Senior Village Apartment project.

Colby Denison provided testimony in support of the Ashton Senior Village Apartment project.

Mark Gold, Texas Department of Aging Disability Services, Director of the Promoting Independence Initiative provided testimony in appreciation of the department's support of the Promoting Independence Initiative.

Walter Moreau, Director of Foundation Communities, provided testimony thanking the department for its support of M Station and requested support of the renovation project for Shady Oaks Apartments on South Congress, Austin, TX.

CONSENT AGENDA

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

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

Executive:

a) Presentation, Discussion, and Possible Approval of Board Minute Summary for March 11, 2010

b) Presentation, Discussion, and Possible Approval of a Request for Proposals for Bond/Securities Disclosure Counsel(s)

Financial Administration

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

d) Presentation, Discussion, and Possible Approval of the third amendment to the FY 2010 Operating Budget

Multifamily Division Items - Housing Tax Credit Program

e) Presentation, Discussion, and Possible Approval of Housing Tax Credit Extensions

04608	Grove Village	Dallas
04609	Pleasant Village	Dallas
07257	Palm Garden Apartments	Orange
07619	Costa Rialto	Houston
08195	St. James Village	Houston
09013	Desert Villas	El Paso
09019	Timber Village II	Marshall

HOME

f) Presentation, Discussion, and Possible Approval of the 2009 Single Family Owner-Occupied Housing Assistance, Tenant-Based Rental Assistance, and Homebuyer Assistance Programs Award Recommendations

Owner-Occupied Housing Assistance

2009-0083	Haskell County	Haskell County
2009-0076	Zavala County	Zavala County
2009-0079	City of Aransas Pass	Aransas Pass
2009-0069	City of Asherton	Asherton
2009-0066	City of Ingleside	Ingleside
2009-0072	City of Sinton	Sinton
2009-0081	City of Texarkana	Texarkana
2009-0074	City of West Tawakoni	West Tawakoni
2009-0077	City of Brownfield	Brownfield
2009-0078	Cochran County	Cochran County
2009-0075	Terry County	Terry County
2009-0073	Hill Country Home Opportunity Council, Inc.	Kerrville

Homebuyer Assistance

2009-0082	City of Texarkana	Texarkana

Tenant-Based Rental Assistance

2009-0068	Buckner Children & Family Services Inc., dba Buckner Family Place	Lufkin
2009-0080	Burke Center	Lufkin

g) Presentation, Discussion, and Possible Approval of the 2010 Rental Housing Development (RHD) Program Award Recommendation

Persons with Disabilities Set-Aside

10504	Abilene Senior Village	Abilene

h) Presentation, Discussion, and Possible Approval of the 2009 Colonia Model Subdivision and Single Family Development Program Award Recommendations

09590	Midland Community Housing Development Organization	Midland County
09591	Community Development Corporation of Brownsville	Cameron County

Community Affairs

i) Presentation, Discussion, and Possible Approval of the 2010 Community Services Block Grant (CSBG) State Discretionary Awards for Innovative and Demonstration Projects

j) Presentation, Discussion, and Possible Approval of the 2010 Emergency Shelter Grant Program (ESGP) Awards
Pulled from Consent Agenda for further discussion.

k) Presentation, Discussion and Possible Approval of Authorization for the Executive Director to Enter into Contracts with Eligible Entities in Response to the Request for Applications for American Recovery and Reinvestment Act Weatherization Assistance Program

   Pulled from Consent Agenda for further discussion.

l) Presentation, Discussion, and Possible Approval of the 2011 Low Income Home Energy Assistance Program State Plan

m) Presentation, Discussion, and Possible Approval of Authorization to Obtain Local Operators for the Section 8 Housing Choice Voucher Program

Disaster Recovery

n) Presentation, Discussion, and Possible Approval of Request for Amendments to CDBG Disaster Recovery housing contracts administered by TDHCA for CDBG Hurricane Rita Round I Funding

   7060003 South East Texas Regional Planning Commission

o) Presentation, Discussion, and Possible Approval of Request for Amendments to CDBG Disaster Recovery housing contracts administered by TDHCA for CDBG Hurricane Ike/Dolly Round I Funding

   70090008 City of Galveston

Housing Trust Fund

p) Presentation, Discussion, and Possible Approval of the 2010-2011 Housing Trust Fund (HTF) Barrier Removal and Rehabilitation Program NOFA Award Recommendations:

2010-0005	Ark-Tex COG	Texarkana
2010-0006	East Texas COG	Tyler
2010-0002	Easter Seals Central Texas-Rural	Austin
2010-0007	Habitat for Humanity of Smith County	Tyler
2010-0004	South East Texas RPC	Beaumont
2010-0008	Coastal Bend Center for Independent Living	Corpus Christi
2010-0010	Meals on Wheels and More	Austin
2010-0001	Easter Seals Central Texas-Urban	Austin

   Kay Crosswaite, provided testimony.
   John Morris, provided testimony.
   Jean Langendorf, provided testimony.
   Pulled from Consent Agenda for further discussion.

q) Presentation, Discussion, and Possible Approval of Amendments to the 2010-2011 Housing Trust Fund Plan

r) Presentation, Discussion, and Possible Approval of Amended Rural Expansion Notice of Funding Availability

Office of Colonia Initiatives

s) Presentation, Discussion, and Possible Approval of authority to make a Colonia Self-Help Center Program award to El Paso County through Community Development Block Grant (CDBG) funding

t) Presentation, Discussion, and Possible Approval of authority to make a Colonia Self-Help Center Program award to Val Verde County through Community Development Block Grant (CDBG) funding

u) Presentation, Discussion, and Possible Approval of new Colonia Residents Advisory Committee (C-RAC) members for El Paso County

Rules

v) Presentation, Discussion, and Possible Approval for publication in the *Texas Register* of a final order adopting new 10 TAC Chapter 9, Texas Neighborhood Stabilization Program Rule

w) Presentation, Discussion, and Possible Approval for publication in the *Texas Register* of a final order adopting new 10 TAC, Chapter 1, Subchapter A, §1.11, Housing and Health Services Coordination Council Rule

x) Presentation, Discussion, and Possible Approval for publication in the *Texas Register* of a final order adopting amendments to 10 TAC, Chapter 5, Subchapters A, B, C, D, and G

y) Presentation, Discussion, and Possible Approval for publication in the *Texas Register* of a final order adopting new 10 TAC, Chapter 5, Subchapter I, §5.9, American Recovery and Reinvestment Act Weatherization Assistance Program Rule regarding Deobligation and Reobligation of Funds

Motion by Mr. Gann to approve Consent Agenda Items 1(a) - (i); (l) -(o); and, (q) -(y); (Items 1(j), (k), and (p) were pulled for discussion); seconded by Ms. Ray; passed unanimously.

Motion by Ms. Bingham-Escareño to approve staff's recommendation for Consent Agenda Item 1(j), as amended; seconded by Mr. Gann; passed unanimously.

Motion by Mr. Keig to approve staff's recommendation for Consent Agenda Item 1(k); seconded by Ms. Bingham-Escareño; passed unanimously.

Motion by Ms. Ray to approve awards Consent Agenda Item 1(p) and to name the Barrier Removal and Rehabilitation Program after Amy Young; seconded by Ms. Bingham-Escareño; passed unanimously.

ACTION ITEMS

AGENDA ITEM 2: APPEALS:

a) Presentation, Discussion, and Possible Action on Multifamily Program Appeals:

10200	Hillside West Senior	Dallas

Terri Anderson, provided testimony in support of appeal.

Kelly Herrod, Herrod Technology, provided testimony.

Larry Mercadel, TDHCA IS division, provided testimony.

Mr. Conine waived the three-witness rule on this agenda item.

Sarah Anderson, S. Anderson Consulting, provided testimony.

Motion by Mr. Keig to approve appeal and to reinstate application; seconded by Dr. Muñoz; Mr. Gann voted no; motion passed.

10187	Eastwood Square Apartments	Houston

Withdrawn from consideration.

The Board took a brief recess.

b) Presentation, Discussion, and Possible Action for Tax Credit Assistance Program Appeals:

None filed.

c) Presentation, Discussion, and Possible Action for Exchange Program Appeals:

None filed.

d) Presentation, Discussion, and Possible Action for HOME Program Appeals:

None filed.

e) Presentation, Discussion, and Possible Action for Underwriting Appeals:

None filed.

f) Presentation, Discussion, and Possible Action for Housing Trust Fund Program Appeals:

None filed.

AGENDA ITEM 3: BOND FINANCE

a) Presentation, Discussion, and Possible Approval of Resolution 10-020 authorizing application to the Texas Bond Review Board for reservation of 2010 single family private activity bond authority in the amount of $208,212,971 and 2009 single family private activity bond authority carryforward in the amount of $25,752,666

Motion by Ms. Bingham-Escareño to approve staff recommendation; seconded by Mr. Gann; passed unanimously.

b) Presentation, Discussion, and Possible Approval of Resolution No. 10-021 authorizing application to the Texas Bond Review Board for reservation of single family private activity bond authority in the amount of up to $120 million and presentation, discussion and possible approval of a Mortgage Credit Certificate Program (MCC) for first-time homebuyers (Program 78) to be administered by the Department

Motion by Dr. Muñoz to approve staff recommendation; seconded by Ms. Bingham-Escareño; passed unanimously.

c) Presentation, Discussion, and Possible Approval of Resolution 10-023 authorizing the Department's Interest Rate Swap Policy

Gary Machak, Raymond James & Associates, Inc., provided testimony.

Motion by Mr. Gann to approve staff recommendation; seconded by Dr. Muñoz; passed unanimously.

d) Presentation, Discussion, and Possible Approval of Resolution No. 10-022 authorizing the sale of mortgage certificates and redemption of bonds from Residential Mortgage Revenue Bonds Series 2000A and Series 2000BCD

Motion by Ms. Bingham-Escareño to approve staff recommendation, as amended; seconded by Ms. Ray; passed unanimously.

AGENDA ITEM 4: HOME

a) Presentation of the current HOME Fund Balance Report

Report item only. No action taken.

b) Presentation, Discussion, and Possible Approval of Revisions to the 2010 Rental Housing Development (RHD) Notice of Funding Availability (NOFA)

Motion by Ms. Bingham-Escareño to approve staff recommendation; seconded by Ms. Ray; passed unanimously.

c) Presentation, Discussion, and Possible Approval of the 2010 Community Housing Development Organization (CHDO) Single Family Development Notice of Funding Availability (NOFA)

Motion by Ms. Ray to approve staff recommendation; seconded by Dr. Muñoz; passed unanimously.

d) Presentation, Discussion, and Possible Action regarding revisions to the Department's Owner-Occupied Housing Assistance Program in 10 TAC, Chapter 53, HOME Program Rule

Robin Sisco, Langford Community Management Services, provided testimony.

Donna Chatham, Association of Rural Communities in Texas, provided testimony.

No action taken.

AGENDA ITEM 5: TAX CREDIT ASSISTANCE PROGRAM

a) Presentation, Discussion, and Possible Approval of Conditional Awards for Round 3 Tax Credit Assistance Program (TCAP) Applications

10700	South Acres Ranch	Houston
10701	Montabella Pointe	San Antonio
10702	Champion Homes at Marina Landing	Galveston
10703	Evergreen at Morningstar	The Colony
10704	Artisan At San Pedro Creek	San Antonio
10705	Costa Vizcaya	Houston
10706	Costa Ibiza	Houston
10707	Costa Rialto	Houston
10708	Glenwood Trails	Deer Park
10709	San Elizario Palms	San Elizario
10710	Wyndham Park Apartments	Baytown

Gil Piette, Housing and Community Services out of San Antonio, provided testimony in support of Montabella Pointe.

Motion by Ms. Bingham-Escareño to approve staff recommendations; seconded by Mr. Gann; passed unanimously.

AGENDA ITEM 6: RULES

a) Presentation, Discussion, and Possible Approval for publication in the *Texas Register* a final order adopting repeal of 10 TAC Chapter 51, Housing Trust Fund Rule, and final order adopting new 10 TAC Chapter 51, Housing Trust Fund Rule

Motion by Dr. Muñoz to approve staff recommendation; seconded by Mr. Gann; passed unanimously.

b) Presentation, Discussion, and Possible Approval to publish in the *Texas Register,* the final order adopting 10 TAC Chapter 54, §54.1 – 54.3 concerning Disaster Recovery Rules

Motion by Ms. Bingham-Escareño to approve staff recommendations; seconded by Ms. Ray; passed unanimously.

AGENDA ITEM 7: DISASTER RECOVERY:

a) Disaster Recovery Division's Status Report on CDBG and FEMA AHPP Contracts Administered by TDHCA, including update on Ike/Dolly Round II

No action taken.

b) Report on homes considered and reviewed by the Executive Director for services for municipal requirements that exceed the established cap of $10,000

No action taken.

c) Presentation and report on homes considered and reviewed by the Executive Director for costs exceeding the accessibility cap of $15,000

No action taken.

d) Presentation and report on homes considered and reviewed by the Executive Director for costs exceeding the elevation cap of $30,000

No action taken.

AGENDA ITEM 8: NEIGHBORHOOD STABILIZATION PROGRAM:

a) Presentation and Discussion of Status of Neighborhood Stabilization Program Funds

No action taken.

b) Presentation, Discussion, and Possible Approval of the 2010 Neighborhood Stabilization Program Reallocation Award Recommendations

2010-07	Grand Central Texas Development Corporation	Llano
2010-08	City of Garland	Dallas
2010-04	Affordable Homes of South Texas, Inc.	Hidalgo

Motion by Ms. Bingham-Escareño to approve staff recommendation; seconded by Ms. Ray; passed unanimously.

c) Presentation, Discussion, and Possible Approval of Requests for Amendment to Neighborhood Stabilization Program Contracts from the following list:

77090000106	City of Irving	Dallas
77090000110	City of Galveston	Galveston
77090000158	City of Odessa	Ector
77090000162	Harris County	Harris
77090000166	Plano Housing Corporation	Plano

Motion by Ms. Ray to approve staff recommendations; seconded by Mr. Keig; passed unanimously.

EXECUTIVE SESSION

At 12:15 p.m. Mr. Conine convened the Executive Session.

1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee including, specifically, the performance evaluation and possible adjustments to compensation of the Executive Director.
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
   a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs*, et al filed in federal district court,
   b) *The EEOC Claim of Don Duru,*
   c) *HUD Case No. 06-10-0410-8 (Fair Housing Act amended complaint of Texas Low Income Housing Information Service and Texas Appleseed).*
3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Tex. Gov't. Code, Chapter 551.
4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

OPEN SESSION

At 1:30 p.m. Mr. Conine reconvened the Open Session and announced that no action had been taken during the Executive Session and certified that the posted agenda had been followed.

Motion by Ms. Ray to approve an 8% salary increase recommendation for Mr. Gerber; seconded by Ms. Bingham-Escareño; passed unanimously.

AGENDA ITEM 9: MULTIFAMILY DIVISION ITEMS - HOUSING TAX CREDIT PROGRAM:

a) Presentation, Discussion, and Possible Approval of Housing Tax Credit Amendments

060414 Gardens of Tomball Tomball

Withdrawn from consideration.

09760 Taylor Farms Dallas

Motion by Ms. Ray to approve staff recommendation; seconded by Dr. Muñoz; passed unanimously.

09793 Belmont Senior Village Leander

Motion by Ms. Bingham-Escareño to approve staff recommendation; seconded by Ms. Ray; passed unanimously.

01029 Brazos Landing Waco

Bert Magill, Magill Development Corp, provided testimony.

Motion by Dr. Muñoz to approve staff recommendation to deny; seconded by Mr. Keig; passed unanimously.

95149 Simmons Gardens Houston

Withdrawn from consideration.

96001 Meadowbrook Plaza Houston

Withdrawn from consideration.

96060 Pineridge Plaza Cleveland

Withdrawn from consideration.

96135 Hillside Plaza Waller

Withdrawn from consideration.

97096 Mockingbird Lane Plaza Victoria

Withdrawn from consideration.

98132 High Pointe Plaza Lufkin

Withdrawn from consideration.

98135 Villa Del Rio Laredo

Withdrawn from consideration.

b) Presentation and Discussion of the Status of Applications Awarded Housing Tax Credit Exchange Funds and Possible Action for an Extension of Deadlines for the Housing Tax Credit Exchange Program

Cynthia Bast, Locke Lord, Bissell and Liddell, provided testimony.

Patrick Barbola, Fountainhead Companies, provided testimony.

Mike Sugrue, Solutions Plus, provided testimony.

Sara Andre, provided testimony.

Louis Williams, representing Abilene Senior Village, provided testimony.

Terri Anderson, provided testimony.

Motion by Ms. Bingham-Escareño to grant a 30-day blanket extension for all dates; continue to reimburse the $2,500 fee paid for deals that close by the new deadline, with the 2009 transactions remaining the same; and, the commencement of construction to remain the same and not be extended the 30 days; seconded by Mr. Gann; passed unanimously.

c) Presentation and Ratification of the Extension of the Receipt date of letters from State Senator and Representative for the 2010 Competitive Housing Tax Credit Program

Motion by Dr. Muñoz to approve staff recommendation; seconded by Mr. Keig; passed unanimously.

AGENDA ITEM 10: ARRA ACCOUNTABILITY AND OVERSIGHT:

a) Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act)

Report item only. No action taken.

REPORT ITEMS

1. TDHCA Outreach Activities, March/April 2010
2. Update on Waco Parkside Village
3. Sunset Advisory Commission Review Process

ADJOURN

Since there was no other business to come before the Board, the meeting was adjourned at 2:45 p.m. on May 12, 2010.

____

Brooke Boston, Board Secretary

NOTE: To view the full Transcript for this meeting, please visit the TDHCA website at: www.TDHCA.state.tx.us.

MULTIFAMILY FINANCE DIVISION
BOARD ACTION REQUEST
June 28, 2010

Requested Action

Approve the requests for extensions related to two (2) 2007, one (1) 2008 and one (1) 2009 Housing Tax Credit allocations.

> **WHEREAS**, the Board requires compliance with the deadlines it sets through its Qualified Allocation Plan (QAP) and authorizes the Executive Director to approve reasonable extensions of such deadlines when requested with good cause prior to the deadline, and
>
> **WHEREAS**, the Board may consider and approve with good cause or deny extensions of deadlines requested after the deadline, and
>
> **WHEREAS**, four applicants who have missed deadlines requested extensions after their respective deadline had passed but provided good cause for granting the extension and the required $2,500 extension request fee.

It is hereby:

RESOLVED, that the extensions presented in this meeting relating to Application No. Application No. 07405 (Alamito Terrace), Application No. 07416 (Regent I), Application No. 08261 (Mid Towne Apartments), and Application No. 09019/09703 (Timber Village II) be and are hereby approved in the form presented to this meeting.

Background

Pertinent facts about the request for extension are following:

<u>HTC No. 07405 Alamito Terrace</u>
(Cost Certification Extension)

<u>Summary of Request:</u> As with the immediate prior development, the owner of this development elected to initiate the credit period in 2008 but missed the January l5, 2009 deadline to submit cost certification documentation for the above referenced development. The owner of this development elected to initiate the credit period in 2008 but missed the January l5, 2009 deadline to submit cost certification documentation. The owner in this case submitted the full cost certification documentation approximately nine month after the deadline on October 15, 2009. The documentation is currently under review by staff.

Should there be any credit that ultimately is unused but is not released by the applicant or cannot be identified as returned by the Department within 180 days of the end of the first year of the credit period, 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.

Owner:	Alamito Terrace, LP
General Partner:	Alamito Terrace GP, LLC
Developer:	Paisano Housing Redevelopment Corp.
Principals/Interested Parties:	Vince Dodds, Eugenia Ramirez, Jamie Rubenstein, David Escobar, Don Henderson, and Reyna Brantner
City/County:	El Paso/El Paso
Set-Aside:	Nonprofit
Type of Area:	Urban
Type of Development:	New Construction
Population Served:	Elderly
Units:	76 HTC units
2007 Allocation:	$346,251
Allocation per HTC Unit:	$4,556
Extension Request Fee Paid:	$2,500
Current Deadline	January 15, 2009
New Deadline Requested:	October 15, 2009
New Deadline Recommended:	**October 15, 2009**
Previous Extensions:	N/A

Kent Bedell
Multifamily Division
221 East 11th
Austin, Texas 78701

RE: Cost Certification Submission Deadline Extension

The cost certification package for the development of Alamito Terrace (TDHCA # 07405) was due January 15, 2009 since the owner elected to initiate the credit period in 2008. The partnership is requesting an extension of time to file cost certification package until October 15, 2009. Enclosed is the required $2,500 fee to Kent Bedell in the Multifamily Division.

NOVOGRADAC
& COMPANY LLP®
CERTIFIED PUBLIC ACCOUNTANTS

June 4, 2010

COST CERTIFICATION
JUN 04 2010
TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS

Rosalio Banuelos
Real Estate Analysis Division
221 East 11th
Austin, Texas 78701
Phone: (512) 475-3357

RE: Request for Information for Information for Cost Certification of Alamito Terrace (TDHCA # 07405) (the "Project")

In response to TDHCA's letter dated April 12, 2010 for request for information for cost certification of Alamito Terrace (TDHCA # 07405), the Project providing an explanation and support (as needed) to each of the items noted in the letter in order for TDHCA may proceed with issuance of IRS Forms 8609.

Comment #1 "Organizational Chart"

(a) The Limited Partner's interest assigned all rights, title, and interest on November 7, 2007 from MMA Alamito Terrace, LLC to MMA Financial Enhanced Affordable Housing Fund 2007-3, LLC (see tab #1).

(a) The Project has updated the Organization chart to include the Special Limited Partner and the board members of Paisano Housing Redevelopment Corporation (please note: non-profit entities do not have owners; only board members (see tab #1).

(b) The Organization chart was updated for Paisano Housing Redevelopment Corporation. A copy of the IRS letter confirming the nonprofit status was included as well (see tab #1).

(c) As noted above, the Project included an update Organization Chart; which includes the board members of Paisano Housing Redevelopment Corporation. Also, the Project did not have record of approval by the department for the ownership change between MMA Alamito Terrace, LLC to MMA Enhanced Affordable Housing Fund 2007-3, LLC. The Project had determined the ownership change to be an immaterial event. Attached is the assignment agreement (see tab #1) along with confirmation e-mail to confirm the ownership interest of Limited Partner.

Comment #2 "Exhibit 5a":

(a) There are multiple addresses for the development. Please refer to TAB 9 of cost certification package CO's for each address.
(b) Total Site Acreage was corrected. Total Site Acreage is 3.001; which agrees to Exhibit 6 (Final As-Built Survey) and Exhibit 18 (LURA).
(c) The underwriting report (page 3 of 11) square footage amount of 48,728 is the "Gross" Rentable Area. The Gross Rentable Area, not to be confused with Gross Building Area, is the floor area measurement method used to determine tenant rent by measuring from the inside of the outside walls to the center of the partition walls. The Net Rentable Area, as defined on the bottom of Exhibit 5a, amounted to 42,550 square feet. The Project determined no further action was deemed necessary. This was also covered and deemed sufficient during TDHCA final development inspection (see tab #2). Please review deficiency 2 response under tab #2.
(d) The Project is including a copy of the Common area breakdown (see tab #2)
(e) The Project has addressed the amenities committed to in the application. This was also covered and deemed sufficient during TDHCA final development inspection (see tab #2). Please review deficiency 3,4 and 5 responses under this tab #2.

Comment #3 "Exhibit 6":
The Project is providing a full-size version of the final as-built survey (see tab #3).

Comment #4 "Exhibit 7":
The Lease Memorandum does not agree to various other legal documents because the legal documentation was completed on the basis of "approximately" 3.2 acres. It would not be financial feasible for the Project to get the legal document updated at an additional cost to the Project. The words "approximately" should be sufficed.

Comment #5 "Exhibit 8":
The Project is including a copy of the plat recorded in Clerk's File No. 20070089200 (see tab #5).

Comment #6 "Exhibit 8B":
The Project is including a copy of the "nothing further certificate" (see tab #6).

Comment #7 "Exhibit 9A"

(a) The actual number is 587.50, but we rounded to 588 for presentation purpose. The Project has adjusted Exhibit 9B to reflect 587.50; (see tab #7a).

(b) Exhibit 9a was updated to agree with Exhibit 10C in the amount of $486,753; (see tab #7a).

Comment #8 "Exhibit 10C"

Material cost unexpectedly increased. Additionally, the project was broken down into 5 phase instead of the originally intended 7 phase; as a result, cost allocation between each phase increased.

Comment #9 "Exhibit 10D"

"Bond and Insurance" was classified as a "general requirement" on exhibit 10C; there may have been a better classification for the construction liability insurance; however, the reclassification is immaterial to the presentation to the cost certification package taken as a whole. "Demolition" in the amount of $15,000 was determined to be fine grading and included in the "Site Work" line on exhibit 10C.

Comment #10 "Exhibit 11A"

(a) As noted in comment #7, the actual number is 587.50 but we rounded to 588 for presentation purpose. The Project has adjusted Exhibit 11A to reflect 587.50 (see tab #10).

(b) The Project is using a conservative 7%; due to the current market trends. Please note vacancy and collection loss are underwritten at a rate of 7.5% for THDCA - Real Estate Analysis Division; Real Estate Analysis Rules. The change will not material impact any change to the cost certification or outcome. Please note if a lower vacancy rate was used; as a result, the offset would be less Public Housing Operating Subsidy would be required. The net result is still the same "Net Cash Flow" will equal zero.

Comment #11 "Exhibit 11B"

Mid-rise residents (56 units) do not pay utilities because the building is a master metered. The fourplex residents (20 units) are responsible for paying the electric and gas bill. Those residents get a utility allowance of $67.00. We included HUD-52667 Form along with modifications to Exhibit 11A and 11B for your records (see tab #11).

Comment #12 "Regulatory Agreement"

The Project is submitting a copy of the regulatory agreement (see tab #12).

Comment #13 "Exhibit 11C"

The Project updated Exhibit 11C and 11D to reflect 12/31/2009 audited numbers (see tab #13).

Comment #14 "Exhibit 12a"
The Project is submitting a copy of the 12/31/2009 audited financial statements prepared by an independent third party (see tab #14).

Comment #15 "Exhibit 12b"
The Project is submitting a copy of the April 2010 rent roll (see tab #15).

Comment #16 "Exhibit 14"
The Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement"), page 28, defines the Investor Limited Partner shall pay $.97 for each $1.00 that the Adjusted Aggregate Federal Low Income Tax Credit Amount properly allocable to the Investor Limited Partner during the Credit Period is greater than the Projected Aggregate Federal Low Income Tax Credit Amount. The Investor Limited Partner (ILP) is not willing to buy credits above the cap amount listed in the Partnership Agreement. Support for ILP came via e-mail (see tab #16).

Comment #17 "Exhibit 15"
(a) The Project earned $303,624 of Bond interest income as a "construction source" The amount was originally included in the Alamito Public Facility Corporation as a "permanent" source. We updated Exhibit 13a interest income source as a separate line item (see tab #17).
(b) The "program income" is the developer fee earned for services rendered in connection with the construction of the development of the project. The "Land Sale Proceeds" is the reimbursement for the land transaction for the project.

Comment #18 "Exhibit 17A"
The Project is submitting a copy of the HTC Compliance Training certificate along with an updated Exhibit 17B (see tab #18).

Comment #19 "LURA"
The Project is submitting a copy of the LURA (see tab #19).

Comment #2-0 "Tax-Exempt Bond Credit Increase Request"
The Project has determined the Project will not seek Board approval for the requested credit increase at this time.

Comment #21 "Cost Certification Submission Deadline Extension"
The Project is submitting a written extension request along with the required $2,500 fee (see tab #21).

Comment #22 "Underwriting Conditions"
The Project is providing documentation to satisfy underwriting conditions (see tab #22).

If you have any questions, contact me at (512) 340-0420 or nick.hoehn@novoco.com.

Sincerely,

Nick Hoehn, CPA
Novogradac & Company LLPs

cc: Satish Bhaskar / Juan Gurrola
Housing Authority of the City of El Paso, Texas
5300 E. Paisano Dr.
El Paso, TX 79905-2931

<u>HTC No. 07416 Regent I</u>
(Cost Certification Extension)

<u>Summary of Request:</u> Pursuant to §49.15(b)(2) of the 2007 Qualified Allocation Plan, "…Required Cost Certification documentation must be received by the Department no later than January 15 following the year the Credit Period begins…".The owner of this development elected to initiate the credit period in 2008 but missed the January l5, 2009 deadline to submit cost certification documentation. The owner in this case submitted the full cost certification documentation approximately eleven month after the deadline on December 9, 2009. The documentation is currently under review by staff.

Should there be any credit that ultimately is unused but is not released by the applicant or cannot be identified as returned by the Department within 180 days of the end of the first year of the credit period, 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.

Owner:	Regent I Beaumont, LP
General Partner:	Regent I Beaumont GP, LLC
Developer:	Carleton Development, Ltd.
Principals/Interested Parties:	Golden Triangle Redevelopment Corp., CGB Southwest, Inc. GP, Printice L. Gary, R. David Kelly, and Neal R. Hildebrandt
City/County:	Beaumont/Jefferson
Set-Aside:	N/A
Type of Area:	Urban
Type of Development:	New Construction
Population Served:	Family
Units:	160 HTC units
2007 Allocation:	$810,175
Allocation per HTC Unit:	$5,063
Extension Request Fee Paid:	$2,500
Current Deadline:	January 15, 2009
New Deadline Requested:	December 9, 2009
Submission Received:	**December 9, 2009**
Previous Extensions:	N/A

April 28, 2010

Mr. Kent Bedell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Dear Mr. Bedell:

We would like to request an extension to the deadline for submission of the Cost Certification for Regent I (TDHCA #07416). We completed and turned in the Cost Certification on December 9, 2009. Unfortunately, since the credit period was initiated in 2008, the deadline for submission of the Cost Certification was January 15, 2009. Therefore, we request that the deadline for submission of the cost certification be extended until December 9, 2009

I've enclosed an extension request check of $2,500.

Thank you for your time on this matter. Should you have any questions, please feel free to call me at (972) 980-9810 x 120 or email me at whenderson@carletonrp.com.

Sincerely,

Will Hen

Will Henderson
Carleton Development, Ltd.
5485 Beltline Road, Suite 300
Dallas, Texas 75254
214-377-6558 (Direct)
469-245-5934 (Cell)
972-980-1559 fax

05-12-10 P12:20 OUT

enclosure

b. Based on the floor plans submitted at application, some of the units would be two-story units. Appendix B to the LURA states that, for new construction developments where some units are two-story dwelling units, a minimum of 20% of each unit type must provide an accessible entry level and include a minimum of one bedroom and one bathroom or powder room at the entry level. Please explain why Appendix B to the LURA does not identify units that meet this requirement.

c. Appendix C to the LURA reflects amenities selected in the section for Unit Amenities-Selection Criteria, but it appears that this section does not apply to this development. Although this is not required for cost certification, it is up to the owner's discretion to amend the LURA to deselect amenities in this section.

If a LURA amendment is necessary, please contact Meg Tynan in the Compliance Division at (512) 475-3067 or at meg.tynan@tdhca.state.tx.us.

15. **Cost Certification Submission Deadline Extension**: The 2007 QAP states that the required Cost Certification documentation must be received by the Department no later than January 15 following the year the Credit Period begins. Because the development owner elected to initiate the credit period in 2008, the cost certification package for this development was due on January 15, 2009; however, the cost certification package was received on December 9, 2009. Please indicate if a cost certification extension was granted by the Department and if so, submit supporting documentation. If an extension has not been obtained, please submit a written extension request and the required $2,500 fee to Kent Bedell in the Multifamily Division. Please be aware that if an extension is necessary, Board approval will be required, and IRS Forms 8609 will not be released until the extension is approved.

Please provide the requested information within two weeks of the date of this letter. Responses may be submitted via mail, email, or via fax at (512) 475-3746. Mailed responses should be sent to my attention and addressed to:

Real Estate Analysis Division
Via U.S. Mail: P.O. Box 13941, Austin, TX 78711-3941
Via express delivery or private courier: 221 East 11th, Austin, TX 78701

If you have any questions, contact me at (512) 475-3357 or rosalio.banuelos@tdhca.state.tx.us.

Sincerely,

Rosalio Banuelos
Cost Certification Specialist

cc: Will Henderson
By E-mail Transmission: whenderson@carletonrp.com

Michael K. Myers
Red Capital Group
Two Miranova Place, 12th Floor
Columbus, OH 43215
By E-mail Transmission: MKMyers@redcapitalgroup.com

09-12-10 P12:20 OUT

<u>HTC No. 08261, Mid Towne Apartments (fka Towne Center Apartment Homes)</u>
(Commencement of Substantial Construction)

<u>Summary of Request:</u> Pursuant to §50.14(c) of the 2008 Qualified Allocation Plan, "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 a possibility of an extension…". The owner of this development missed the December l, 2009 deadline to submit the commencement of substantial construction (COC) documentation and has requested a new submission deadline of June 30, 2010.

The reason given for the request is that, the owner had a difficult time finding a lender and investor partner to underwrite the development due to the difficult financial market. The owner has indicated that they closed on their construction financing in February of 2010, the development has met the COC definition with the submission of their last draw on May 25, 2010, and the development is on schedule to meet its placed in service requirement.

Owner:	Bryan Mid Towne Apartment Homes, LP
General Partner:	Bryan Mid Towne Apartments Homes, I, LLC
Developer:	Lankford Interests, LLC
Principals/Interested Parties:	Michael Lankford
City/County:	Bryan/Brazos
Set-Aside:	N/A
Type of Area:	Urban
Type of Development:	New Construction
Population Served:	Elderly
Units:	80 HTC units
2008 Allocation:	$761,125
Allocation per HTC Unit:	$9,514
Extension Request Fee Paid:	$2,500
Current Deadline:	December 1, 2009
New Deadline Requested:	June 30, 2010
Submission Received:	**June 30, 2010**
Previous Extensions:	N/A

Bryan Mid Towne Apartment Homes, L.P.

[redacted]

06-14-10A08:20 RCVD

June 8, 2010

Mr. Kent Bedell
Texas Dept of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941

Re: Commencement of Substantial Construction
TDHCA# 08261

Dear Mr. Bedell:

Please accept this letter and payment of the $2,500 fee as our request for an extension of the Commencement of Substantial Completion on the above referenced development. Due to the nature of the financial markets, it took us an extraordinary amount of time to line up syndication and lending sources for this development.

We closed the construction financing in February of 2010 and are well under way with construction. In fact, as of our last draw submittal, we have met the definition of Commencement and I will be forwarding the support as soon as I receive acknowledgement that this extension request has been approved.

If you have any questions or require any additional information, please feel free to call me.

Thank you,

Jeffrey S Gannon
Lankford Interests, LLC
COO

6633 Portwest Drive, Suite 120 Houston, TX 77024
Phone: 713-626-9655 Fax: 281-657-0891

From: Jeff Gannon
To: Kent Bedell;
Subject: RE: Mid Towne Extension
Date: Tuesday, June 15, 2010 2:54:56 PM

Yes, the development is on schedule to meet the placed in service requirement.

Thanks,

Jeff Gannon
Chief Operating Officer
Lankford Interests
6633 Portwest Drive Suite 120
Houston TX 77024
Phone (713)626-9655 ext 101
Fax (281)657-0891

From: Kent Bedell [mailto:kent.bedell@tdhca.state.tx.us]
Sent: Tuesday, June 15, 2010 2:33 PM
To: Jeff Gannon; Kent Bedell
Subject: RE: Mid Towne Extension

Jeff,

Thank you for the clarification. Also, can you confirm that the Development is still on schedule to meet its placed in service requirement.

Regards,

Kent Bedell
Multifamily Housing Specialist
Texas Dept. of Housing and Community Affairs
(512) 475-3882 (P)
(512) 475-1895 (F)
kent.bedell@tdhca.state.tx.us

From: Jeff Gannon [mailto:JGannon@lankfordinterests.com]
Sent: Tuesday, June 15, 2010 11:45 AM
To: Kent Bedell
Subject: Mid Towne Extension

Kent,

In response to your questions:

1. Mid Towne met the definition of substantial completion as of the last draw 5-25-10.
2. We request this extension through June 30, 2010.

Thank you,

Jeff Gannon
Chief Operating Officer
Lankford Interests
6633 Portwest Drive Suite 120
Houston TX 77024
Phone (713)626-9655 ext 101
Fax (281)657-0891

HTC No. 09019/09703, Timber Village II (Tax Credit Assistance Program App)
(Closing Deadline)

Summary of Request: The owner of this development is requesting approval for an extension of the deadline to submit evidence of construction loan and syndication closing for the Development named above. The extension requested a change in the deadline from June 30, 2010 to August 31, 2010. The owner's original deadline to submit evidence of construction loan and syndication closing was December 30, 2009. The Applicant has already received two, three month extensions to the original deadline: (1) March 31, 2010 approved at the January 20, 2010 Board meeting; (2) June 30, 2010 approved at the May 12, 2010 Board meeting.

The reason given for the additional request is that the Applicant's original lender determined that it could not participate in providing funding for the project and withdrew from the transaction. The Development Owner has now located a new lender in Capital One; however, additional time is needed to negotiate the business terms and work through the underwriting process with Capital One. The Applicant also noted that they have made Capital One aware of the necessity to close quickly and is confident that the closing will occur in August.

Owner:	Timber Village Apartments II, Ltd.
General Partner:	Timber Village II, LLC
Developer:	Timber Village Development II, LLC
Principals/Interested Parties:	Rick Deyoe and John Boyd
City/County:	Marshall/Harrison
Set-Aside:	N/A
Type of Area:	Rural
Type of Development:	New Construction
Population Served:	Family
Units:	72 HTC units
2009 Allocation:	$817,794
Allocation per HTC Unit:	$11,358
Extension Request Fee Paid:	$2,500
Original Deadline:	December 30, 2009
Current Deadline:	June 30, 2010
New Deadline Requested:	August 31, 2010
New Deadline Recommended:	**August 31, 2010**
Previous Extensions:	(2) January 20, 2010; May 12, 2010

LLB&L
Locke Lord Bissell & Liddell LLP
Attorneys & Counselors

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crichardson@lockelord.com

June 8, 2010

VIA E-MAIL

Robbye Meyer, *Director of Multifamily Programs*
Texas Department of Housing
and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Timber Village II (Marshall)
TDHCA No. 08240/09019 (HTC) / 09703 (TCAP)
Request for Extension of Deadline for Construction and Equity Closing

Dear Robbye:

We represent Timber Village Apartments II, Ltd. (the "**Development Owner**"), which is the Development Owner with respect to the referenced development (the "**Project**"). The Project is a second phase of a successful tax credit project that is currently occupied at 100 percent with a waiting list of 200 families. The Project applied for 9% tax credits in the 2008 application round, and the Board approved a 2009 forward commitment.

Like all other 2009 forward commitments, the Project was originally subject to a March 15, 2009 deadline to close on its financing. The Department subsequently extended the closing deadline for all 2009 forward commitments to December 30, 2009. The Department additionally approved further extensions to this closing deadline for the Project, and the Project is currently required to close by June 30, 2010.

As noted in our February 19 extension request, the Development Owner was moving toward closing with its anticipated lender, when the lender discovered that additional internal approvals would be required due to the Project being located outside of the lender's standard lending footprint. Both the lender and the Development Owner expected that the issue would be able to be resolved within a reasonable amount of time and certainly prior to the end of June, which is why June 30 was previously requested as the closing deadline.

Subsequent to the Department's approval of the June 30 closing deadline, the anticipated lender determined that it would not be able to participate in providing funding for the Project and withdrew from the transaction. This occurrence was unexpected by, and outside of the control of, the Development Owner. The Development Owner then had to re-start the process of seeking commitments from other lenders, which proved to be difficult given that the federal incentives for lenders to provide financing for affordable housing in rural markets such as Marshall, Texas are not the same as those that are available in urban markets. Nevertheless, the Development Owner has been successful in obtaining a debt commitment from Capital One. However, due to the additional time it has taken to identify potential lenders, negotiate the business terms with Capital One, and work through Capital One's underwriting process, closing will not be able to occur until August.

In light of the foregoing, we respectfully request that the closing deadline for the Project be extended until **August 31, 2010**.

The Development Owner appreciates the cooperation the Department has shown in granting the prior closing deadline extensions. While the Development Owner has been proactive in trying to line up its financing and move toward closing, it has encountered unanticipated challenges with the debt financing, as described above, that have hampered the closing progress. The Development Owner has made Capital One aware of the necessity to close in an expeditious manner and is confident that closing will be able to be achieved in August.

If there is any additional information that the Department needs to process this request, please let us know.

Thank you for your assistance.

Sincerely,

Christine Richardson

Christine R. Richardson

cc: Tom Gouris (TDHCA)
Lisa Vecchietti (TDHCA)
Kent Bedell (TDHCA)
Adrian Iglesias (Realtex Development Corporation)
Cynthia Bast (Firm)
all via e-mail

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

June 28, 2010

Requested Action

Approve the Trustees for the Multifamily Mortgage Revenue Bond Transactions listed below.

WHEREAS, the Department maintains a list of approved trustees for its multifamily bond transactions, and

WHEREAS, each trustee must submit to the Department its Request for Qualifications every two years in order to remain on the list.

It is hereby:

RESOLVED, that the Trustees listed below remain on the Department's approved list for a period of two years until such time their qualifications are required to be renewed.

Bank of New York Mellon Trust Company	Trustee	Remain on approved list
Regions Bank	Trustee	Remain on approved list
Wells Fargo Bank Texas, N.A.	Trustee	Remain on approved list

Background

The Department requested an updated Request for Qualifications (RFQ) for those trustees currently on the Department's approved list that were up for renewal. The trustees are approved on a two year basis and it is time to renew that approval for three of the trustees currently on the Department's approved list. There is one other trustee on the list, U.S. Bank that is not up for renewal at this time. For multifamily bond transactions, the Applicant selects a trustee from an approved list published by the Department. The trustee administers the Trust Indenture, makes payments to the Bondholders and disburses bond proceeds, and provides reports on bond issues and fund balances to the Department.

The qualifications for Bank of New York Mellon, Regions Bank and Wells Fargo Bank Texas, expires June 26, 2010. The Department received their Request for Qualifications on April 26, 2010.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

June 28, 2010

Requested Action

Approve the Senior Managing, Co-Senior Managing, Co-Managing and/or Remarketing Agent Investment Banking Firms for Multifamily Mortgage Revenue Bond Transactions listed below.

WHEREAS, the Department has an open Request for Qualifications (RFQ) published on its website, and

WHEREAS, the Department maintains a list of approved underwriters for its multifamily bond transactions, and

WHEREAS, each underwriter must submit to the Department its Request for Qualifications every two years in order to remain on the list.

It is hereby:

RESOLVED, that the first eight (8) underwriters listed below remain on the Department's approved list for a period of two years until such time their qualifications are required to be renewed and the last underwriter, Rockfleet Financial Services, Inc. be added to the Department's approved list.

Bank of America Merrill Lynch	Senior Manager	Remain on approved list
Morgan Keegan	Senior Manager	Remain on approved list
George K Baum & Company	Senior Manager	Remain on approved list
Citi Community Capital	Senior Manager	Remain on approved list
Red Capital Markets, Inc.	Senior Manager	Remain on approved list
Merchant Capital, LLC	Senior Manager	Remain on approved list
PNC Multifamily Capital	Senior Manager	Remain on approved list
Estrada Hinojosa	Co Manager	Remain on approved list
Rockfleet Financial Services, Inc.	Co-Manager	Add to approved list

Background

The Department currently has an open Request for Qualifications (RFQ) published on the website. The underwriters are approved on a two year basis and it is time to renew that approval for eight (8) firms currently on the Department's approved list. For multifamily bond transactions, the Applicant selects an underwriter from an approved list published by the Department. The underwriter will develop the financial structure (i.e. fixed rate or variable, bond maturities, etc), prepare cash flows, and sell the bonds. If the transaction is privately placed, the placement agent will negotiate the sale to private investors.

The qualifications for these underwriters expire June 26, 2010 and the Department received their Request for Qualifications on April 26, 2010.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve the requests for amendments as presented.

> **RESOLVED**, that staff's recommendations regarding the amendments relating to Applications #09313, Hampshire Court and #09986, Greenhouse Place be and they hereby are approved in the form presented to this meeting.

Background and Recommendations

§2306.6712, Texas Government 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 statute identifies certain changes as material alterations and the requests presented below include material alterations.

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.

<u>HTC No. 09313 Hampshire Court</u>

Summary of Request: The owner is requesting to add approximately 2.04 acres of land to the 12.5 original acres that were under owner's control throughout the period the application was under consideration by the Board. The amendment increases the size of the site under contract to 14.5426 acres. The owner's counsel drafted the letter of request to clarify that the final site includes the original site and that both the original site and the final site are part of a 30.9650 acre tract owned by the same owner. However, staff found that only 12.5 acres of the larger tract of land was under the applicant's control throughout the application review period as required by the 2009 Qualified Allocation Plan and Rules.

The applicant makes the request because a municipal storm sewer line installed after the application's submission requires runoff to flow from a higher elevation than the owner anticipated. Because runoff from the subject site must flow from a higher elevation, the depth of the site's detention area must be shallower than originally planned. To compensate for the reduction in the depth of the detention area, the surface area must be increased.

This owner did not submit a pre-application; therefore, there would be no loss of the pre-application points. There were no other applications available in the region when this application was awarded; therefore no other application would have been negatively affected. Generally, staff does not recommend that the Board approve such a request; however, in this instance there is no negative affect to another application, the density to the development is lowered and the owner in requesting the amendment in order to secure additional land for impediments that were beyond his control.

Owner:	Hampshire Court Apartments, L.P.
General Partner:	Hampshire Court Development, L.L.C.
Developer:	Hampshire Court Developers, L.L.C.
Principals/Interested Parties:	Cynthia Ford, 100% owner of Resolution, Inc. (HUB); Steve Ford
Syndicator:	Bank of America
Construction Lender:	Bank of America
Permanent Lender:	Bank of America
Other Funding:	Robinson Capital (private)
City/County:	Pasadena/Harris
Set-Aside:	NA
Type of Area:	Urban
Region:	6
Type of Development:	New Construction
Population Served:	Elderly Population
Units:	159 HTC units
2009 Allocation:	$1,461,953
Allocation per HTC Unit:	$9,195
Prior Board Actions:	7/09 – Approved award of tax credits
REA Recommendation:	The changes do not negatively affect the underwriting and no change in the allocation is recommended at this time.
Staff Recommendation:	**Staff recommends the Board approve the amendment.**

<u>HTC No. 09986, Greenhouse Place Apartments (HTC No. 09265)</u>

<u>Summary of Request</u>: The application of this development is currently under review for Exchange Funds. The applicant is requesting to add land, change the roofing material, change the type of heating and cooling (HVAC) system, exchange one green building material for another, and add 1,500 square feet to the clubhouse area. The request requires the Board's determination because the additional land does not meet the requirement of the application process that the land of a proposed development be under the applicant's control throughout the application review period.

Regarding the request to add land, the site is proposed to increase from 10 acres to 10.8078 acres of land by incorporating a strip of land that runs along most of the northern boundary of the original site between this original boundary and the public right-of-way of West Road. Staff found that the additional land was not under the owner's control throughout the application review period. Control throughout the review period is a requirement of the application process. Although the increase in land also invalidates six points that the application scored for submission of a Pre-Application (because the Pre-Application and application must be for the same land), staff found that even without the six points the application scored high enough to be recommended for an award. Generally, staff does not recommend that the Board approve such a request; however, in this instance there is no negative affect to another application.

The owner makes this request because the development was found to require two points of access to a public street instead of only one as originally supposed and acquired. The requirement to have two points of access to the street was revealed to the owner by the city during the platting and permitting process.

The change in roofing material was to replace the composition rolled roofing material noted in the application's Specifications and Amenities exhibit with composition shingle roofing. The owner did not state whether the original choice of rolled roofing was a mistake or intentional. Staff noted that the choice as unusual and the owner's letter noted the change as appropriate. The change from "irrigation and landscaping" amenities to "thermally and draft efficient doors" also was characterized as appropriate.

Similar to the roofing and green building amenities, the owner noted the change from warm and cooled air to forced air as appropriate. Unlike the roofing, however, this change includes a significant savings in equipment cost as the equipment for warm and cooled air is significantly more expensive per square foot of space to be cooled than for forced air.

Regarding the additional clubhouse area, the owner added 1,500 square feet to the clubhouse by redesigning former corridor space into two offices, a health screening room, a media room and a salon. All of the amenities discussed above are to be added from savings in other areas. As the owner noted and staff confirmed, none of the proposed changes, except the change in land, affect the Threshold status or scoring of the application.

Owner:	VDC Greenhouse, Ltd.
General Partner:	VDC Greenhouse GP, LLC
Developer:	VDC Development, LLC

Principals/Interested Parties:	Manish Verma
Syndicator:	Hudson Housing Capital
Construction Lender:	Keybank Real Estate Capital
Permanent Lender:	Harris County Community Services (HOME Funds)
Other Funding:	Single Family Investments, Ltd. (Private)
City/County:	Houston/Harris
Set-Aside:	Tax-Exempt Bond Transaction; Issuer
Type of Area:	Urban
Region:	6
Type of Development:	New Construction
Population Served:	Elderly Population
Units:	140 HTC units
2009 Allocation:	$1,461,953
Allocation per HTC Unit:	$10,443
Prior Board Actions:	7/09 – Approved award of tax credits
REA Recommendation:	The changes do not negatively affect the underwriting and no change in the allocation is recommended at this time.
Staff Recommendation:	**Staff recommends the Board approve the amendment.**

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

Memorandum

To: File

From: Colton Sanders, Real Estate Analysis

cc: Ben Sheppard, Multifamily Finance Production

Date: May 6, 2010

Re: Amendment Request for Hampshire Court Apartments, TDHCA #09313

Background
The subject development was awarded an allocation of tax credits during the 2009 9% housing tax credit application round. On March 10, 2010 TDHCA received an amendment request from the Applicant requesting an increase in the acquisition cost and the overall acreage of the development. An underwriting report was posted on April 23, 2010 which evaluated the effect of the proposed increase in acreage and acquisition cost.

Amendment Request
The underwriting report dated April 23, 2010 did not include a discussion of possible environmental concerns on the additional acreage proposed in the March 10, 2010 amendment request. On May 5, 2010 TDHCA received a letter from the Phase I Environmental Site Assessment (ESA) provider stating that the additional acreage does not alter the findings and conclusions of the original ESA report completed in March of 2009.

Conclusion
The May 5, 2010 submission of an update to the ESA satisfies the Department's requirements. The update did not identify any environmental concerns. No change to the recommended award amount or to the conditions of the April 23, 2010 underwriting report is recommended.

Texas Department of Housing & Community Affairs
Building Homes. Strengthening Communities.

Real Estate Analysis Division
Underwriting Report (Including Amendment Analysis)

REPORT DATE: 04/23/10 PROGRAM: 9% HTC FILE NUMBER: **09313**

DEVELOPMENT

Hampshire Court Apartments

Location: Approximately the 3400 block of S. Burke Drive near Vista Road Region: 6

City: Pasadena County: Harris Zip: 77504 [ ] QCT [X] DDA

Key Attributes: Elderly, Urban, New Construction

ALLOCATION

	REQUEST			**RECOMMENDATION**		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Housing Tax Credit (Annual)	$2,000,000			**$1,992,923**		

CONDITIONS

1 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.

SALIENT ISSUES

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	50% of AMI	72
60% of AMI	60% of AMI	87

Strengths / Mitigating Factors:

- The principals of the Applicant have a fair amount of experience and financial resources with LIHTC funded developments.

Weaknesses:

- The subject is one of five applications proposing 636 senior units along a 12-mile stretch of IH 45.
- The number of one-bedroom units targeting 60% households, and two-bedroom units targeting 50% and 60% households, appears to exceed the available demand, based on unit capture rates greater than 100%.

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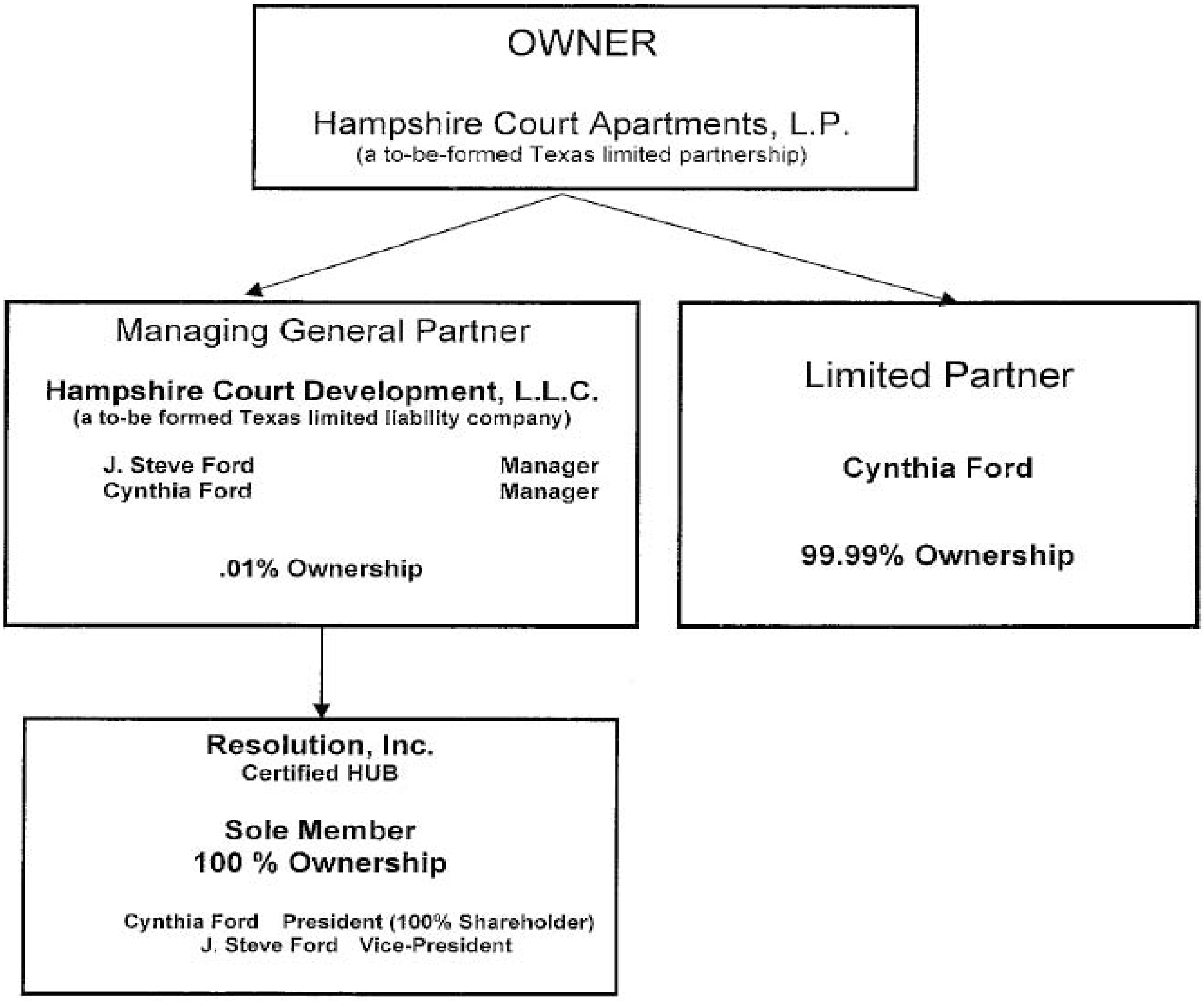
DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: J. Steve Ford Phone: (713) 334-5514 Fax: (713) 334-5614
Email: steve@resolutioninc.net

KEY PARTICIPANTS

Name	Financial Notes	# Completed Developments
Hampshire Court Apartments, LP	CONFIDENTIAL	0
Hampshire Court Development, LLC		0
Resolution, INC.		5
Cynthia Ford		5

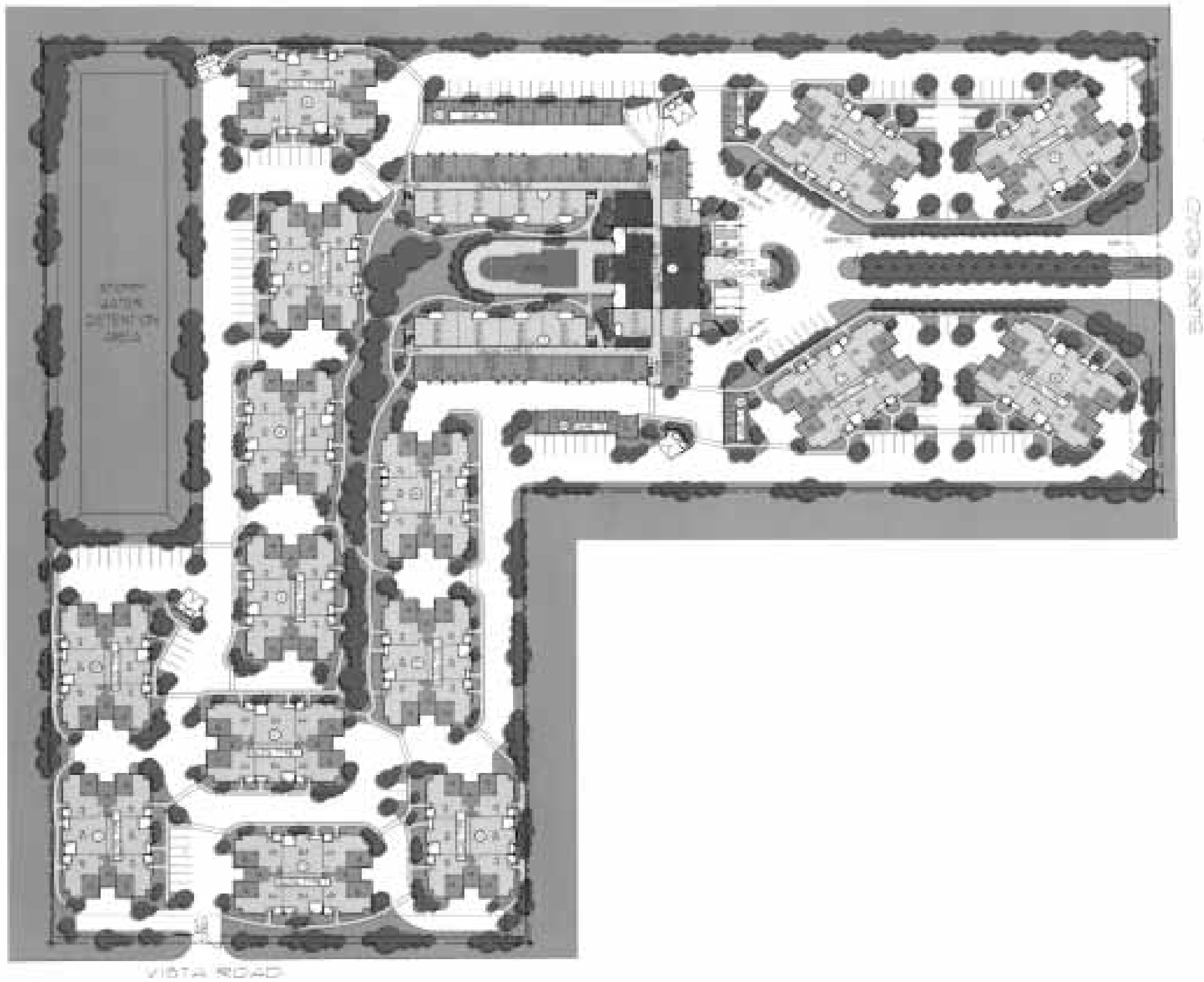
[1] Liquidity = Current Assets - Current Liabilities

IDENTITIES of INTEREST

- The Applicant, Developer and General Contractor are related entities. These are common relationships for HTC-funded developments.

PROPOSED SITE

SITE PLAN



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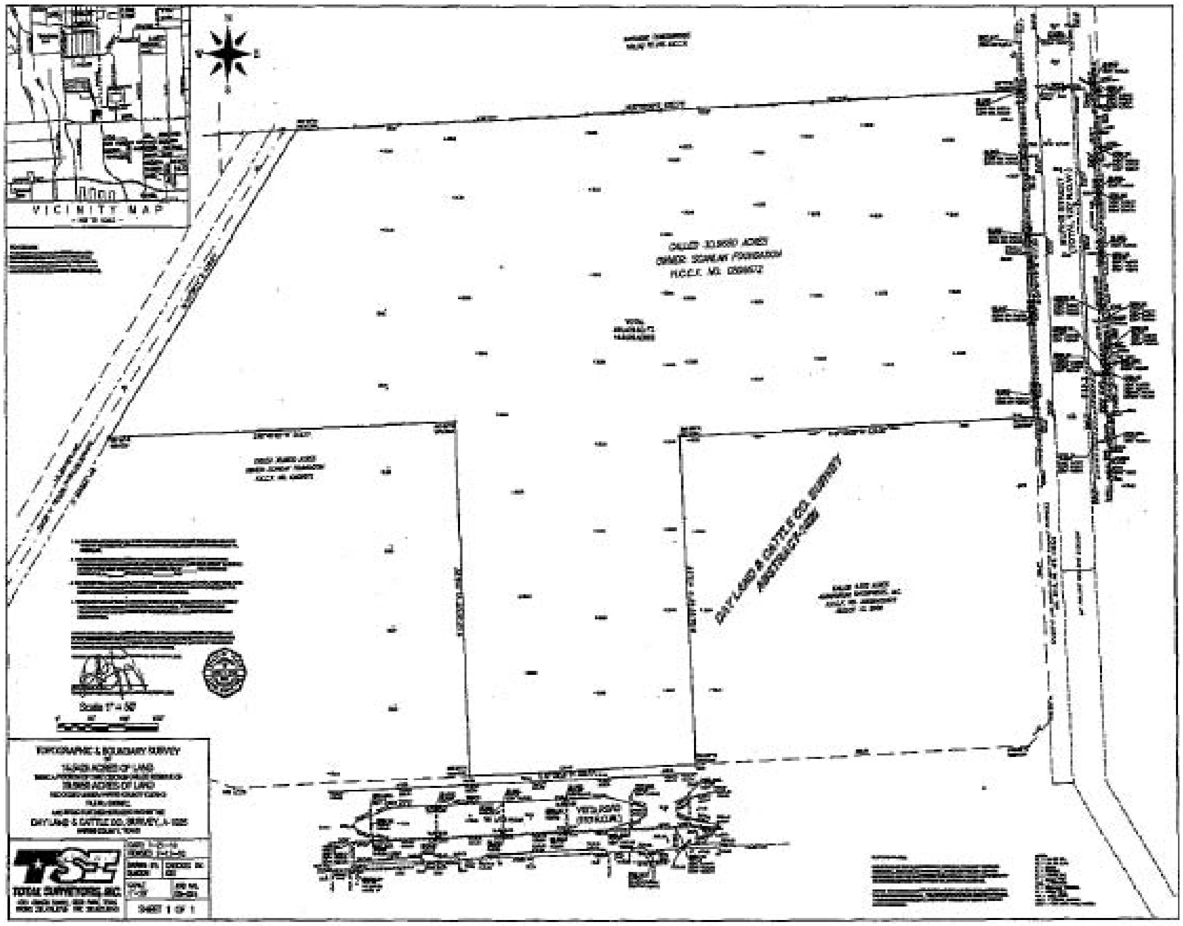
Revised Site

New Boundary Survey



The application submitted in March 2009 was for a development site of 12.5 acres. However, in March 2010, the Applicant submitted a request for an amendment to the application to add approximately 2 acres to the site, for total site acreage of 14.5426 acres. The amendment request is discussed in greater detail in the acquisition information section below.

BUILDING CONFIGURATION

Building Type	1	2	3	4	5						Total Buildings
Floors/Stories	1	1	3	3	3						
Number	14	1	1	1	1						**18**

BR/BA	SF	Units										Total Units	Total SF
1/1	729			21								21	15,309
1/1	743				6	6						12	8,916
1/1	791	4	3									59	46,669
1/1	805		1									1	805
2/2	990				12	12						24	23,760
2/2	1,033			4	4	4						12	12,396
2/2	1,075	2	2									30	32,250
Units per Building		6	6	25	22	22						**159**	**140,105**

SITE ISSUES

Total Size:	14.54 acres	Scattered site?	[ ] Yes	[X] No			
Flood Zone:	Zone X	Within 100-yr floodplain?	[ ] Yes	[X] No			
Zoning:	No Zoning	Needs to be re-zoned?	[ ] Yes	[ ] No	[X] N/A		

Comments:

The City of Pasadena has no zoning ordinances that will affect the proposed development.

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff   Date: 4/15/2009

Overall Assessment:

[ ] Excellent   [X] Acceptable   [ ] Questionable   [ ] Poor   [ ] Unacceptable

Surrounding Uses:

North:	Bayside Town homes;	East:	Churches; Medical Center; Apartments
South:	Vista Road; Apartments/Retail	West:	Vacant to Strawberry Road

Comments:

Nearby doctor's office, medical center, etc. would be great for residents' healthcare and possible employment opportunities.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: The Murillo Company   Date: 3/26/2009

Recognized Environmental Concerns (RECs) and Other Concerns:

- None

Comments:

"No direct evidence was found indicating recognized environmental conditions exist at the subject property." [Executive Summary]

MARKET HIGHLIGHTS

Provider:	O'Connor & Associates			Date:	3/24/2009
Contact:	Robert Coe	Phone:	(713) 375-4279	Fax:	(713) 686-8336
Number of Revisions:	None	Date of Last Applicant Revision:	N/A		

Primary Market Area (PMA):   20 sq. miles   3 mile equivalent radius

The Primary Market Area is bound by Richey Road, Sleepy Creek, Allendale Road, South Houston Road, Southmore Drive, and West Houston Avenue to the north; Red Bluff Road and Beltway 8 to the east; Beltway 8 to the south; and Galveston Road to the west. This area had an estimated 2008 population of 90,374, including 9,320 senior households.

Secondary Market Area (SMA):

The market study defines a Secondary Market Area as the entire city of Houston. While the Real Estate Analysis Rules do not limit the size of a secondary market for a senior development, the SMA analysis provided in the market study for the subject does not conform to the Rules because it does not specifically consider any comparable supply from the SMA in the calculation of the capture rate. The underwriting analysis has not considered any demand from a secondary market.

This section intentionally left blank.

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
Primary Market Area				within 12 miles			
Name	File #	Total Units	Comp Units	Name	File #	Total Units	Comp Units
None				Sterling Court Senior Residences	09161	140	140
				Dixie Gardens	09249	148	98
				Villas at El Dorado	09312	159	159
				Maplewood Village II	09185	80	80
				Pearland Senior Village	09248	126	126
				Gardens at Friendswood Lakes	07310	114	114
				Mariposa at Reed Road	060217	180	180

INCOME LIMITS						
Harris						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$13,400	$15,300	$17,250	$19,150	$20,700	$22,200
40	$17,880	$20,400	$22,960	$25,520	$27,560	$29,600
50	$22,350	$25,500	$28,700	$31,900	$34,450	$37,000
60	$26,820	$30,600	$34,440	$38,280	$41,340	$44,400

MARKET ANALYST'S PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR/50%	7	3	0	10	30	0	300%
1 BR/60%	11	4	0	15	50	0	333%
2 BR/50%	7	4	0	11	29	0	264%
2 BR/60%	9	4	0	13	50	0	385%

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR/50%	49	4	0	53	42	0	80%
1 BR/60%	31	6	0	37	51	0	137%
2 BR/50%	20	2	0	23	30	0	132%
2 BR/60%	22	4	0	26	36	0	137%

OVERALL DEMAND					
	Target Households	Household Size	Income Eligible	Tenure	Demand
PMA DEMAND from TURNOVER					turnover
Market Analyst p.				1,270	20% 253
Underwriter	18% 9,664	100% 9,664	28% 2,695	62% 1,659	20% 332

		PMA DEMAND from GROWTH			growth
Market Analyst p.					3
Underwriter	18% 103	100% 103	28% 29	62% 18	100% 18
	DEMAND from HOMEOWNERS		turnover	growth	total
Market Analyst p.			10% 215	21	236
Underwriter			2% 25	0	25
DEMAND from OTHER SOURCES			Secondary Market Area	Section 8	total
Market Analyst p.			125	10	135
Underwriter			0	0	0

INCLUSIVE CAPTURE RATE						
	Subject Units	Unstabilized Comparable (PMA)	Unstabilized Comparable (25% SMA)	Total Supply	Total Demand	**Inclusive Capture Rate**
Market Analyst p.	159	0	0	159	627	**25%**
Underwriter	159	0	0	159	374	**43%**

Proposed, Under Construction, and Unstabilized Comparable Supply:

There are no proposed, under construction, or unstabilized comparable units located within the defined Primary Market Area.

Supply and Demand Analysis:

The Market Analyst estimates the number of senior households indirectly, based on the senior population relative to the adult population. By this method, the market study identifies demand for 253 units due to renter household turnover, and demand for 3 units due to renter household growth. The underwriting analysis determines income-eligible senior renter households from the HISTA demographics; this data indicates demand for 332 units due to renter household turnover, and demand for 18 units due to renter household growth.

The Market Analyst also identifies demand for 236 units from existing homeowner households. This includes demand for 215 units based on an unsubstantiated 10% turnover rate, and demand for 21 units due to household growth. The underwriting calculation is based on the US census homeowner turnover rate of 2.4%, indicating demand for 25 units. The REA Rules do not contemplate demand based on growth of homeowner households, so this source is not considered.

The Market Analyst includes demand for 125 units from the Secondary Market Area; as explained above, this analysis does not conform to the Rules and has not been considered. The Market Analyst identifies additional demand for 10 units from holders of Section 8 vouchers. The underwriting analysis has not calculated Section 8 voucher demand as it was not necessary to achieve an acceptable capture rate.

Considering all identified sources, the Market Analyst indicates total demand for 627 units, resulting in a capture rate of 25% for the 159 proposed units. The underwriting analysis calculates total demand for 374 units, indicating a capture rate of 43% for the subject units. This is well below the maximum capture rate of 75% for developments targeting seniors.

Primary Market Occupancy Rates:

"The only HTC projects within the subject PMA are Parkway Seniors, Windsor Gardens, Grenada Terrace, Gardenview, and Bayou Willows. Parkway Seniors is a 122-unit Seniors HTC facility constructed in 2003, which has a current occupancy of 100%. Bayou Willows is a 212-unit Family HTC complex constructed in 1979 and renovated in 2003, has a current occupancy of 98% and pre-leased to 99%. Gardenview is a 309-unit Family HTC complex constructed in 1968 and renovated in 1993, and currently 81% occupied and pre-leased to 85%. Granada Terrace is a 154-unit Family HTC complex constructed in 1978 and renovated in 2005, reported a current occupancy of 100%. Windsor Gardens is a 192-unit Family HTC complex constructed in 2003 which reported a current occupancy of 98% and pre-leased to 199%. Only one of the existing HTC projects within the PMA is a Seniors HTC complex (Parkway Seniors). Outside the PMA, but within relatively close proximity is Primrose at Pasadena, a 248-unit Seniors HTC complex, which reported a current occupancy of 99%." (p. 43)

Absorption Projections:

"The limited amount of new product that entered the market in 2000 through 2009 has been, or is being readily absorbed. 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." (p. 43)

RENT ANALYSIS (Tenant-Paid Net Rents)								
Unit Type (% AMI)			Proposed Rent	Program Maximum	Market Rent	Underwriting Rent	Savings Over Market
1 BR	729 SF	50%	$494	$512	$915	$512	$403
1 BR	729 SF	60%	$608	$631	$915	$631	$284
1 BR	743 SF	50%	$494	$512	$920	$512	$408
1 BR	743 SF	60%	$608	$631	$920	$631	$289
1 BR	791 SF	50%	$494	$512	$945	$512	$433
1 BR	791 SF	60%	$608	$631	$945	$631	$314
1 BR	805 SF	60%	$608	$631	$950	$631	$319
2 BR	990 SF	50%	$593	$610	$1,130	$610	$520
2 BR	990 SF	60%	$731	$754	$1,130	$754	$376
2 BR	1,033 SF	50%	$593	$610	$1,150	$610	$540
2 BR	1,033 SF	60%	$731	$754	$1,150	$754	$396
2 BR	1,075 SF	50%	$593	$610	$1,170	$610	$560
2 BR	1,075 SF	60%	$731	$754	$1,170	$754	$416

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)

The subject is one of five applications proposing 636 senior units along a 12 mile stretch of IH 45, a density of 53 senior units per mile. The analysis for the individual applications meets the Real Estate Analysis guidelines, and there appears to be sufficient demand for each. However, the Department has significant concern over this potential concentration of senior units.

Comments:

The market study provides sufficient information on which to base a funding recommendation.

OPERATING PRO FORMA ANALYSIS

Income: Number of Revisions: None Date of Last Applicant Revision: N/A

The Applicant's projected rents collected per unit were calculated by subtracting tenant-paid utility allowances as of April 1, 2008, maintained by Harris County Housing Authority from the 2008 program gross rent limits. Tenants will be required to pay electric utility costs only.

The Underwriter's projected rents were calculated by subtracting tenant-paid utilities from the City of Pasadena Housing Authority as of December 1, 2006 (still effective as of January 1, 2009) from the current 2009 HTC program rents. City of Pasadena Housing Authority utility allowances must be used for this development because it is located in the City of Pasadena. It should be noted that at the time the application was submitted (March 2009) the 2009 program rent limits not yet available. The Applicant's secondary income and vacancy and collection loss assumptions are in line with current TDHCA underwriting guidelines, and despite the Applicant's use of the lower 2008 program rents, effective gross income is within 5% of the Underwriter's estimate.

Expense: Number of Revisions:	None	Date of Last Applicant Revision:	N/A

The Applicant’s total annual operating expense projection at $4,031 per unit is within 5% of the Underwriter’s estimate of $4,151, derived from the TDHCA database, and third-party data sources. The Applicant’s budget shows utilities to be $15K lower when compared to the Underwriter's estimate derived from the PHA utility allowance. The Underwriter discussed this difference with the Applicant, but was unable to reconcile the Applicant's estimate.

Conclusion:

The Applicant’s effective gross income, operating expenses, and net operating income are all within 5% of the Underwriter’s estimates; therefore, the Applicant's year one pro forma will be used to determine the development's debt capacity. The proposed permanent financing structure results in an initial year’s debt coverage ratio (DCR) of 1.25, which is within the Department’s DCR guideline of 1.15 to 1.35.

Feasibility:

The underwriting 30-year pro forma utilizes a 2% annual growth factor for income and a 3% annual growth factor for expenses in accordance with current TDHCA guidelines. As noted above, the Applicant's/Underwriter’s base year effective gross income, expense and net operating income were utilized resulting in a debt coverage ratio that remains above 1.15 and continued positive cash flow. Therefore, the development can be characterized as feasible for the long-term.

ACQUISITION INFORMATION

ASSESSED VALUE

Land Only: 22.77 acres	$1,314,096	Tax Year:	2009
Existing Buildings:	$0	Valuation by:	Harris CAD
1 acre:	$57,714		
Total Prorata: 14.54 acres	$839,316		
Total Assessed Value:	$839,316	Tax Rate:	2.711231

EVIDENCE of PROPERTY CONTROL

Type:	Purchase Contract - Amended 2/15/2010	Acreage:	14.5426
Contract Expiration:	1/10/2010 plus 8 optional 30-day extensions	Valid Through Board Date?	N/A
Acquisition Cost:	$1,625,575	Other:	
Seller:	Scanlan Foundation	Related to Development Team?	☐ Yes ☒ No

Comments:

On March 10, 2010 TDHCA received an amendment request from the Applicant requesting an increase in the acquisition cost and the overall acreage of the development. The development site will now include an additional 2 acres for an additional $128,200 for a total purchase price of $1,625,575 for a total of 14.5426 acres. This is evidenced by a revised boundary survey and an amended purchase contract executed on 2/15/2010. The original purchase price for 12.5 acres was $1,497,375. As reported by the Applicant in the amendment request materials: The additional 2 acres are necessary because the City of Pasadena installed a new storm sewer line to service the site. The outfall to this new storm sewer line is higher than outfall to the previous storm sewer line. This higher outfall requires a larger surface area for more shallow detention than originally planned. As a result, the Owner needs to add approximately 2 acres to the originally proposed development site.

The Applicant has paid the $2,500 amendment request fee. The additional costs will not materially affect the LIHTC allocation recommendation, and any gaps in financing resulting from the increased acquisition cost can be filled by additional deferred developer fee as well as contingency fees.

The contract to purchase has expired as of January 10, 2010; however, the purchase contract was amended to allow for up to 8 (eight) 30 (thirty) day extensions for a fee of $5,000 per 30-day extension paid to the seller. Any extension fees paid are non-refundable and will not be applied towards the overall purchase. The Applicant provided documentation of all amendments to the purchase contract and receipts for extension fees paid. The final expiration/closing date of the Amended Purchase Contract is set for August 10, 2010.

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: None Date of Last Applicant Revision: N/A

Acquisition Value:

The site cost of $111,780 per acre or $10,224 per unit is assumed to be reasonable since the acquisition is an arm's-length transaction. The original acquisition cost of $1,497,375 was increased to $1,625,575 after application when two acres were added to the originally proposed site. The Applicant submitted an amendment to the application in March 2010 to reflect the increase in acreage and acquisition cost. This Underwriting Report reflects the increased site acreage.

Site work Cost:

The Applicant claimed site work costs over the Departments maximum guideline of $9,000 per unit and provided sufficient third party certification through a detailed certified cost estimate by an architect to justify these costs. In addition, these costs have been reviewed by the Applicant's CPA, Reznick Group, to preliminarily opine that all $1,802,000 of the total will be considered eligible. The CPA has not indicated that this opinion of eligibility has taken into account the effect of the recent IRS Technical Advisory Memorandums on the eligibility of site work costs.

Direct Construction Cost:

The Applicant's direct construction cost estimate is $336K or 4% higher than the Underwriter's Marshall & Swift Residential Cost Handbook-derived estimate.

Interim Interest Expense:

The Underwriter reduced the Applicant's eligible interim financing fees by $193,215 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 & Fees:

The Applicant's developer fee exceeds 15% of the Applicant's adjusted eligible basis by $29,532 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 $16,896,512 supports annual tax credits of $1,976,892. 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

SOURCES & USES Number of Revisions: None Date of Last Applicant Revision: N/A

Source: Bank of America Type: **Interim Financing**

Principal: $7,050,000 Interest Rate: 7.46% ☐ Fixed Term: 24 months

Comments:

Interim Rate Index: 1 month LIBOR + 350 bps. Per a letter from Bank of America dated 8/3/2009, "For the subject loan, the range of rates over the initial 24 month period ranges from 5.77% to 7.46%." The Underwriter used the higher of the projected interest rates due to the variable nature of rates based on the LIBOR index.

Source: Robinson Capital | Type: **Interim Financing**

Principal: $395,000 | Interest Rate: 0.00% | [X] Fixed | Amort: 24 months

Comments:

The Applicant provided an updated commitment letter describing terms for an interim loan of $395K at 0% interest to be paid over a 24 month construction period. It is unclear to the Underwriter whether or not monthly payments or a lump sum payment upon construction completion will be required. However, it is certain that these funds are to be repaid as a loan.

Source: Hampshire Court Contractors, LLC | Type: **Deferred Interim Fee**

Principal: $634,119 | Interest Rate: 0.00% | [ ] Fixed | Term: N/A months

Comments:

The General Contractor will defer this amount of their fee to add to construction sources.

Source: Bank of America | Type: **Permanent Financing**

Principal: $4,231,649 | Interest Rate: 7.75% | [X] Fixed | Amort: 360 months

Comments:

Permanent Loan: Per the term sheet, if the note rate were to be set as of the date of the term sheet, the rate would be 7.25%. However, an underwriting rate of 7.75% is being used by the lender. The loan will have an 18 year term and 30 year amortization period.

Source: Bank of America | Type: **Syndication**

Proceeds: $13,998,600 | Syndication Rate: 70% | Anticipated HTC: $ 2,000,000

Comments:

Due to the recent volatility in credit pricing, it should be noted that at the requested annual tax credit amount, any decrease in rate could increase the amount of deferred developer fee. Additionally, a decrease below $0.6909 per dollar of credit may jeopardize the financial viability of the transaction. Alternatively, should the final credit price increase to more than $0.7681, all deferred developer fees would be eliminated and an adjustment to the credit amount may be warranted.

Amount: $1,309,585 | Type: **Deferred Developer Fees**

CONCLUSIONS

Recommended Financing Structure:

The Applicant’s total development cost estimate less the permanent loan of $4,231,649 indicates the need for $15,308,185 in gap funds. Based on the submitted syndication terms, an annual tax credit allocation of $2,187,102 would be required to fill this gap in financing. The three possible tax credit allocations are:

Allocation determined by eligible basis:	**$1,992,923**
Allocation determined by gap in financing:	$2,187,102
Allocation requested by the Applicant:	$2,000,000

The allocation amount determined by the Applicant's eligible basis is recommended. A tax credit allocation of $1,992,923 per year results in total equity proceeds of $13,949,065 at a syndication rate of $0.70 per tax credit dollar.

The Underwriter’s recommended financing structure indicates the need for $1,359,120 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cash flow within 10 to 15 years of stabilized operation.

Underwriter:	*Colton Sanders*	Date:	April 23, 2010
Manager of Real Estate Analysis:	*Audrey Martin*	Date:	April 23, 2010
Director of Real Estate Analysis:	*Brent Stewart*	Date:	April 23, 2010

MULTIFAMILY COMPARATIVE ANALYSIS

Hampshire Court Apartments, Pasadena, 9% HTC #09313

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	WS&T
TC 50%	10	1	1	729	$598	$512	$5,120	$0.70	$86	$41
TC 60%	11	1	1	729	$717	$631	$6,941	$0.87	$86	$41
TC 50%	5	1	1	743	$598	$512	$2,560	$0.69	$86	$41
TC 60%	7	1	1	743	$717	$631	$4,417	$0.85	$86	$41
TC 50%	27	1	1	791	$598	$512	$13,824	$0.65	$86	$41
TC 60%	32	1	1	791	$717	$631	$20,192	$0.80	$86	$41
TC 60%	1	1	1	805	$717	$631	$631	$0.78	$86	$41
TC 50%	11	2	2	990	$717	$610	$6,710	$0.62	$107	$52
TC 60%	13	2	2	990	$861	$754	$9,802	$0.76	$107	$52
TC 50%	5	2	2	1,033	$717	$610	$3,050	$0.59	$107	$52
TC 60%	7	2	2	1,033	$861	$754	$5,278	$0.73	$107	$52
TC 50%	14	2	2	1,075	$717	$610	$8,540	$0.57	$107	$52
TC 60%	16	2	2	1,075	$861	$754	$12,064	$0.70	$107	$52
TOTAL:	159		AVERAGE:	881		$623	$99,129	$0.71	$94.72	$45.57

INCOME	Total Net Rentable Sq Ft: 140,105			TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$1,189,548	$1,150,344	Harris	Houston	6
Secondary Income		Per Unit Per Month:	$15.00	28,620	28,620	$15.00	Per Unit Per Month	
Other Support Income:				0	0	$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$1,218,168	$1,178,964			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%	(91,363)	(88,428)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0	0			
EFFECTIVE GROSS INCOME				$1,126,805	$1,090,536			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.49%	$319	0.36	$50,646	$52,000	$0.37	$327	4.77%
Management		5.00%	354	0.40	56,340	54,527	0.39	343	5.00%
Payroll & Payroll Tax		13.71%	972	1.10	154,502	147,600	1.05	928	13.53%
Repairs & Maintenance		6.76%	479	0.54	76,141	79,850	0.57	502	7.32%
Utilities		3.99%	283	0.32	44,944	30,000	0.21	189	2.75%
Water, Sewer, & Trash		4.93%	349	0.40	55,513	62,000	0.44	390	5.69%
Property Insurance		4.35%	308	0.35	49,037	44,822	0.32	282	4.11%
Property Tax	2.711231	9.56%	678	0.77	107,771	104,940	0.75	660	9.62%
Reserve for Replacements		3.53%	250	0.28	39,750	39,750	0.28	250	3.64%
TDHCA Compliance Fees		0.56%	40	0.05	6,360	6,360	0.05	40	0.58%
Other: Support Services		1.69%	120	0.14	19,080	19,080	0.14	120	1.75%
TOTAL EXPENSES		58.58%	$4,151	$4.71	$660,084	$640,929	$4.57	$4,031	58.77%
NET OPERATING INC		41.42%	$2,935	$3.33	$466,721	$449,607	$3.21	$2,828	41.23%
DEBT SERVICE									
Bank of America		32.29%	$2,288	$2.60	$363,793	$359,690	$2.57	$2,262	32.98%
Robinson Capital		0.00%	$0	$0.00	0	0	$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0	0	$0.00	$0	0.00%
NET CASH FLOW		9.13%	$647	$0.73	$102,928	$89,917	$0.64	$566	8.25%
AGGREGATE DEBT COVERAGE RATIO					1.28	1.25			
RECOMMENDED DEBT COVERAGE RATIO						1.24			

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)		8.52%	$10,224	$11.60	$1,625,575	$1,625,575	$11.60	$10,224	8.32%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		9.44%	11,336	12.87	1,802,500	1,802,500	12.87	11,336	9.22%
Direct Construction		47.46%	56,980	64.66	9,059,760	9,395,600	67.06	59,092	48.08%
Contingency	4.79%	2.72%	3,270	3.71	520,000	520,000	3.71	3,270	2.66%
Contractor's Fees	14.00%	7.97%	9,564	10.85	1,520,716	1,567,734	11.19	9,860	8.02%
Indirect Construction		3.51%	4,214	4.78	670,000	670,000	4.78	4,214	3.43%
Ineligible Costs		3.51%	4,208	4.78	669,070	669,070	4.78	4,208	3.42%
Developer's Fees	15.00%	11.34%	13,612	15.45	2,164,336	2,233,425	15.94	14,047	11.43%
Interim Financing		4.48%	5,383	6.11	855,930	855,930	6.11	5,383	4.38%
Reserves		1.05%	1,258	1.43	200,000	200,000	1.43	1,258	1.02%
TOTAL COST		100.00%	$120,050	$136.24	$19,087,888	$19,539,834	$139.47	$122,892	100.00%
Construction Cost Recap		67.60%	**$81,151**	**$92.10**	**$12,902,977**	**$13,285,834**	**$94.83**	**$83,559**	67.99%

SOURCES OF FUNDS

	%	PER UNIT	PER SQ FT	TDHCA	APPLICANT	RECOMMENDED	
Bank of America	22.17%	$26,614	$30.20	$4,231,649	$4,231,649	$4,231,649	Developer Fee Available
Robinson Capital	0.00%	$0	$0.00	0	0	0	$2,221,765
Bank of America	73.34%	$88,042	$99.92	13,998,600	13,998,600	13,949,065	% of Dev. Fee Deferred
Deferred Developer Fees	6.86%	$8,236	$9.35	1,309,585	1,309,585	1,359,120	61%
Additional (Excess) Funds Req'd	-2.37%	($2,842)	($3.23)	(451,946)	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$19,087,888	$19,539,834	$19,539,834	$1,539,906

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$56.81	$7,959,158
Adjustments				
Exterior Wall Finish	2.40%		$1.36	$191,020
Elderly	3.00%		1.70	238,775
9-Ft. Ceilings	3.30%		1.87	262,652
Roofing			0.00	0
Subfloor			(1.04)	(145,309)
Floor Cover			2.15	301,408
Patios/Balconies (Type I &	$60.25	6,945	2.99	418,446
Patios/Breezeways (Type	$22.95	17,195	2.82	394,625
Plumbing Fixtures	$835	267	1.59	222,945
Rough-ins	$410	318	0.93	130,380
Built-In Appliances	$1,800	159	2.04	286,200
Exterior Stairs	$1,875	8	0.11	15,000
Elevators	$53,600	2	0.77	107,200
Heating/Cooling			1.83	256,392
Garages (Type I & II)	$20.51	25,688	3.76	526,876
Garages (Type III, IV, V)	$21.87	8,400	1.31	183,674
Garages (Detached)	$39.87	5,400	1.54	215,276
Comm &/or Aux Bldgs	$69.23	5,649	2.79	391,095
Other: fire sprinkler	$2.15	140,105	2.15	301,226
SUBTOTAL			87.48	12,257,040
Current Cost Multiplier	1.01		0.87	122,570
Local Multiplier	0.90		(8.75)	(1,225,704)
TOTAL DIRECT CONSTRUCTION COSTS			$79.61	$11,153,906
Plans, specs, survy, bld prm	3.90%		($3.10)	($435,002)
Interim Construction Interest	3.38%		(2.69)	(376,444)
Contractor's OH & Profit	11.50%		(9.16)	(1,282,699)
NET DIRECT CONSTRUCTION COSTS			$64.66	$9,059,760

PAYMENT COMPUTATION

Primary	$4,231,649	Amort	360
Int Rate	7.75%	DCR	1.28
Secondary	$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.28
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.28

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	$363,793
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	$85,814

Primary	$4,231,649	Amort	360
Int Rate	7.75%	DCR	1.24
Secondary	$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.24
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.24

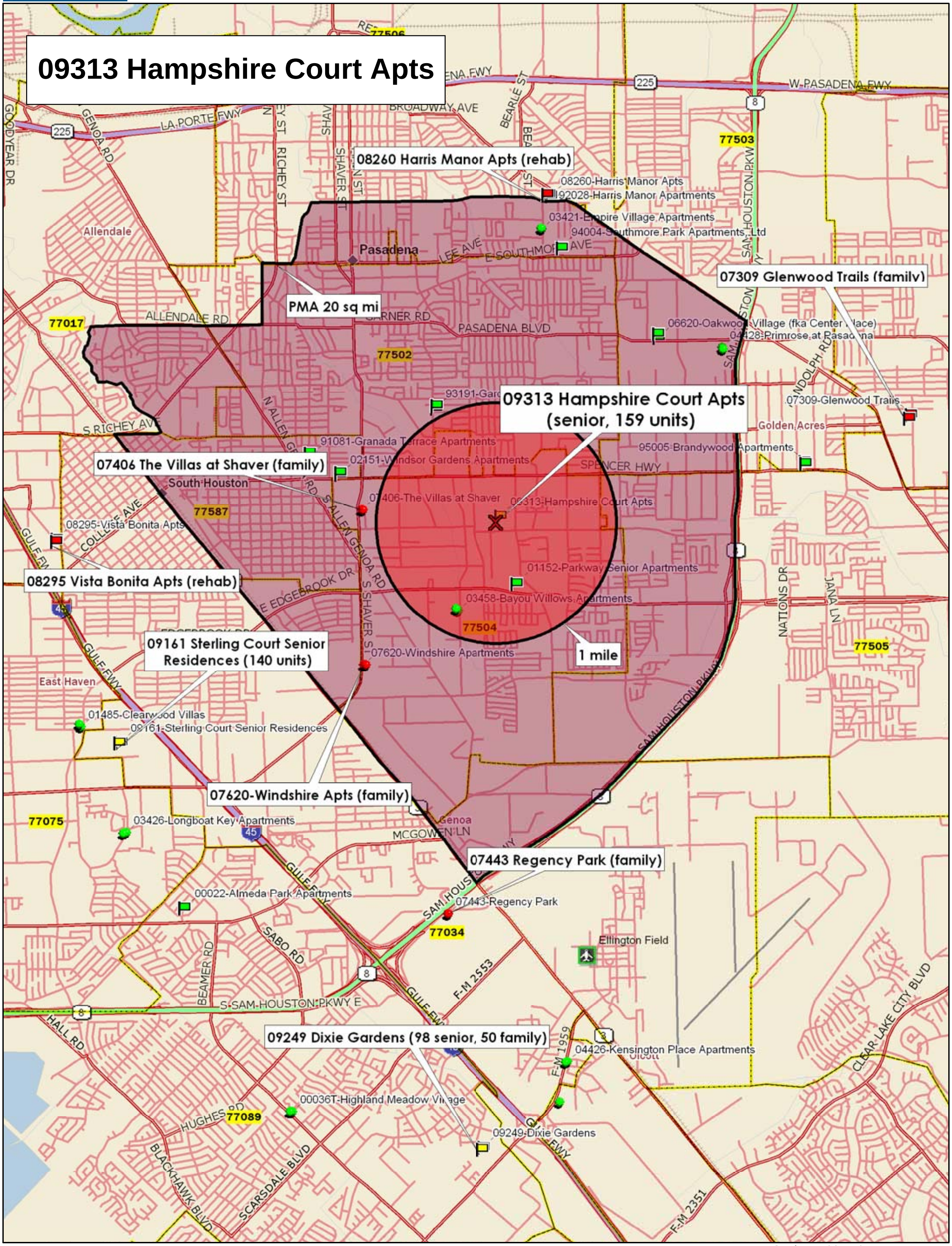
OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$1,150,344	$1,173,351	$1,196,818	$1,220,754	$1,245,169	$1,374,768	$1,517,854	$1,675,834	$2,042,832
Secondary Income	28,620	29,192	29,776	30,372	30,979	34,204	37,763	41,694	50,825
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,178,964	1,202,543	1,226,594	1,251,126	1,276,149	1,408,971	1,555,618	1,717,528	2,093,657
Vacancy & Collection Loss	(88,428)	(90,191)	(91,995)	(93,834)	(95,711)	(105,673)	(116,671)	(128,815)	(157,024)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$1,090,536	$1,112,353	$1,134,600	$1,157,292	$1,180,437	$1,303,298	$1,438,947	$1,588,713	$1,936,633
EXPENSES at 3.00%									
General & Administrative	$52,000	$53,560	$55,167	$56,822	$58,526	$67,848	$78,655	$91,182	$122,541
Management	54,527	55,618	56,730	57,865	59,022	65,165	71,948	79,436	96,832
Payroll & Payroll Tax	147,600	152,028	156,589	161,287	166,125	192,585	223,258	258,817	347,829
Repairs & Maintenance	79,850	82,246	84,713	87,254	89,872	104,186	120,780	140,017	188,172
Utilities	30,000	30,900	31,827	32,782	33,765	39,143	45,378	52,605	70,697
Water, Sewer & Trash	62,000	63,860	65,776	67,749	69,782	80,896	93,781	108,717	146,107
Insurance	44,822	46,167	47,552	48,978	50,448	58,483	67,797	78,596	105,626
Property Tax	104,940	108,088	111,331	114,671	118,111	136,923	158,731	184,013	247,298
Reserve for Replacements	39,750	40,943	42,171	43,436	44,739	51,865	60,125	69,702	93,673
Other	25,440	26,203	26,989	27,799	28,633	33,193	38,480	44,609	59,951
TOTAL EXPENSES	$640,929	$659,612	$678,844	$698,642	$719,023	$830,287	$958,933	$1,107,695	$1,478,727
NET OPERATING INCOME	$449,607	$452,741	$455,756	$458,649	$461,415	$473,012	$480,013	$481,018	$457,906
DEBT SERVICE									
First Lien Financing	$363,793	$363,793	$363,793	$363,793	$363,793	$363,793	$363,793	$363,793	$363,793
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	$85,814	$88,948	$91,963	$94,857	$97,622	$109,219	$116,221	$117,225	$94,113
DEBT COVERAGE RATIO	1.24	1.24	1.25	1.26	1.27	1.30	1.32	1.32	1.26

HTC ALLOCATION ANALYSIS -Hampshire Court Apartments, Pasadena, 9% HTC #09313

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost				
Purchase of land	$1,625,575	$1,625,575		
Purchase of buildings				
Off-Site Improvements				
Sitework	$1,802,500	$1,802,500	$1,802,500	$1,802,500
Construction Hard Costs	$9,395,600	$9,059,760	$9,395,600	$9,059,760
Contractor Fees	$1,567,734	$1,520,716	$1,567,734	$1,520,716
Contingencies	$520,000	$520,000	$520,000	$520,000
Eligible Indirect Fees	$670,000	$670,000	$670,000	$670,000
Eligible Financing Fees	$855,930	$855,930	$855,930	$855,930
All Ineligible Costs	$669,070	$669,070		
Developer Fees			$2,221,765	
Developer Fees	$2,233,425	$2,164,336		$2,164,336
Development Reserves	$200,000	$200,000		
TOTAL DEVELOPMENT COSTS	$19,539,834	$19,087,888	$17,033,529	$16,593,243

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		$17,033,529	$16,593,243
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		$22,143,587	$21,571,215
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		$22,143,587	$21,571,215
Applicable Percentage		9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS		$1,992,923	$1,941,409
Syndication Proceeds	**0.6999**	**$13,949,065**	**$13,588,507**
Total Tax Credits (Eligible Basis Method)		**$1,992,923**	**$1,941,409**
Syndication Proceeds		**$13,949,065**	**$13,588,507**
Requested Tax Credits		**$2,000,000**	
Syndication Proceeds		**$13,998,600**	
Gap of Syndication Proceeds Needed		**$15,308,185**	
Total Tax Credits (Gap Method)		**$2,187,102**	



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

Memorandum

To: File

From: Diamond Thompson, Real Estate Analysis

cc: Ben Sheppard, Multifamily Finance Production

Date: June 2, 2010

Re: Amendment Request for Greenhouse Place, TDHCA #09986/09265

Background
The Development was approved for an allocation of 9% tax credits in the amount of $1,461,953 in July 2009. In January 2010, the Development was revaluated and approved for an award of $12,426,601 under the Tax Credit Exchange Program ("TCEP").

Amendment Request:
In April of 2010, the Owner requested approval for the following clarification and changes to the original application:

1. Site Acreage – Increase the development site acreage by an additional 0.8078 acres, for total site acreage of 10.8078 acres, in order to satisfy unanticipated City access requirements. The Applicant indicated that the additional cost associated with the additional acreage (~58K) will come out of the budgeted contingency. The Applicant provided an ESA for the additional acreage that found no recognized environmental conditions.

2. Specifications & Amenities –

    a. A change from "Composition Roll" roofing to "Composition Shingle"
    b. A change from "Warm & Cooled Air" to "Forced Air" system.
    c. A change in the "Green Building Initiative Amenities" from "Irrigation & Landscaping" to Thermally & Draft Efficient Doors."
    d. An increase in the clubhouse size of ~1500 square feet, for total square footage of 8,578.

Conclusion
Real Estate Analysis has reviewed the Applicant's amendment request. The Underwriter's analysis indicates that the proposed changes do not negatively impact the underwriting of the transaction, and the previous recommendations of TCEP and tax credits continue to be supported; no changes to the award amounts are recommended at this time.

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

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report - Tax Credit Exchange / 9% HTC ADDENDUM

Development Name:	Greenhouse Place	**Date:**	January 22, 2010
Address:	SEQ West & Greenhouse	**FILE NUMBER:**	09986/09265
City:	Houston	**Population:**	Seniors
County:	Harris	**Activity:**	New Construction

	Award Amount	Exchange Price	Credits Exchanged
Request:	$12,426,601	$0.85	$1,461,953
Recommendation:	**$12,426,601**	**$0.85**	**$1,461,953**

The recommended Tax Credit Exchange award amount was calculated using the previously awarded housing tax credit allocation.

Conditions to Recommendation

1 Receipt, review and acceptance prior to Exchange closing of a firm commitment from Harris County Community Services Department for the $830K loan, clearly indicating terms consistent with this underwriting analysis. If the terms differ from the analysis, reunderwriting will be required.

2 Should the terms and rates of the proposed financing change, the transaction should be re-evaluated and an adjustment to the credit allocation amount may be warranted.

3 Any condition of previous underwriting reports that has not been satisfied remains a condition of this report.

Property Summary

# Units	140	**Acreage:**	10
Year Built	N/A	**Units/Acre:**	14.00
Current Occupancy	0%	**Flood Zone:**	Yes
Number Buildings	2	**Zoning:**	N/A
Units/Building	70	**Stabilized DCR:**	1.25

The Applicant is now requesting to change the financing structure, including the return of the entire housing tax credit allocation for Tax Credit Exchange Program (Exchange) funds. The Subject development has qualified for a tax credit exchange price of $0.85, by committing to provide an additional 20% of the units as 30% units.

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	35
50% of AMI	50% of AMI	35
60% of AMI	60% of AMI	70

Salient Issues

- None

Operating Pro Forma

Rents based on: Current 2009 HTC program gross rent limits less utility allowances.

The Underwriter's estimate includes an Exchange Asset Oversight Fee of $50/unit/year, which the Applicant's estimate does not. If the fee was included in the Applicant's estimate, the Applicant's total expenses would still be within 5% of the Underwriter's, and the Applicant's DCR would fall to 1.20.

The inclusion of the additional 30% units significantly reduced income by 5% and reduced NOI by 12%.

The Applicant's year one pro forma will be used to determine the development's debt capacity.

The Applicant's submitted pro forma meets current Department guidelines with regard to the DCR limit.

Uses of Funds/Scope of Work

Since the previous underwriting, the purchase contract for the property has been extended until January 31, 2010.

Direct construction costs pursuant to the Underwriter's original Marshall & Swift -derived estimate total $7,251,601.

The Applicant's total development costs increased by $1,406,218 from original underwriting. Per the Applicant, preliminary estimate from contractor was recently received and came in slightly higher than expected. Per Applicant, there have been no material changes to the development plan.

Of note, the Applicant included $213K as "other" direct construction costs consisting of subcontractor & contractor general liability, builder's risk insurance, P&P Bond, lender cost review, and lender architect review. The Underwriter reallocated these costs to the appropriate line items ($115K to contractor fees, and $104K to interim financing).

The Applicant's eligible contingency costs were adjusted down by $528 to meet the Department guideline of 5% of eligible sitework and direct construction costs for new construction developments.

The Applicant's contractor fees exceed the 14% maximum allowed by HTC guidelines by a total of $59,462 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 $8,997 and therefore the eligible portion of the Applicant's developer fee must be reduced by the same amount.

The Applicant's revised cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis because the Applicant's total revised development cost is within 5% of the Underwriter's estimate.

An eligible basis of $13,635,381 supports annual tax credits of $1,595,340.

Source of Funds

The exchange price of $0.85 is $0.16 higher than the syndication rate utilized during the most recent underwriting, resulting in a increase in proceeds created by the tax credit allocation.

Harris County Community Services Department (HCCSD) has approved a conditional award of $842,450, less an administrative fee of $12,450, for an anticipated net award of $830K. According to the Applicant, the terms of the award have not yet been finalized. The previous underwriting assumptions of a fully amortizing loan at AFR (3.94% as of November) over 40 years, have been maintained. Receipt, review and acceptance prior to Exchange closing of a firm commitment for the anticipated funds, clearly indicating terms consistent with this underwriting analysis is a condition of this addendum.

Single Family Investments, Ltd. will continue to provide interim financing for 60 months in the amount of $320,000 at Wall Street Journal Prime plus 1%.

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Oak Grove Capital will provide interim and permanent financing in the amount of $2.5M. Both the interim and permanent loans will be fixed at a 8.5% interest rate, and the permanent loan will be amortized over 35 years with an 18 year term. Although the letter is classified as a "firm commitment," it provides information consistent with a term sheet.

The Exchange Program Policy states: “The amount of Exchange funds that may be requested and awarded is limited to the lesser of: eligible basis as defined by Section 42 of the Internal Revenue Code, unless otherwise allowed by written U. S. Treasury Department guidance; the amount necessary to support the total development cost less any committed permanent financing or permanent financing with a 30 year amortization and 8% interest rate based on a 1.25 debt coverage ratio on Net Income (as further defined in 10 TAC § 1.32, the Department’s Real Estate Analysis Rules) and other sources of funds including previously identified sources of funds; or the amount of total credit allocated to the development times 10 times the Credit Price Ceiling.”

If the commitment was considered to meet the requirement for "committed permanent financing," use of the terms of the letter of interest would still result in a recommended Exchange award equal to the Applicant's request.

However, the Underwriter does not consider the submitted commitment to meet the requirement for "committed permanent financing" as intended under the Policy.

Therefore, pursuant to the Policy, the recommended financing structure assumes permanent financing based on an interest rate of 8% and an amount necessary to achieve a 1.25 DCR ($2,475,000) using a 30 year amortization period. This increase in the assumed permanent debt causes results in a recommended Exchange award of $12,426,601, which is equal to the Applicant's request.

Should the actual permanent debt equal the amount reflected in the application, the development would not be oversourced with Exchange funds.

Unique Program Requirements Reviewed

- None

Underwriting Assumptions/Limiting Conditions

- Only those portions of the report that are materially affected by the proposed changes are discussed above. This report should be read in conjunction with the original underwriting report for a full evaluation of the originally proposed development plan and structure.

Underwriter:	*Diamond Unique Thompson*	Date:	22-Jan-10
Manager of Real Estate Analysis:	*Audrey Martin*	Date:	22-Jan-10
Director of Real Estate Analysis:	*Brent Stewart*	Date:	22-Jan-10

MULTIFAMILY COMPARATIVE ANALYSIS

Greenhouse Place, Houston, Tax Credit Exchange / 9% HTC #09986/09265

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	WS&T
TC 30%	20	1	1	716	$358	273		$5,460	$0.38	$85.00	$50.00
TC 50%	20	1	1	716	$598	513		$10,260	$0.72	$85.00	$50.00
TC 60%	39	1	1	716	$717	632		$24,648	$0.88	$85.00	$50.00
TC 30%	15	2	2	1,001	$431	330		$4,950	$0.33	$101.00	$50.00
TC 50%	15	2	2	1,001	$717	616		$9,240	$0.62	$101.00	$50.00
TC 60%	31	2	2	1,001	$861	760		$23,560	$0.76	$101.00	$50.00
TOTAL:	140		AVERAGE:	840		$558		$78,118	$0.66	$91.97	$50.00

INCOME	Total Net Rentable Sq Ft: 117,625			TDHCA-Exchange	TDHCA - UW	APPLICATION	APPLICANT-Exchange	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$937,416	$1,024,680	$986,184	$937,416	Harris	Houston	6
Secondary Income		Per Unit Per Month:	$15.00	25,200	25,200	25,200	25,200	$15.00	Per Unit Per Month	
Other Support Income:				0	0			$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$962,616	$1,049,880	$1,011,384	$962,616			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%	(72,196)	(78,741)	(75,852)	(72,192)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0	0					
EFFECTIVE GROSS INCOME				$890,420	$971,139	$935,532	$890,424			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT				PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.89%	$311	0.37	$43,575	$43,575	$44,420	$44,420	$0.38	$317	4.99%
Management		5.00%	318	0.38	44,521	48,557	46,777	44,521	0.38	318	5.00%
Payroll & Payroll Tax		14.93%	950	1.13	132,943	132,943	134,790	134,790	1.15	963	15.14%
Repairs & Maintenance		7.36%	468	0.56	65,522	65,522	66,747	66,747	0.57	477	7.50%
Utilities		4.34%	276	0.33	38,628	38,628	37,200	37,200	0.32	266	4.18%
Water, Sewer, & Trash		5.36%	341	0.41	47,703	47,703	48,648	48,648	0.41	347	5.46%
Property Insurance		6.91%	439	0.52	61,500	61,500	59,400	59,400	0.50	424	6.67%
Property Tax	2.36337	8.88%	565	0.67	79,078	81,012	78,100	78,100	0.66	558	8.77%
Reserve for Replacements		3.93%	250	0.30	35,000	35,000	35,000	35,000	0.30	250	3.93%
TDHCA Compliance Fees		0.63%	40	0.05	5,600	5,600	5,600	5,600	0.05	40	0.63%
TCEP Asset Oversight Fees		0.79%	50	0.06	7,000				0.00	0	0.00%
Other: Sup Servs		1.32%	84	0.10	11,727	11,727	11,727	11,727	0.10	84	1.32%
TOTAL EXPENSES		64.33%	$4,091	$4.87	$572,797	$571,767	$568,409	$566,153	$4.81	$4,044	63.58%
NET OPERATING INC		35.67%	$2,269	$2.70	$317,622	$399,372	$367,123	$324,271	$2.76	$2,316	36.42%
DEBT SERVICE										
Keybank Real Estate Capital/Oak Gr		25.16%	$1,600	$1.90	$224,058	$266,265	$268,459	$224,058	$1.90	$1,600	25.16%
HCCSD		4.63%	$295	$0.35	41,256	38,346	44,777	41,256	$0.35	$295	4.63%
Additional Financing		0.00%	$0	$0.00	0	0			$0.00	$0	0.00%
NET CASH FLOW		5.87%	$374	$0.44	$52,308	$94,762	$53,887	$58,957	$0.50	$421	6.62%
AGGREGATE DEBT COVERAGE RATIO					1.20	1.31	1.17	1.22			
RECOMMENDED DEBT COVERAGE RATIO						1.31		1.25			

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA-Exchange	TDHCA - UW	APPLICATION	APPLICANT-Exchange	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		10.38%	$11,512	$13.70	$1,611,720	$1,611,720	$1,611,720	$1,611,720	$13.70	$11,512	10.02%
Off-Sites		0.12%	137	0.16	19,200	19,200	19,200	19,200	0.16	137	0.12%
Sitework		7.84%	8,695	10.35	1,217,303	1,153,303	1,153,303	1,217,303	10.35	8,695	7.57%
Direct Construction		46.70%	51,797	61.65	7,251,601	7,251,601	7,057,437	7,575,927	64.41	54,114	47.08%
Contingency	5.00%	2.73%	3,025	3.60	423,445	264,264	264,264	440,189	3.74	3,144	2.74%
Contractor's Fees	14.00%	7.64%	8,469	10.08	1,185,647	1,176,687	1,224,087	1,290,514	10.97	9,218	8.02%
Indirect Construction		6.80%	7,547	8.98	1,056,580	918,580	918,580	1,056,580	8.98	7,547	6.57%
Ineligible Costs		2.18%	2,423	2.88	339,167	244,177	244,177	339,167	2.88	2,423	2.11%
Developer's Fees	15.00%	11.08%	12,290	14.63	1,720,636	1,652,574	1,652,574	1,787,525	15.20	12,768	11.11%
Interim Financing		2.17%	2,402	2.86	336,329	399,494	399,494	336,329	2.86	2,402	2.09%
Reserves		2.36%	2,622	3.12	367,132	139,100	139,100	415,700	3.53	2,969	2.58%
TOTAL COST		100.00%	$110,920	$132.02	$15,528,759	$14,830,699	$14,683,936	$16,090,154	$136.79	$114,930	100.00%
Construction Cost Recap		*64.90%*	***$71,986***	***$85.68***	***$10,077,996***			***$10,523,933***	***$89.47***	***$75,171***	*65.41%*

SOURCES OF FUNDS								RECOMMENDED	
Keybank Real Estate Capital/Oak Gr	16.10%	$17,857	$21.25	$2,500,000	$3,600,000	$3,600,000	$2,500,000	$2,475,000	Developer Fee Available
HCCSD	5.34%	$5,929	$7.06	830,000	830,000	830,000	830,000	830,000	$1,778,528
TCAP Permanent Loan Replaceme	0.00%	$0	$0.00	0	0				
TCAP Equity Bridge Loan	0.00%	$0	$0.00	0	0				
Tax Credit Exchange Program	80.02%	$88,761	$105.65	12,426,601	0		12,426,601	12,426,601	
TCAP Tax Credit Rplcmnt Loan (re	0.00%	$0	$0.00	0	0				
Hudson Housing Capital	0.00%	$0	$0.00	0	10,086,000	10,086,000			% of Dev. Fee Deferred
Deferred Developer Fees	2.15%	$2,383	$2.84	333,553	167,936	167,936	333,553	358,554	20%
Additional (Excess) Funds Req'd	-3.62%	($4,010)	($4.77)	(561,395)	146,763	0	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$15,528,759	$14,830,699	$14,683,936	$16,090,154	$16,090,154	$1,035,648

Greenhouse Place, Houston, Tax Credit Exchange / 9% HTC #09986/09265

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost				$0
Adjustments				
Exterior Wall Finish			$0.00	$0
Elderly			0.00	0
9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(2.42)	(284,653)
Floor Cover			2.38	279,948
Breezeways/Balconies	$22.95		0.00	0
Plumbing Fixtures	$835		0.00	0
Rough-ins	$410		0.00	0
Built-In Appliances	$1,800	140	2.14	252,000
Exterior Stairs	$1,875		0.00	0
Enclosed Corridors	($9.92)		0.00	0
Heating/Cooling			1.83	215,254
Garages/Carports			0.00	0
Comm &/or Aux Bldgs			0.00	0
Other: fire sprinkler	$2.15	117,625	2.15	252,894
SUBTOTAL			6.08	715,443
Current Cost Multiplier	1.01		0.06	7,154
Local Multiplier			(6.08)	(715,443)
TOTAL DIRECT CONSTRUCTION COSTS			$0.06	$7,154
Plans, specs, survy, bld prm	3.90%		($0.00)	($279)
Interim Construction Interest	3.38%		(0.00)	(241)
Contractor's OH & Profit	11.50%		(0.01)	(823)
NET DIRECT CONSTRUCTION COSTS			$0.05	$5,811

PAYMENT COMPUTATION

Primary	$2,500,000	Amort	420
Int Rate	8.50%	DCR	1.42
Secondary	$830,000	Amort	480
Int Rate	3.94%	Subtotal DCR	1.20
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.20

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	$217,928
Secondary Debt Service	41,256
Additional Debt Service	0
NET CASH FLOW	$65,087

Primary	$2,475,000	Amort	360
Int Rate	8.00%	DCR	1.49
Secondary	$830,000	Amort	480
Int Rate	3.94%	Subtotal DCR	1.25
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.25

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$937,416	$956,164	$975,288	$994,793	$1,014,689	$1,120,299	$1,236,901	$1,365,638	$1,664,705
Secondary Income	25,200	25,704	26,218	26,742	27,277	30,116	33,251	36,712	44,751
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	962,616	981,868	1,001,506	1,021,536	1,041,967	1,150,415	1,270,151	1,402,350	1,709,457
Vacancy & Collection Loss	(72,192)	(73,640)	(75,113)	(76,615)	(78,147)	(86,281)	(95,261)	(105,176)	(128,209)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$890,424	$908,228	$926,393	$944,921	$963,819	$1,064,134	$1,174,890	$1,297,174	$1,581,247
EXPENSES at 3.00%									
General & Administrative	$44,420	$45,753	$47,125	$48,539	$49,995	$57,958	$67,189	$77,891	$104,679
Management	44,521	45,411	46,319	47,246	48,191	53,206	58,744	64,858	79,062
Payroll & Payroll Tax	134,790	138,834	142,999	147,289	151,707	175,870	203,882	236,355	317,641
Repairs & Maintenance	66,747	68,749	70,812	72,936	75,124	87,090	100,961	117,041	157,294
Utilities	37,200	38,316	39,465	40,649	41,869	48,538	56,268	65,230	87,664
Water, Sewer & Trash	48,648	50,107	51,611	53,159	54,754	63,475	73,584	85,305	114,642
Insurance	59,400	61,182	63,017	64,908	66,855	77,504	89,848	104,158	139,980
Property Tax	78,100	80,443	82,856	85,342	87,902	101,903	118,133	136,949	184,048
Reserve for Replacements	35,000	36,050	37,132	38,245	39,393	45,667	52,941	61,373	82,480
TDHCA Compliance Fee	5,600	5,768	5,941	6,119	6,303	7,307	8,471	9,820	13,197
TCAP Asset Oversight Fee	0	0	0	0	0	0	0	0	0
Other	11,727	12,079	12,441	12,814	13,199	15,301	17,738	20,563	27,635
TOTAL EXPENSES	$566,153	$582,692	$599,719	$617,247	$635,292	$733,818	$847,759	$979,543	$1,308,322
NET OPERATING INCOME	$324,271	$325,536	$326,674	$327,673	$328,527	$330,316	$327,131	$317,630	$272,925
DEBT SERVICE									
First Lien Financing	$217,928	$217,928	$217,928	$217,928	$217,928	$217,928	$217,928	$217,928	$217,928
Second Lien	41,256	41,256	41,256	41,256	41,256	41,256	41,256	41,256	41,256
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$65,087	$66,352	$67,490	$68,490	$69,343	$71,132	$67,947	$58,446	$13,741
DEBT COVERAGE RATIO	1.25	1.26	1.26	1.26	1.27	1.27	1.26	1.23	1.05

HTC ALLOCATION ANALYSIS -Greenhouse Place, Houston, Tax Credit Exchange / 9% HTC #09986/09265

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost				
Purchase of land	$1,611,720	$1,611,720		
Purchase of buildings				
Off-Site Improvements	$19,200	$19,200		
Sitework	$1,217,303	$1,217,303	$1,217,303	$1,217,303
Construction Hard Costs	$7,575,927	$7,251,601	$7,575,927	$7,251,601
Contractor Fees	$1,290,514	$1,185,647	$1,231,052	$1,185,647
Contingencies	$440,189	$423,445	$439,662	$423,445
Eligible Indirect Fees	$1,056,580	$1,056,580	$1,056,580	$1,056,580
Eligible Financing Fees	$336,329	$336,329	$336,329	$336,329
All Ineligible Costs	$339,167	$339,167		
Developer Fees			$1,778,528	
Developer Fees	$1,787,525	$1,720,636		$1,720,636
Development Reserves	$415,700	$367,132		
TOTAL DEVELOPMENT COSTS	$16,090,154	$15,528,759	$13,635,381	$13,191,540

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		$13,635,381	$13,191,540
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		$17,725,995	$17,149,003
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		$17,725,995	$17,149,003
Applicable Percentage		9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS		$1,595,340	$1,543,410
Syndication Proceeds	**0.8500**	**$13,560,386**	**$13,118,987**

Total Tax Credits (Eligible Basis Method)	**$1,595,340**	**$1,543,410**
Syndication Proceeds	**$13,560,386**	**$13,118,987**
Previously Awarded Tax Credits - Original	**$1,461,953**	
Syndication Proceeds	**$12,426,601**	
Gap of Syndication Proceeds Needed	**$12,785,154**	
Total Tax Credits (Gap Method)	**$1,504,136**	
Exchange Funds Requested	**$12,426,601**	
Amount of Credits Returned (Applicant)	**$1,461,953**	

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report

REPORT DATE: 07/20/09 PROGRAM: 9%/HTC FILE NUMBER: **09265**

DEVELOPMENT

Greenhouse Place

Location: SEQ West & Greenhouse Region: 6

City: Houston County: Harris Zip: 77433 ☐ QCT ☑ DDA

Key Attributes: Seniors, New Construction, Urban

ALLOCATION

	REQUEST			RECOMMENDATION		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Housing Tax Credit (Annual)	$1,461,953			**$1,461,953**		

CONDITIONS

1 Receipt, review, and acceptance of documentation by cost certification verifying no buildings and/or improvements to include drives are located in the 100-year floodplain. Should buildings or improvements be found to be in the floodplain, a flood hazard mitigation plan must be provided to include, at a minimum, consideration and documentation of floodplain reclamation sitework costs, building flood insurance and tenant flood insurance costs.

2 Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit allocation amount may be warranted.

SALIENT ISSUES

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	7
50% of AMI	50% of AMI	63
60% of AMI	60% of AMI	70

STRENGTHS/MITIGATING FACTORS

- The underwriter concludes that while the total number of proposed units remain a concern, a capture rate analysis on the general market area that includes all six concurrent 2009 applications indicates an acceptable capture rate of 59%.
- Overall capture rate of 58% based on only the subject units and PMA.
- Principal of Applicant demonstrates LIHTC development experience.

WEAKNESSES/RISKS

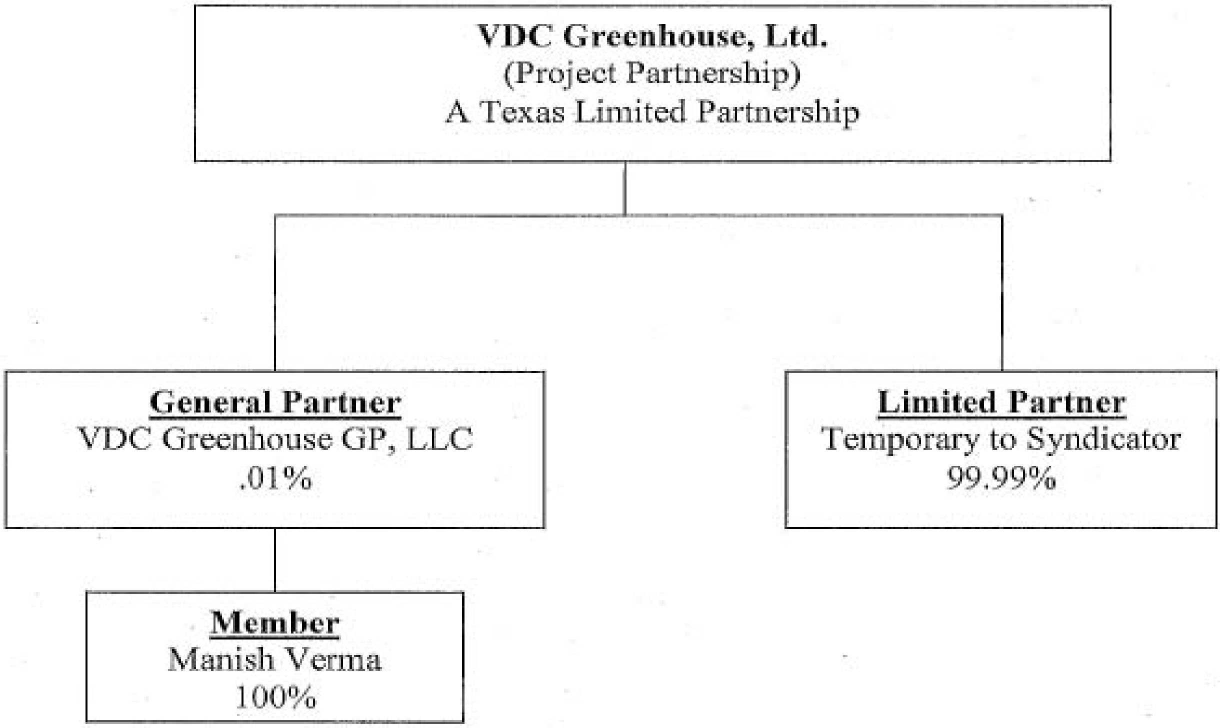
- Including the subject, there are a total of 769 proposed senior units within the general sub-market.
- Capture rates on the 2 bedroom units at 50% AMI exceed 100%.

PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: Manish Verma Phone: (210) 530-0099 Fax: (866) 245-4254
Email: manishv@versadevco.com

KEY PARTICIPANTS

Name	Financial Notes	# Completed Developments
VDC Development, LLC.	N/A	N/A
Manish Verma	N/A	8

IDENTITIES of INTEREST

- The Applicant, Developer and General Contractor are related entities. These are common relationships for HTC-funded developments.

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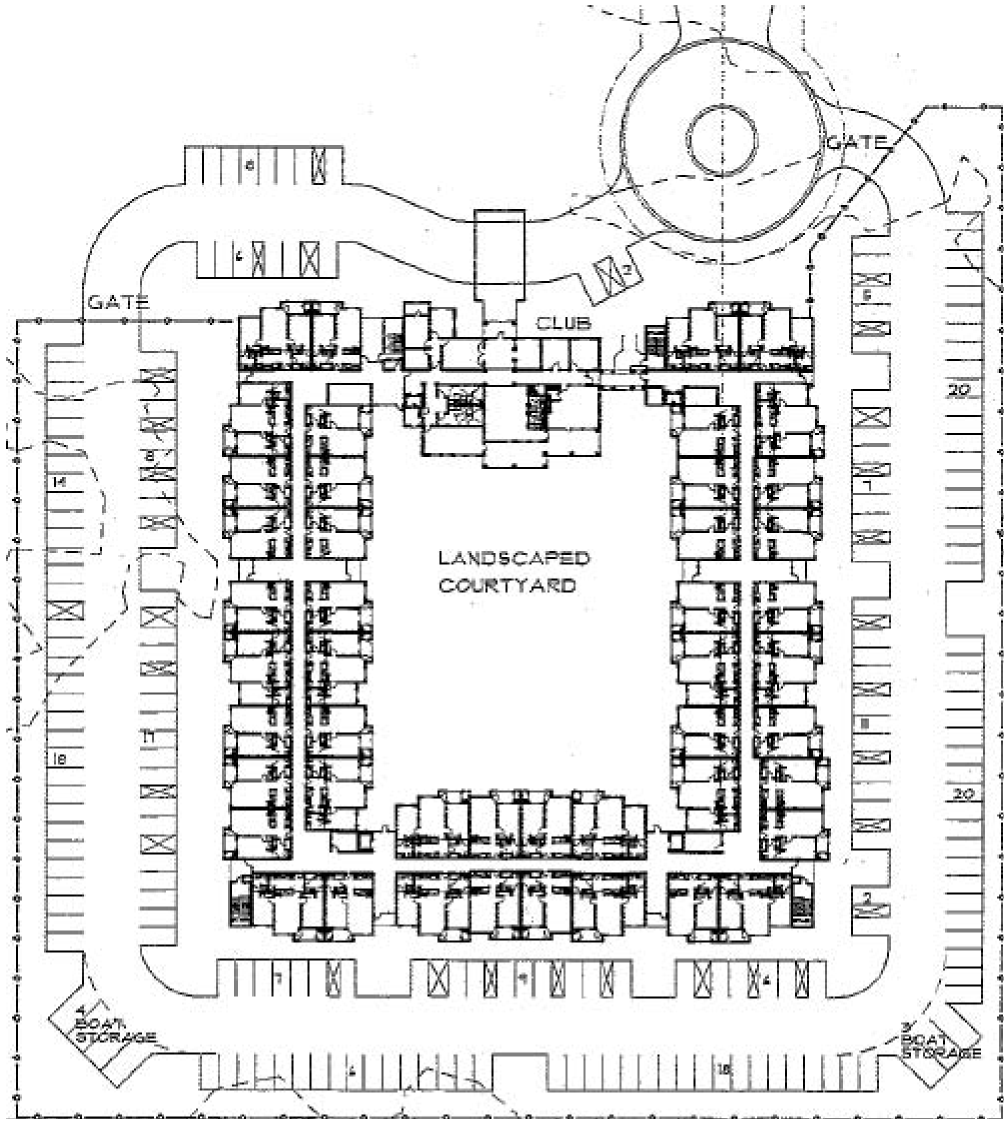
PROPOSED SITE

SITE PLAN



BUILDING CONFIGURATION

Building Type	I	II								Total Buildings
Floors/Stories	3	3								
Number	1	1								**2**

BR/BA	SF	Units										Total Units	Total SF
1/1	716	41	38									79	56,564
2/2	1,001	30	31									61	61,061
Units per Building		71	69									**140**	**117,625**

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SITE ISSUES

Total Size:	10 acres	Scattered site?	☐ Yes ☑ No
Flood Zone:	Zones X & AE	Within 100-yr floodplain?	☑ Yes ☐ No
Zoning:	N/A	Needs to be re-zoned?	☐ Yes ☐ No ☑ N/A

Comments:

The city of Houston does not have a zoning ordinance.

According to the 2009 QAP §49.6(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."

Receipt, review, and acceptance of documentation by cost certification verifying no buildings and/or improvements to include drives are located in the 100-year floodplain is a condition of this report. Should buildings or improvements be found to be in the floodplain, a flood hazard mitigation plan must be provided to include, at a minimum, consideration and documentation of floodplain reclamation sitework costs, building flood insurance and tenant flood insurance costs.

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff   Date: 5/14/2009

Overall Assessment:

☐ Excellent ☑ Acceptable ☐ Questionable ☐ Poor ☐ Unacceptable

Surrounding Uses:

North:	West Rd, vacant land & residential uses	East:	West Rd, vacant land & commercial uses
South:	vacant land	West:	vacant land & commercial uses

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Qore Property Sciences   Date: 2/17/2009

Recognized Environmental Concerns (RECs) and Other Concerns:

- "The results of QORE's subject property and area reconnaissance did not indicate recognized environmental conditions associated with current subject property or surrounding land use." (p. 1)

MARKET HIGHLIGHTS

Provider: LandAmerica Valuation Corporation   Date: 3/5/2009

Contact: Mary Ann Barnett   Phone: (214) 269-0522   Fax: (214) 269-0562

Number of Revisions: none   Date of Last Applicant Revision: N / A

Primary Market Area (PMA): 78 sq. miles   5 mile equivalent radius

The Primary Market Area is the area bounded by U.S. 290 to the north and east, FM 529 (Spencer Road) to the south, and Katy Hockley Cut-Off Road to the west. The PMA had an estimated 2008 population of 88,357, including 6,036 senior households.

Secondary Market Area (SMA):

The market study does not define a Secondary Market Area.

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
Outside the PMA							
Name	File #	Total Units	Comp Units	Name	File #	Total Units	25% Comp Units
Mason Apt Homes	09272	120	0	Trebah Village	09103	129	0
Mariposa at Keith Harrow	09281	180	0	Stone Court Senior	09160	80	0
				Sendero Pointe	09191	120	0

INCOME LIMITS						
Harris						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$13,400	$15,300	$17,250	$19,150	$20,700	$22,200
40	$17,880	$20,400	$22,960	$25,520	$27,560	$29,600
50	$22,350	$25,500	$28,700	$31,900	$34,450	$37,000
60	$26,820	$30,600	$34,440	$38,280	$41,340	$44,400

MARKET ANALYST'S PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR/30%	14	5	13	32	4	0	13%
1 BR/50%	41	15	40	96	36	0	38%
1 BR/60%	50	18	48	116	39	0	34%
2 BR/30%	20	7	19	46	3	0	7%
2 BR/50%	50	18	48	116	27	0	23%
2 BR/60%	55	20	53	128	31	0	24%

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR/30%	18	3	0	21	4	0	19%
1 BR/50%	37	6	0	44	36	0	82%
1 BR/60%	48	11	0	59	39	0	66%
2 BR/30%	6	1	0	7	3	0	41%
2 BR/50%	21	4	0	25	27	0	107%
2 BR/60%	29	7	0	36	31	0	87%

OVERALL DEMAND					
	Target Households	Household Size	Income Eligible	Tenure	Demand
PMA DEMAND from TURNOVER					turnover
Market Analyst p.					94
Underwriter	13% 7,735	100% 7,735	22% 1,672	17% 288	33% 94
PMA DEMAND from GROWTH					growth
Market Analyst p.					35
Underwriter					100% 31
DEMAND from OTHER SOURCES				homeowner turnover	
Market Analyst p.					91
Underwriter					117

INCLUSIVE CAPTURE RATE						
	Subject Units	Unstabilized Comparable (PMA)	Unstabilized Comparable (25% SMA)	Total Supply	Total Demand	**Inclusive Capture Rate**
Market Analyst p.	140	0	0	140	220	**64%**
Underwriter	140	0	0	140	242	**58%**

Proposed, Under Construction, and Unstabilized Comparable Supply:

There are no proposed, under construction, or unstabilized comparable units targeting seniors located within the PMA.

It should be noted, however, that there are four 2009 applications for developments targeting seniors located within five miles south of the subject, and a fifth approximately seven miles to the south. In total there are six senior applications within the general area, most with overlapping market areas as defined by the various market studies. The Department is concerned about this proposed concentration of senior developments. Therefore, in addition to considering supply and demand within each of the six individually defined PMAs, the Underwriter evaluated overall supply and demand in an area generally defined by overlaying all six PMAs as discussed in the comments section.

Demand Analysis:

The market study analysis is based on the 2008 HTC rent and income limits. The Market Analyst identified 20% of senior households as income-eligible; 21% as renters; and applied a 33% renter turnover rate, calculated as the average of the turnover indicated by the 2000 census for Harris County, and the TDHCA published turnover rates for seniors in Harris County and for Houston. This results in demand for 94 units due to renter turnover and demand for 35 units due to household growth.

The 2009 Real Estate Analysis Rules also allow for consideration of demand from turnover of senior homeowner households, up to a rate of 10%, if supported by reasonable data. The Market Analyst applied a turnover rate of 8.42% based on the 2000 census, resulting in additional demand for 91 units from existing homeowners. Total demand for 220 units, and a total supply of 140 units, indicates an inclusive capture rate of 64%.

Based on the 2009 HTC rent and income limits, and the demographic data provided in the market study, the underwriting analysis identifies demand for 94 units due to renter turnover; demand for 31 units due to household growth; and demand for 117 units from existing senior homeowners. Total demand for 242 units, and a total supply of 140 units, indicates an inclusive capture rate of 58%. Both results are below the maximum capture rate of 75% for developments targeting seniors.

The subject PMA could accommodate a total of 181 units (i.e. 41 in addition to the 140 proposed at the subject) before the inclusive capture rate would exceed 75%.

Primary Market Occupancy Rates:

"The HTC senior comparables' occupancy rates range from 80% to 100% with a weighted average of 91%. However, Mansion on Hastings Green is still in initial lease-up. While none of the comparables senior properties are in the subject's submarket, they are a good representation of properties and good indicators of market conditions for the subject." (p. 79)

Absorption Projections:

"The data indicate absorption rates ranging from 12 to 39 units per month. However, many of these properties are market rate communities and do not reflect senior properties with income restrictions. Primrose at Heritage Park and Mansions at Hastings Green, which are senior HTC properties, are most similar to the subject. Therefore, we used a rate similar to the mean of these data in concluding an absorption rate of 14 units/month for the subject until stabilization." (p. 68)

This section intentionally left blank.

RENT ANALYSIS (Tenant-Paid Net Rents)					
Unit Type (% AMI)	Proposed Rent	Program Maximum	Market Rent	Underwriting Rent	Savings Over Market
1 BR 716 SF 30%	$265	$273	$715	$273	$442
1 BR 716 SF 50%	$494	$513	$715	$513	$202
1 BR 716 SF 60%	$608	$632	$715	$632	$83
2 BR 1,001 SF 30%	$318	$330	$935	$330	$605
2 BR 1,001 SF 50%	$593	$616	$935	$616	$319
2 BR 1,001 SF 60%	$731	$760	$935	$760	$175

Market Impact:

"The subject is located in the Cypress/Fairbanks submarket, and it is our conclusion that the subject will be influenced by the events and trends within the same ... Over the next 5 years, demand is expected to out-pace supply, resulting in positive absorption over that time." (p. 34)

Comments:

The market study provides sufficient information on which to base a funding recommendation for the subject application.

Additionally, the subject is one of six applications for senior developments located within a 3.5 mile radius. At the time of underwriting, the subject has the highest priority of the six. The Department is concerned about this proposed concentration of senior units, and has looked closely at the overall demand in the area. The combined market areas have a total of 120,592 households, including 29,130 senior households. The underwriting analysis indicates total demand for 1,298 units, resulting in an inclusive capture rate of 59% for the 769 total proposed units. This is below the maximum 75%, suggesting that the combined area can support the proposed units in all six properties. The total number of units in this overlapping market area remains a general concern that could affect leasing velocity and result in a potentially protracted stabilization period for the subject.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: None Date of Last Applicant Revision: N/A

The Applicant's projected rents collected per unit were calculated by subtracting tenant-paid utility allowances as of April 1, 2008, maintained by Harris County Housing Authority from the 2008 program gross rent limits. Tenants will be required to pay electric utility costs only.
The Underwriter's projected rents were calculated by subtracting tenant-paid utilities as of May 1, 2009 from the current 2009 HTC program rents. It should be noted that at the time the application was submitted (January 2009) the 2009 program rent limits were not yet available. It should be noted that at the time the application was submitted (January 2009) the 2009 program rent limits were not yet available.

The Applicant's secondary income and vacancy and collection loss assumptions are in line with current TDHCA underwriting guidelines, and despite the Applicant's use of the lower 2008 program rents, effective gross income is within 5% of the Underwriter's estimate.

Expense: Number of Revisions: None Date of Last Applicant Revision: N/A

The Applicant's total annual operating expense projection at $4,060per unit is within 5% of the Underwriter's estimate of $4,084, derived from the TDHCA database, and third-party data sources.

Conclusion:

The Applicant's net operating income is not within 5% of the Underwriter's estimates; therefore, the Underwriter's year one proforma will be used to determine the development's debt capacity. The proposed permanent financing structure results in an initial year's debt coverage ratio (DCR) of 1.31, which is within the Department's DCR guideline of 1.15 to 1.35.

Feasibility:

The underwriting 30-year proforma utilizes a 2% annual growth factor for income and a 3% 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 1.15 and continued positive cashflow. Therefore, the development can be characterized as feasible for the long-term.

ACQUISITION INFORMATION

ASSESSED VALUE

Land Only: 61.1 acres	$1,018,959	Tax Year:	2008
1 acre:	$16,671	Valuation by:	Harris CAD
Total Prorata: 10 acres	$166,714	Tax Rate:	2.31462

EVIDENCE of PROPERTY CONTROL

Type: Purchase and Sale Agreement — Acreage: 10

Contract Expiration: 11/1/2009 — Valid Through Board Date? ☑ Yes ☐ No

Acquisition Cost: $1,611,720 — Other:

Seller: Canyon Lake 1892, Ltd — Related to Development Team? ☐ Yes ☑ No

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: None — Date of Last Applicant Revision: N/A

Acquisition Value:

The site cost of $161,172 per acre or $11,512 per unit is assumed to be reasonable since the acquisition is an arm's-length transaction.

Off-Site Cost:

The Applicant claimed off-site costs of $19K for off-site paving and provided sufficient third party certification through an engineer to justify these costs.

Sitework Cost:

The Applicant's claimed sitework costs of $9K 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 $242K or 3% lower than the Underwriter's Marshall & Swift Residential Cost Handbook-derived estimate.

Of note, the Applicant included $213K as "other" direct construction costs consisting of subcontractor & contractor general liability, builder's risk insurance, P&P Bond, lender cost review, and lender architect review. The Underwriter reallocated these costs to the appropriate line items.

Contingency & Fees:

The Applicant's contractor fees exceed the 14% maximum allowed by HTC guidelines by a total of $74,583 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 $11,187 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 $12,583,969 supports annual tax credits of $1,472,324. 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

SOURCES & USES Number of Revisions: None Date of Last Applicant Revision: N/A

Source: Single Family Investments, Ltd Type: **Interim Financing**

Principal: $320,000 Interest Rate: 4.25% ☑ Fixed Term: 60 months

Comments:

Rate Index: Prime plus 1%

Source: Harris County Community Services Type: **Permanent Financing**

Principal: $830,000 Interest Rate: AFR ☑ Fixed Amort: 480 months

Comments:

For this analysis, the Underwriter utilized the March AFR rate of 3.46%.

Source: Keybank Real Estate Capital Type: **Interim to Permanent Financing**

Interim: $3,600,000 Interest Rate: 6.93% ☐ Fixed Term: 24 months

Permanent: $3,600,000 Interest Rate: 6.93% ☑ Fixed Amort: 480 months

Comments:

Note Rate: 6.48% (Taxable); includes 0.45% MIP for a total indicative rate of 6.93%

Source: Hudson Housing Capital Type: **Syndication**

Proceeds: $10,086,000 Syndication Rate: 69% Anticipated HTC: $ 1,461,953

Comments:

Due to the recent volatility in credit pricing, it should be noted, any decrease in rate could increase the amount of deferred developer fee. Additionally, a decrease below $0.575 per dollar of credit may jeopardize the financial viability of the transaction. Alternatively, should the final credit price increase to more than $0.701, all deferred developer fees would be eliminated and an adjustment to the credit amount may be warranted.

Amount: $167,936 Type: **Deferred Developer Fees**

CONCLUSIONS

Recommended Financing Structure:

The Applicant's total development cost estimate less the permanent loan of $3.6M and $830K in local HOME/CDBG funds indicates the need for $10,253,936 in gap funds. Based on the submitted syndication terms, a tax credit allocation of $1,486,295 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant's request ($1,461,953), the gap-driven amount ($1,486,295), and eligible basis-derived estimate ($1,472,324), the Applicant's request of $1,461,953 is recommended resulting in proceeds of $10,086,000 based on a syndication rate of 69%.

The Underwriter's recommended financing structure indicates the need for $167,936 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cashflow within three years of stabilized operation.

Underwriter: ______________________ Date: July 20, 2009
Diamond Unique Thompson

Manager of Real Estate Analysis: ______________________ Date: July 20, 2009
Raquel Morales

Director of Real Estate Analysis: ______________________ Date: July 20, 2009
Brent Stewart

MULTIFAMILY COMPARATIVE ANALYSIS

Greenhouse Place, Houston, 9%/HTC #09265

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	WS&T
TC 30%	4	1	1	716	$358	$273	$1,092	$0.38	$85.00	$50.00
TC 50%	36	1	1	716	$598	$513	$18,468	$0.72	$85.00	$50.00
TC 60%	39	1	1	716	$717	$632	$24,648	$0.88	$85.00	$50.00
TC 30%	3	2	2	1,001	$431	$330	$990	$0.33	$101.00	$50.00
TC 50%	27	2	2	1,001	$717	$616	$16,632	$0.62	$101.00	$50.00
TC 60%	31	2	2	1,001	$861	$760	$23,560	$0.76	$101.00	$50.00
TOTAL:	140		AVERAGE:	840		$610	$85,390	$0.73	$91.97	$50.00

INCOME	Total Net Rentable Sq Ft:	117,625		TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$1,024,680	$986,184	Harris	Houston	6
Secondary Income		Per Unit Per Month:	$15.00	25,200	25,200	$15.00	Per Unit Per Month	
Other Support Income:				0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$1,049,880	$1,011,384			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%	(78,741)	(75,852)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0				
EFFECTIVE GROSS INCOME				$971,139	$935,532			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.49%	$311	0.37	$43,575	$44,420	$0.38	$317	4.75%
Management		5.00%	347	0.41	48,557	46,777	0.40	334	5.00%
Payroll & Payroll Tax		13.69%	950	1.13	132,943	134,790	1.15	963	14.41%
Repairs & Maintenance		6.75%	468	0.56	65,522	66,747	0.57	477	7.13%
Utilities		3.98%	276	0.33	38,628	37,200	0.32	266	3.98%
Water, Sewer, & Trash		4.91%	341	0.41	47,703	48,648	0.41	347	5.20%
Property Insurance		6.33%	439	0.52	61,500	59,400	0.50	424	6.35%
Property Tax	2.31462	8.34%	579	0.69	81,012	78,100	0.66	558	8.35%
Reserve for Replacements		3.60%	250	0.30	35,000	35,000	0.30	250	3.74%
TDHCA Compliance Fees		0.58%	40	0.05	5,600	5,600	0.05	40	0.60%
Other: Sup Servs		1.21%	84	0.10	11,727	11,727	0.10	84	1.25%
TOTAL EXPENSES		58.88%	$4,084	$4.86	$571,767	$568,409	$4.83	$4,060	60.76%
NET OPERATING INC		41.12%	$2,853	$3.40	$399,372	$367,123	$3.12	$2,622	39.24%
DEBT SERVICE									
Keybank Real Estate Capital		27.42%	$1,902	$2.26	$266,265	$268,459	$2.28	$1,918	28.70%
HCCSD		3.95%	$274	$0.33	38,346	44,777	$0.38	$320	4.79%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		9.76%	$677	$0.81	$94,762	$53,887	$0.46	$385	5.76%
AGGREGATE DEBT COVERAGE RATIO					1.31	1.17			
RECOMMENDED DEBT COVERAGE RATIO					1.31				

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)		10.87%	$11,512	$13.70	$1,611,720	$1,611,720	$13.70	$11,512	10.98%
Off-Sites		0.13%	137	0.16	19,200	19,200	0.16	137	0.13%
Sitework		7.78%	8,238	9.80	1,153,303	1,153,303	9.80	8,238	7.85%
Direct Construction		48.90%	51,797	61.65	7,251,601	7,057,437	60.00	50,410	48.06%
Contingency	3.14%	1.78%	1,888	2.25	264,264	264,264	2.25	1,888	1.80%
Contractor's Fees	14.00%	7.93%	8,405	10.00	1,176,687	1,224,087	10.41	8,743	8.34%
Indirect Construction		6.19%	6,561	7.81	918,580	918,580	7.81	6,561	6.26%
Ineligible Costs		1.65%	1,744	2.08	244,177	244,177	2.08	1,744	1.66%
Developer's Fees	14.80%	11.14%	11,804	14.05	1,652,574	1,652,574	14.05	11,804	11.25%
Interim Financing		2.69%	2,854	3.40	399,494	399,494	3.40	2,854	2.72%
Reserves		0.94%	994	1.18	139,100	139,100	1.18	994	0.95%
TOTAL COST		100.00%	$105,934	$126.08	$14,830,699	$14,683,936	$124.84	$104,885	100.00%
Construction Cost Recap		*66.39%*	***$70,328***	***$83.71***	***$9,845,854***	***$9,699,091***	***$82.46***	***$69,279***	*66.05%*

SOURCES OF FUNDS

						RECOMMENDED	
Keybank Real Estate Capital	24.27%	$25,714	$30.61	$3,600,000	$3,600,000	$3,600,000	Developer Fee Available
HCCSD	5.60%	$5,929	$7.06	830,000	830,000	830,000	$1,641,387
Hudson Housing Capital	68.01%	$72,043	$85.75	10,086,000	10,086,000	10,086,000	% of Dev. Fee Deferred
Deferred Developer Fees	1.13%	$1,200	$1.43	167,936	167,936	167,936	10%
Additional (Excess) Funds Req'd	0.99%	$1,048	$1.25	146,763	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$14,830,699	$14,683,936	$14,683,936	$1,642,915

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$55.58	$6,538,089
Adjustments				
Exterior Wall Finish	0.00%		$0.00	$0
Elderly	3.00%		1.67	196,143
9-Ft. Ceilings	3.00%		1.67	196,143
Roofing			0.00	0
Subfloor			(0.81)	(94,884)
Floor Cover			4.33	508,893
Breezeways/Patios	$22.95	32,179	6.28	738,508
Plumbing Fixtures	$835	183	1.30	152,805
Rough-ins	$410	280	0.98	114,800
Built-In Appliances	$1,800	140	2.14	252,000
Exterior Stairs	$1,875	8	0.13	15,000
Enclosed Corridors	$45.66		0.00	0
Heating/Cooling			1.83	215,254
Elevators	$35,400	4	1.20	141,600
Comm &/or Aux Bldgs	$67.38	7,078	4.05	476,880
Other: fire sprinkler	$2.15	117,625	2.15	252,894
SUBTOTAL			82.50	9,704,124
Current Cost Multiplier	1.01		0.83	97,041
Local Multiplier	0.91		(7.43)	(873,371)
TOTAL DIRECT CONSTRUCTION COSTS			$75.90	$8,927,794
Plans, specs, survy, bld prm	3.90%		($2.96)	($348,184)
Interim Construction Interest	3.38%		(2.56)	(301,313)
Contractor's OH & Profit	11.50%		(8.73)	(1,026,696)
NET DIRECT CONSTRUCTION COSTS			$61.65	$7,251,601

PAYMENT COMPUTATION

Primary	$3,600,000	Amort	480
Int Rate	6.93%	DCR	1.50
Secondary	$830,000	Amort	480
Int Rate	3.46%	Subtotal DCR	1.31
Additional	$10,086,000	Amort	
Int Rate		Aggregate DCR	1.31

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$266,265
Secondary Debt Service	38,346
Additional Debt Service	0
NET CASH FLOW	$94,762

Primary	$3,600,000	Amort	480
Int Rate	6.93%	DCR	1.50
Secondary	$830,000	Amort	480
Int Rate	3.46%	Subtotal DCR	1.31
Additional	$10,086,000	Amort	0
Int Rate	0.00%	Aggregate DCR	1.31

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$1,024,680	$1,045,174	$1,066,077	$1,087,399	$1,109,147	$1,224,587	$1,352,043	$1,492,765	$1,819,673
Secondary Income	25,200	25,704	26,218	26,742	27,277	30,116	33,251	36,712	44,751
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,049,880	1,070,878	1,092,295	1,114,141	1,136,424	1,254,704	1,385,294	1,529,477	1,864,424
Vacancy & Collection Loss	(78,741)	(80,316)	(81,922)	(83,561)	(85,232)	(94,103)	(103,897)	(114,711)	(139,832)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$971,139	$990,562	$1,010,373	$1,030,580	$1,051,192	$1,160,601	$1,281,397	$1,414,766	$1,724,592
EXPENSES at 3.00%									
General & Administrative	$43,575	$44,882	$46,229	$47,616	$49,044	$56,855	$65,911	$76,409	$102,687
Management	48,557	49,528	50,519	51,529	52,560	58,030	64,070	70,738	86,230
Payroll & Payroll Tax	132,943	136,931	141,039	145,271	149,629	173,461	201,088	233,117	313,289
Repairs & Maintenance	65,522	67,488	69,512	71,598	73,746	85,491	99,108	114,893	154,407
Utilities	38,628	39,787	40,980	42,210	43,476	50,401	58,428	67,734	91,029
Water, Sewer & Trash	47,703	49,134	50,608	52,126	53,690	62,242	72,155	83,648	112,416
Insurance	61,500	63,345	65,245	67,203	69,219	80,244	93,024	107,841	144,929
Property Tax	81,012	83,442	85,945	88,524	91,179	105,702	122,537	142,055	190,909
Reserve for Replacements	35,000	36,050	37,132	38,245	39,393	45,667	52,941	61,373	82,480
Other	17,327	17,847	18,382	18,934	19,502	22,608	26,209	30,383	40,832
TOTAL EXPENSES	$571,767	$588,434	$605,592	$623,255	$641,437	$740,700	$855,472	$988,190	$1,319,208
NET OPERATING INCOME	$399,372	$402,128	$404,781	$407,326	$409,755	$419,901	$425,926	$426,576	$405,384
DEBT SERVICE									
First Lien Financing	$266,265	$266,265	$266,265	$266,265	$266,265	$266,265	$266,265	$266,265	$266,265
Second Lien	38,346	38,346	38,346	38,346	38,346	38,346	38,346	38,346	38,346
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$94,762	$97,517	$100,171	$102,716	$105,145	$115,291	$121,315	$121,966	$100,774
DEBT COVERAGE RATIO	1.31	1.32	1.33	1.34	1.35	1.38	1.40	1.40	1.33

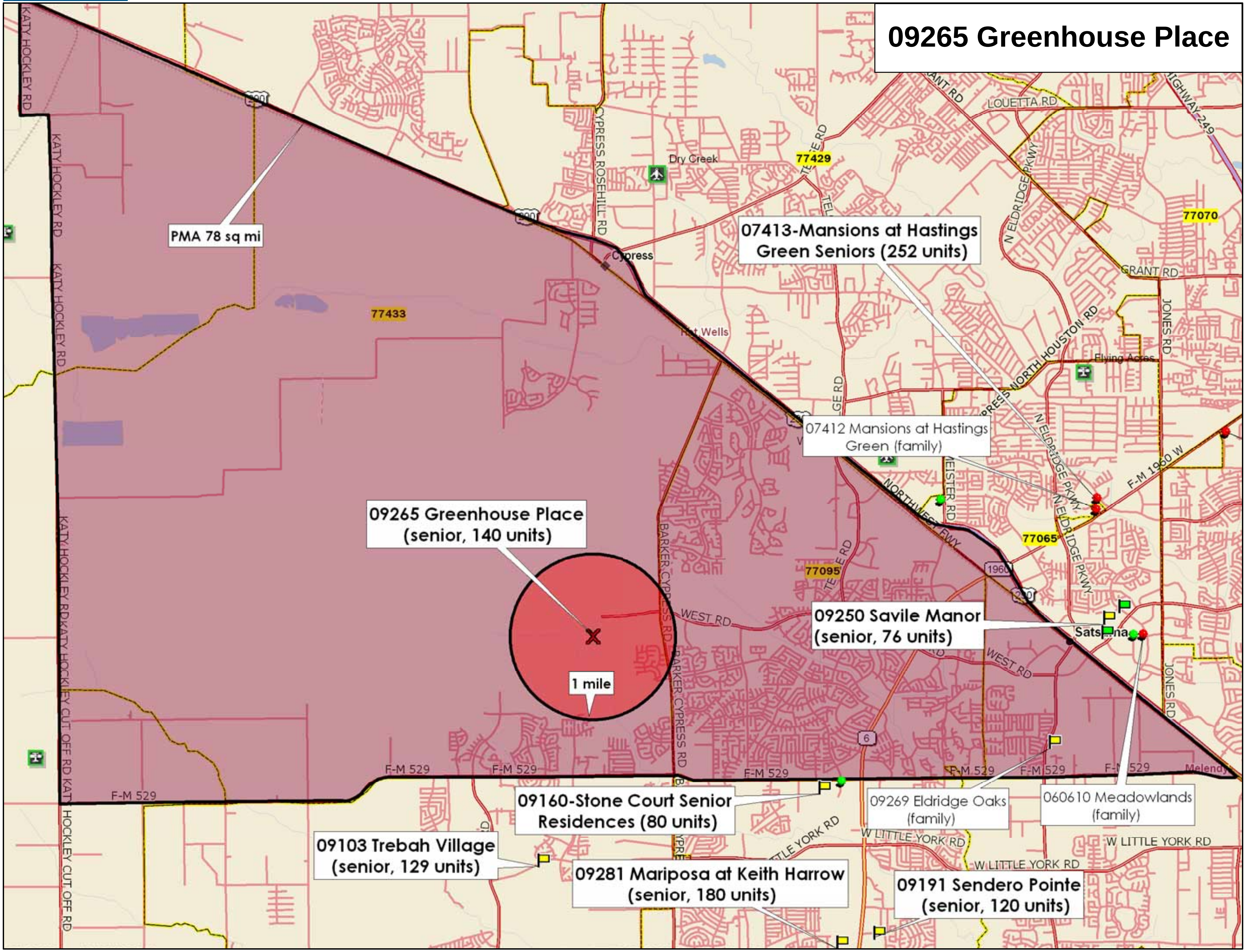
HTC ALLOCATION ANALYSIS -Greenhouse Place, Houston, 9%/HTC #09265

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost				
Purchase of land	$1,611,720	$1,611,720		
Purchase of buildings				
Off-Site Improvements	$19,200	$19,200		
Sitework	$1,153,303	$1,153,303	$1,153,303	$1,153,303
Construction Hard Costs	$7,057,437	$7,251,601	$7,057,437	$7,251,601
Contractor Fees	$1,224,087	$1,176,687	$1,149,504	$1,176,687
Contingencies	$264,264	$264,264	$264,264	$264,264
Eligible Indirect Fees	$918,580	$918,580	$918,580	$918,580
Eligible Financing Fees	$399,494	$399,494	$399,494	$399,494
All Ineligible Costs	$244,177	$244,177		
Developer Fees			$1,641,387	
Developer Fees	$1,652,574	$1,652,574		$1,652,574
Development Reserves	$139,100	$139,100		
TOTAL DEVELOPMENT COSTS	$14,683,936	$14,830,699	$12,583,969	$12,816,502

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		$12,583,969	$12,816,502
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		$16,359,159	$16,661,453
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		$16,359,159	$16,661,453
Applicable Percentage		9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS		$1,472,324	$1,499,531
Syndication Proceeds	**0.6899**	**$10,157,552**	**$10,345,249**

Total Tax Credits (Eligible Basis Method)	**$1,472,324**	**$1,499,531**
Syndication Proceeds	**$10,157,552**	**$10,345,249**
Requested Tax Credits	**$1,461,953**	
Syndication Proceeds	**$10,086,000**	
Gap of Syndication Proceeds Needed	**$10,253,936**	
Total Tax Credits (Gap Method)	**$1,486,295**	

09265 Greenhouse Place



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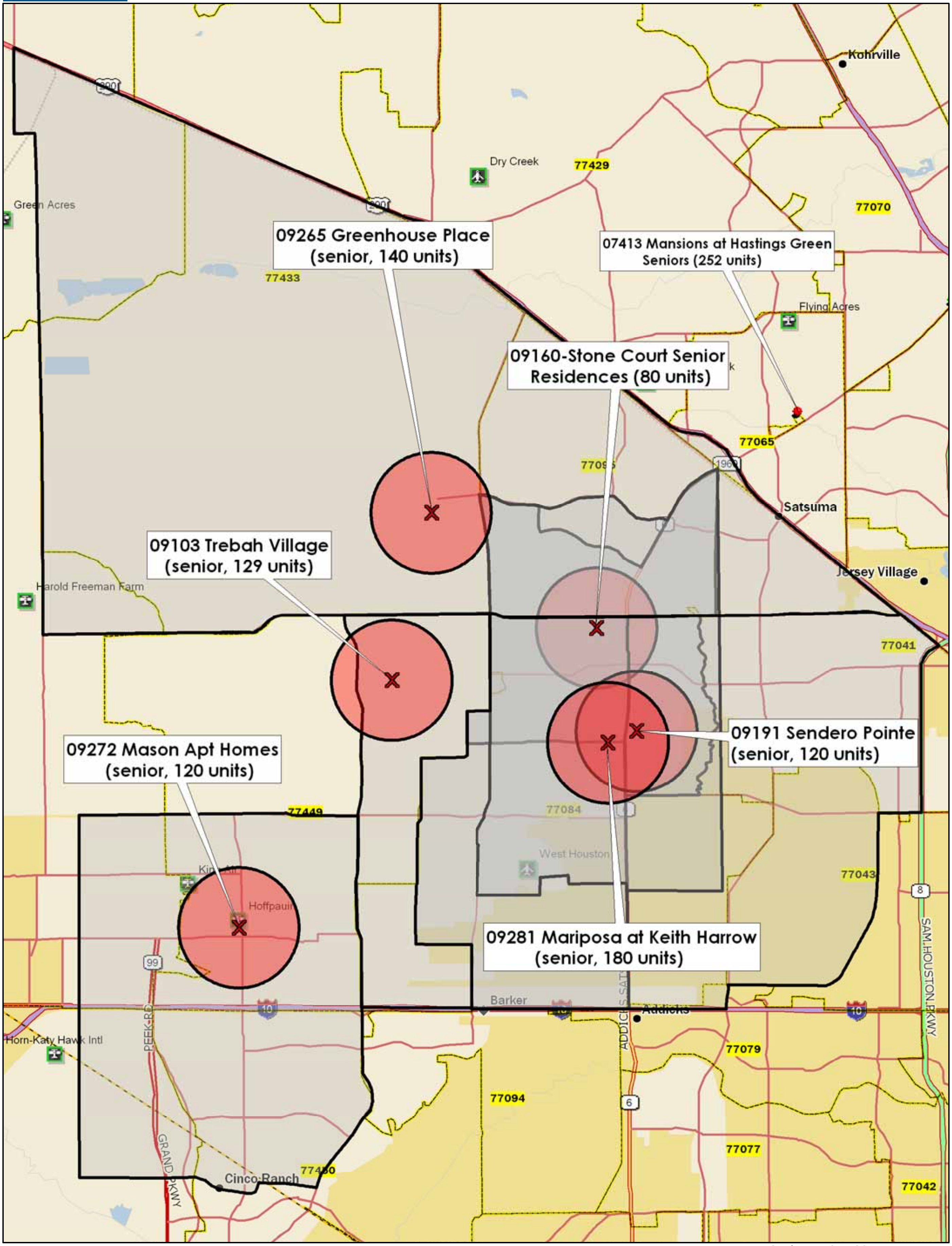
www.delorme.com

TN MN (3.7°E)

Scale 1 : 100,000

1" = 1.58 mi Data Zoom 11-0



Data use subject to license.

TN
MN (3.7°E)

Scale 1 : 137,500
1" = 2.17 mi
Data Zoom 10-5

09313

LLB&L

Locke Lord Bissell & Liddell LLP

Attorneys & Counselors

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Austin, TX 78701
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Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

March 5, 2010

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

Re: **Amendment Request**
Hampshire Court in Pasadena (the "**Project**")
TDHCA No. 09313

Dear Robbye:

We represent Hampshire Court Apartments, L.P. ("**Owner**"). Owner respectfully requests permission to amend the site plan presented in its low-income housing tax credit application, as set forth below.

Amendment Request

Between the time Owner filed its tax credit application and the time of this request, the City of Pasadena installed a new storm sewer line to service the proposed Project site. Outfall to this new storm sewer line is higher than outfall to the previous storm sewer line. This higher outfall requires a larger surface area for more shallow detention than previously planned. As a result, Owner needs to add approximately 2 acres to its originally proposed site. Owner requests your approval for this change.

Detailed Description

In its tax credit application, Owner showed that the Project would be built on an approximately 12.5 acre tract carved out of a larger 30.9650 acre tract (the "**Larger Tract**"). A copy of the original boundary survey that was included in the tax credit application is attached as Exhibit A. Upon learning that additional land would be acquired to accommodate detention, Owner was able to make an arrangement with the owner of the Larger Tract to acquire 14.54 acres total,. A copy of a boundary survey for the Project site, with approximately 2 acres added, is attached as Exhibit B. It shows the new acreage is immediately to the west of and adjacent to the originally proposed site. This additional land will cost Owner $128,200. A copy of Owner's contract for the acquisition of this additional land is attached as Exhibit C. Owner can accommodate the increased land cost in its development budget by deferring additional developer fee.

Impact of Amendment

The revision of the site plan and the inclusion of the additional land have minimal impact on Owner's tax credit application. The Project participants remain the same. The number of units, bedrooms, bathrooms, and square footages remain the same. The tenant income set-asides remain the same. The revised site is larger than the originally proposed site but is a part of the Larger Tract that was disclosed in the tax credit application. Owner did not take pre-application points in its tax credit application, so there is no loss of selection points associated with this change. The need for the amendment was not reasonably anticipated by Owner, based upon the preliminary site plan work that had been performed at the time of tax credit application. For all these reasons, we believe approval of the amendment request is appropriate.

An amendment fee of $2,500 has been sent to your attention under separate cover. If this Amendment requires Board approval, please include it for consideration at the next Board meeting possible. If you need additional information, please let me know.

Sincerely,

Cynthia L. Bast

Cynthia L. Bast

Exhibit A – Tax Credit Application: Original Boundary Survey
Exhibit B – Revised Site: New Boundary Survey
Exhibit C – Purchase Contract Amendment for Land Acquisition

cc: J. Steve Ford

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Exhibit A

Tax Credit Application

Original Boundary Survey

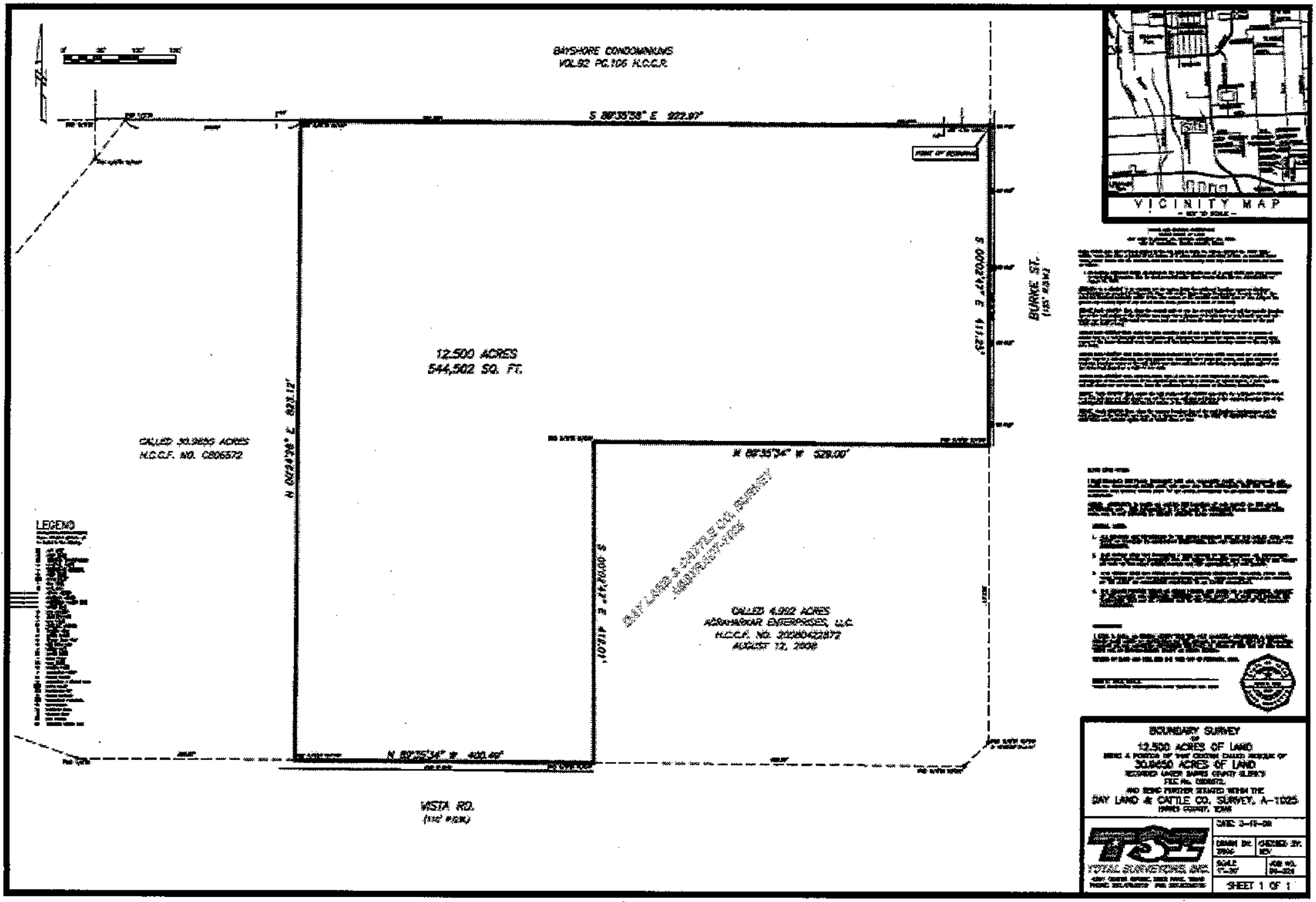

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Exhibit B

Revised Site

New Boundary Survey

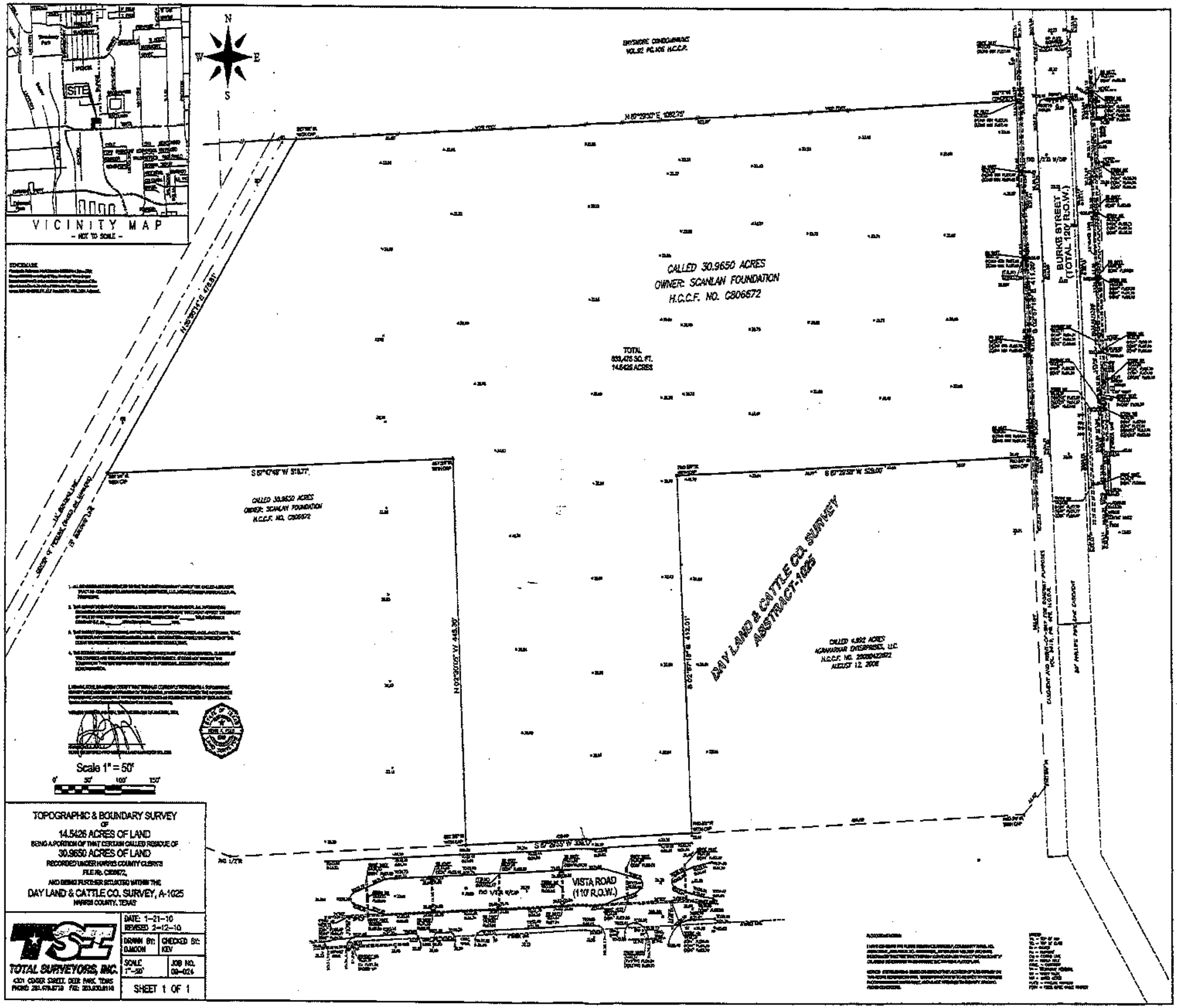

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Exhibit C

Purchase Contract Amendment for Land Acquisition

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 02-13-06

EQUAL HOUSING OPPORTUNITY

AMENDMENT

TO CONTRACT CONCERNING THE PROPERTY AT

+/- 14.5426 ACRES @ VISTA & BURKE Pasadena, Texas
(Street Address and City)

Seller and Buyer amend the contract as follows: (check each applicable box)

☐(1) The Sales Price in Paragraph 3 of the contract is:
A. Cash portion of Sales Price payable by Buyer at closing .... $ 1,625,575
B. Sum of financing described in the contract .... $
C. Sales Price (Sum of A and B) .... $ 1,625,575

☐(2) In addition to any repairs and treatments otherwise required by the contract, Seller, at Seller's expense, shall complete the following repairs and treatments: N/A

☐(3) The date in Paragraph 9 of the contract is changed to ____________________, 20_____.

☐(4) The amount in Paragraph 12A(1)(b) of the contract is changed to $ ________________.

☐(5) The cost of lender required repairs and treatment, as itemized on the attached list, will be paid as follows: $ ________________ by Seller; $ ________________ by Buyer.

☐(6) Buyer has paid Seller an additional Option Fee of $ ____________ for an extension of the unrestricted right to terminate the contract on or before ____________________, 20______. This additional Option Fee ☐ will ☐ will not be credited to the Sales Price.

☐(7) Buyer waives the unrestricted right to terminate the contract for which the Option Fee was paid.

☐(8) The date for Buyer to give written notice to Seller that Buyer cannot obtain Financing Approval as set forth in the Third Party Financing Condition Addendum is changed to ________________, 20______.

☐(9) **Other Modifications:** (Insert only factual statements and business details applicable to this sale.)

Additional Acreage per attached

EXECUTED the 15th day of February, 20 10. (BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer
J. Steve Ford, Trustee

Seller
Scanlan Foundation
by: Kirk Pfeffer, Trustee

Buyer

Seller

HAMPSHIRE COURT

	Acres	Sq Ft	Price/Sq Ft	Total Price
Original Contract	12.5	544,500	$2.75	$1,497,375
Reduced Land on Vista	61.32' x 442.36	27,309	$2.75	-$75,101
Modified Original Contract	11.87	517,191	$2.75	$1,422,274
New Contract	14.54	633,362		
New Total Acreage	14.54	633,362		
Less Modified Original Acreage	11.87	517,191	$2.75	$1,422,274
Total Additional Acreage	2.67	116,172	$1.75	$203,301
TOTAL NEW CONTRACT				$1,625,575

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14.5426 Acre Tract
Day Land & Cattle Co. Survey, Abstract No. 1025
City of Pasadena, Harris County, Texas

METES AND BOUNDS DESCRIPTION
14.5426 ACRES OF LAND
DAY LAND & CATTLE CO. SURVEY, ABSTRACT No. 1025
CITY OF PASADENA, HARRIS COUNTY, TEXAS

Being 14.5426 acre tract of land situated in the Day Land & Cattle Co. Survey, Abstract No. 1025, Harris County, Texas and being a portion of the residue of a called 30.9650 acre tract of land, as recorded under Harris County Clerk's File No. C806672. Said 14.5426 acre tract being more fully described by metes and bounds as follows:

- All bearings referenced herein are based to the Texas State Plane Coordinate System, Texas South Central Zone.

BEGINNING at a Chiseled "X" in concrete set for corner, being the southeast boundary corner of Bayshore Condominiums as recorded in Volume 92, Page 106 of the Harris County Condominium Records, said "X" also being the Northeast boundary corner of the said residue of the 30.9650 acre tract, said "X" also being in the present day westerly right of way line of Burke Road, (based on a total width of 120 feet);

THENCE South 02°57'18" East, along the westerly right of way line of said Burke Road and the easterly boundary line of the said residue of the 30.9650 acre tract, for a distance of 411.25 feet to a 5/8 inch iron rod with plastic cap (stamped "CCI") found for corner, said iron rod being the northeast boundary corner of that certain called 4.992 acre tract conveyed to Agraharkar Enterprises, LLC. by deed, recorded under Harris County Clerks File No. 20080422872 on August 12, 2008;

THENCE South 87°29'55" West, along the north boundary line of the said 4.992 acre tract for a distance of 529.00 feet to a 5/8 inch iron rod with plastic cap (stamped "CCI") found for corner, being an interior angle corner of the herein described tract, said iron rod also being the northwest boundary corner of the said 4.992 acre tract;

THENCE South 02°57'18" East along the westerly boundary line of the said 4.992 acre tract for a distance of 412.01 feet to a 5/8 inch iron rod with plastic cap (stamped "CCI") found for corner, said iron rod being the southwest boundary corner of the said 4.992 acre tract, said iron rod also being in the northern right of way line Vista Road (based on a width of 110 feet);

THENCE South 87°29'55" West, along the north right of way line of said Vista Road, and along the south boundary line of the said residue of the 30.9650 acre tract for a distance of 339.17 feet to a 5/8 inch iron rod with plastic cap set for corner, being the southwest boundary corner of the herein described tract;

THENCE across the said residue of the 30.9650 acre tract for the following three(3) courses and distances:

North 02°30'05" West, for a distance of 445.36 feet to a 5/8 inch iron rod with plastic cap set for corner;

South 87°47'49" West, for a distance of 518.77 feet to a 5/8 inch iron rod with plastic cap set for corner;

North 35°56'14" East, for a distance of 478.81 feet to a 5/8 inch iron rod with plastic cap set for corner, said iron rod being in the common boundary line of the said Bayshore Condominiums and the said residue of the 30.9650 acre tract;

THENCE North 87°29'30" East, along the common boundary line of the said Bayshore Condominiums and the said residue of the 30.9650 acre tract, for a distance of 1,082.75 to the **POINT OF BEGINNING** and containing within these calls 633,475 square feet or 14.5426 acres of land.

A survey plat has been prepared in conjunction with this metes and bounds description, by Kevin K. Kolb, R.P.L.S. No. 5269. (Job No. 09-024)
The square footage totals as shown hereon are based on a mathematical closure of the courses and distances reflected herein. It does not include the tolerances that may be present due to positional accuracy of the boundary monumentation.

Compiled by:
TOTAL SURVEYORS, INC.
4301 Center Street
Deer Park, Texas 77536
281-479-8719
February 10, 2010

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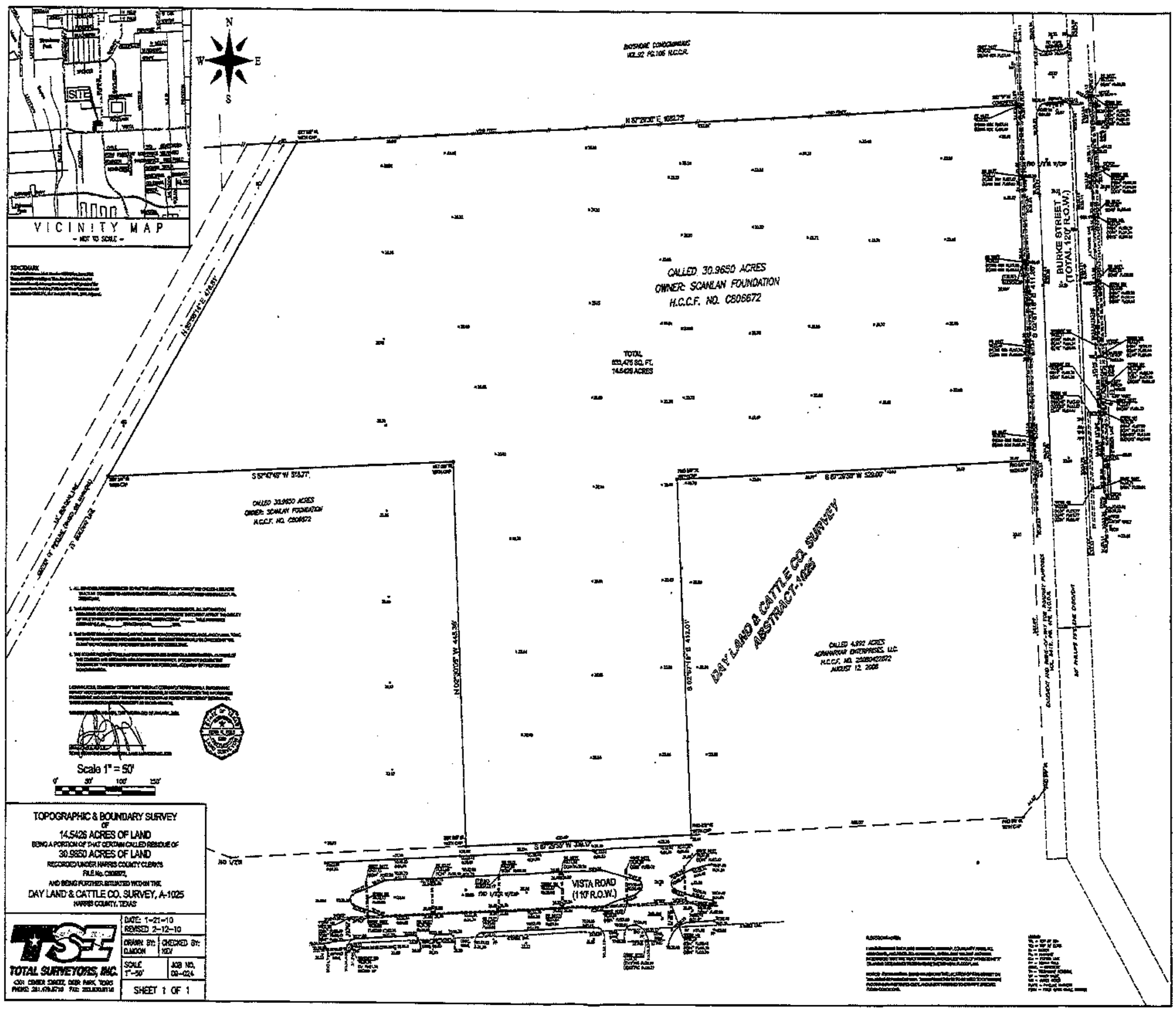

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ESA update

REA - rec'd 5/5/2010 - CWS

09313

The Murillo Company
10325 LANDSBURY STE. 400 • HOUSTON, TX 77099-4299
PHONE (281) 933-9702 • FAX (281) 933-1051

May 5, 2010

Hampshire Court Apartments, L.P.
1800 Bering Drive, Suite 501
Houston, Texas 77057

Attn: Mr. J. Steve Ford
Manager of General Partner

Re: Phase I Environmental Site Assessment
Hampshire Court Apartments
12.5 Acre Tract Burke Road
Pasadena, Harris County, Texas
TMC File ESA700-09

Reference is made to your request that The Murillo Company (**TMC**) provide an Update Letter to include the additional acreage to the Phase I Environmental Site Assessment, on the above captioned project.

TMC performed a Phase I Environmental Site Assessment which was completed on March 26, 2009. Since the completion of the report, the acreage has been modified to include an additional 2.67 acres. original was for 11.87acres

Our recent visit to the site revealed that it is still undeveloped land. We reviewed aerial photographs and regulatory agency records from the original report, and the acreage modification does not alter the findings and conclusions given in our March 2009 report.

No revised report is necessary to supplement our findings, unless required by the local governmental authorities.

If additional information is needed, or if we can be of further service to you, please let me know.

Very truly yours,

D

Daniel Gutierrez, P.E.
Project Manager

100 Congress, Suite 300
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Locke Lord Bissell & Liddell LLP
Attorneys & Counselors

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

April 22, 2010

04-23-10 A11:10 OUT

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

Re: **Amendment Request**
Greenhouse Place Apartments in Houston (the "**Development**")
TDHCA No. 09986

Dear Robbye:

We represent VDC Greenhouse, Ltd. ("**Owner**"). Owner received an allocation of low-income housing tax credits in the 2009 allocation round and subsequently returned those tax credits for an award of exchange funds. As Owner has proceeded with the Development, it has become aware of the need to make a revision to its site plan and certain changes to its construction features. Therefore, we respectfully request permission for Owner to amend its low-income housing tax credit application (as supplemented by its exchange application), as set forth below.

Amendment Request

1. Owner requests permission to add 0.8078 acres to its site to satisfy certain access requirements of the City of Houston, discovered during the platting and permitting process.

2. Owner requests permission to change the materials for its roofs from "comp. roll" to "comp. shingle."

3. Owner requests permission to change its air system from "warm and cooled air" to "forced air."

4. Owner requests permission to change one of its green building amenities from "irrigation and landscaping" to "thermally and draft efficient doors."

5. Owner requests permission to increase the size of its clubhouse by approximately 1500 square feet.

Detailed Description

1. In its tax credit application, Owner presented a 10-acre site (the "**Original Tract**") to be purchased from Canyon Lakes 1892, Ltd. ("**Seller**"). The Original Tract is bordered to the north by land

owned by Cypress-Fairbanks Independent School District (the "**District**"), which abuts West Road. At the time Owner acquired site control, the Original Tract had access to West Road through an easement agreement between Seller and the District. It was anticipated that this access easement would inure to Owner when it acquired the land. A copy of the site plan, survey, and legal description included in the original tax credit application is attached as Exhibit A. As Owner went through the platting and permitting process, it discovered that the Development must have two points of access to an adjacent public street. This requirement meant that the access easement from the District to be received by Owner in the land purchase would not be sufficient. As a result, Owner was compelled to acquire the District's 0.8078 acre tract immediately north of the Original Site and adjacent to West Road to provide these two points of access. A copy of the survey showing this additional land and a revised site plan, showing the two points of access, are attached as Exhibit B. The cost for this additional land will be $58,360, and Owner believes this amount can be accommodated in the contingency of the development budget. The acquisition of this additional land is subject to an earnest money contract. The Original Tract and the additional land will be purchased concurrently with the closing of TDHCA's exchange funds and the debt financing.

Although Owner did not have the 0.8078 acres under control at the time of the original tax credit application, it did reasonably believe it had access available. Thus, the need to acquire this additional land was unforeseeable.

2. Owner has determined that a change to the Development's roofing materials is appropriate. A copy of Volume 3, Tab 1, Part B. SPECIFICATIONS AND AMENITIES from the original tax credit application, showing the roofing as "comp. roll" is attached as Exhibit C. A copy of the same page from the tax credit application, showing the roofing as "comp. shingle" is attached as Exhibit D. Owner certifies that this change does not affect the development budget.

3. Owner has determined that a change to the Development's air system is appropriate. A copy of Volume 3, Tab 1, Part B. SPECIFICATIONS AND AMENITIES from the original tax credit application, showing the air system as "warm and cooled air" is attached as Exhibit C. A copy of the same page from the tax credit application, showing the air system as "forced air" is attached as Exhibit D. Owner certifies that this change does not affect the development budget.

4. Owner has determined that a change to the Development's green building amenities is appropriate. A copy of Volume 4, Tab 16 GREEN BUILDING INITIATIVES from the original tax credit application, showing the selection of "irrigation and landscaping" is attached as Exhibit E. A copy of the same pages from the tax credit application, showing the selection of "thermally and draft efficient doors" is attached as Exhibit F. Owner certifies that this change does not affect the development budget. It also does not affect the points on Owner's tax credit application.

5. In finalizing its architectural drawings, Owner determined that the second and third floors of the Development would have unused corridor space to connect the buildings. Instead of corridor space, Owner decided to supplement the clubhouse, to use the space more productively. The clubhouse has been revised to add two offices, a health screening room, a media room, and a salon to use this space more efficiently. This change will result in an increase in the size of the clubhouse by approximately 1500 square feet. Owner believes this small increase can be accommodated in the contingency and other savings of the development budget.

Impact of Amendment

The revision of the site plan and the change in certain construction features have minimal impact on Owner's tax credit application. All threshold criteria remain satisfied.

As to selection criteria, if Owner were deemed to lose its pre-application points because of the change in acreage, the loss of the points would not have affected Owner's receipt of tax credits or exchange funds. Neither the changes to the roofing materials and the air system, nor the change to the green building initiatives or the increase in the square footage of the clubhouse, impacts the points on Owner's tax credit application. Indeed, Owner believes the improvements to the clubhouse will have a positive impact on the residents.

Financially, the proposed changes do not affect the viability of the Development. Owner believes all of the changes are economically small enough to be accommodated in the development budget presented in the tax credit application (as supplemented by the exchange application).

For all these reasons, we believe approval of the amendment request is appropriate. An amendment fee of $2,500 is enclosed. If this amendment requires Board approval, please include it for consideration at the next Board meeting on May 13 so that Owner can proceed with its closing of exchange funds by the TDHCA deadline of May 31. If you need additional information, please let me know.

Sincerely,

Cynthia L Bast

Cynthia L. Bast

Exhibit A – Original Site Plan, Survey, and Legal Description
Exhibit B – Survey and Revised Site Plan
Exhibit C – Volume 3, Tab 1, Part B. SPECIFICATIONS AND AMENITIES (original)
Exhibit D – Volume 3, Tab 1, Part B. SPECIFICATIONS AND AMENITIES (revised)
Exhibit E – Volume 4, Tab 16, GREEN BUILDING INITIATIVES (original)
Exhibit F – Volume 4, Tab 16, GREEN BUILDING INITIATIVES (revised)

cc: Manish Verma

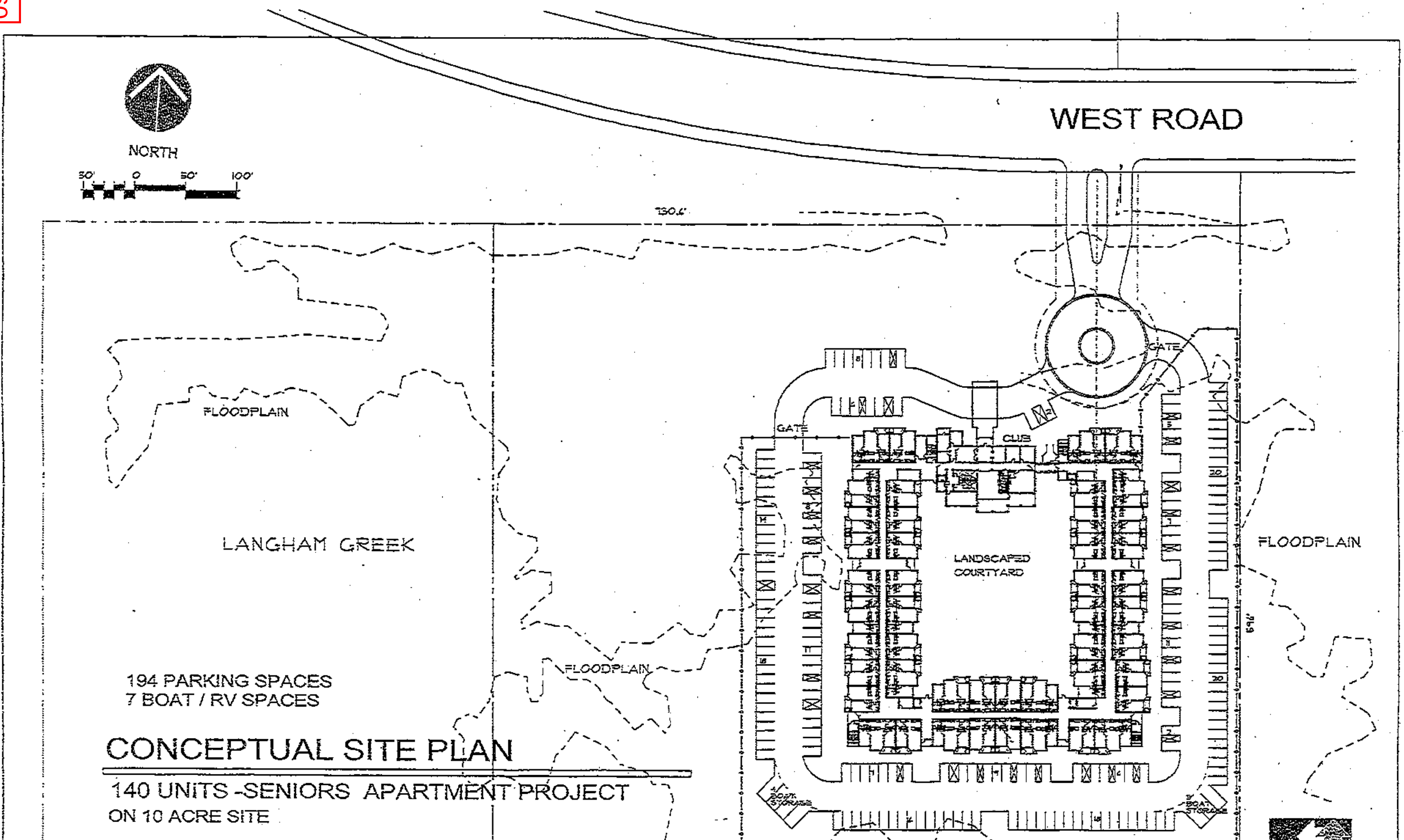
Exhibit A

Tax Credit Application

Original Site Plan, Survey, and Legal Description

09986

Original



Greenhouse Place

HOUSTON, TEXAS

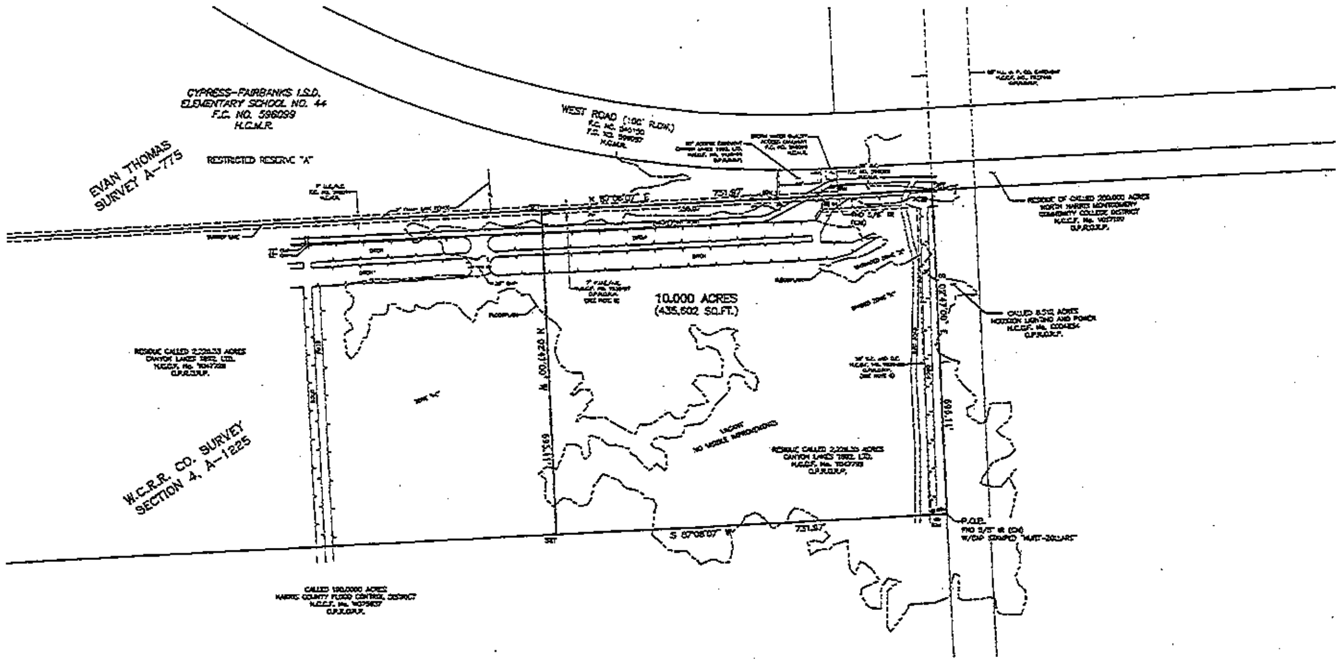
NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION, AND GNB RESERVES THE RIGHT TO MODIFY THE DESIGN WITHOUT NOTICE.

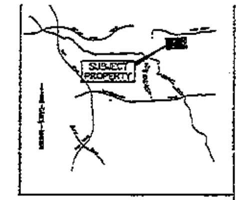
FEB. 26, 2009

Gonzalez Newell Bender inc.
1550 IH 10 WEST, SUITE 350
San Antonio, Texas 78230

Original

09986





VICINITY MAP
NOT-TO-SCALE

LEGEND

NOTES:

1. THE BASIS OF BEARINGS SHOWN HEREON IS REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, 1983, SOUTH CENTRAL ZONE, AS DERIVED FROM GPS OBSERVATIONS.
2. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) FOR HARRIS COUNTY, TEXAS, MAP NO. [illegible], DATED JUNE 18, 2007, REVISED TO REFLECT LOMR ON DECEMBER 22, 2008, THE SUBJECT TRACT IS WITHIN UNSHADED ZONE "X", SHADED ZONE "X" AND ZONE "AE", DEFINED AS SPECIAL FLOOD HAZARD AREAS INUNDATED BY 1% ANNUAL CHANCE FLOOD EVENT WITH BASE FLOOD ELEVATIONS DETERMINED.

   THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY OR STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THE LOCATION OF THE FLOOD ZONE WAS DETERMINED BY SCALING FROM SAID FEMA MAP. THE ACTUAL LOCATION, AS DETERMINED BY ELEVATION CONTOURS, MAY DIFFER. KMS SURVEYING, LLC ASSUMES NO LIABILITY AS TO THE ACCURACY OF THE LOCATION OF THE FLOOD ZONE LIMITS. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF KMS SURVEYING, LLC.

   THE FLOOD ZONES SHOWN HEREON ARE GRAPHICALLY PLOTTED BY SCALING FROM SAID FEMA MAP. THE LOCATION IS APPROXIMATE AND HAS NOT BEEN FIELD VERIFIED. THE SHOWN LOCATION OF SAID FLOOD ZONES SHALL NOT CREATE LIABILITY ON THE PART OF KMS SURVEYING, LLC.
3. EASEMENTS AND OTHER RECORDED INFORMATION SHOWN HEREON ARE AS PER COMMITMENT FOR TITLE INSURANCE, PREPARED BY LAWYERS TITLE INSURANCE COMPANY, G.F. NO. [illegible], WITH AN EFFECTIVE DATE OF DECEMBER 30, 2008 AND AN ISSUE DATE OF JANUARY 8, 2009. NO FURTHER RESEARCH FOR EASEMENTS OR ENCUMBRANCES WAS PERFORMED BY KMS SURVEYING, LLC.
4. THIS SURVEY HAS BEEN PREPARED FOR THE SOLE PURPOSE OF THE TRANSACTION DESCRIBED IN THE ABOVE MENTIONED COMMITMENT FOR TITLE INSURANCE AND THE PARTIES LISTED THEREON. THIS SURVEY IS NOT TO BE USED FOR ANY SUBSEQUENT TRANSACTIONS.
5. ITEM NO. 10a OF SCHEDULE B OF SAID COMMITMENT FOR TITLE INSURANCE MENTIONS A UNOBSTRUCTED PUBLIC UTILITY AND AERIAL EASEMENT RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER [illegible] OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY. SHOWN HEREON.
6. ITEM NO. 10c OF SCHEDULE B OF SAID COMMITMENT FOR TITLE INSURANCE MENTIONS A STORM SEWER AND DRAINAGE EASEMENT RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER [illegible] OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY. SHOWN HEREON.
7. FENCES SHOWN HEREON WITH DIMENSIONAL TIES ARE SHOWN WHERE THEY WERE PHYSICALLY MEASURED. THE FENCE LINE MAY MEANDER BETWEEN MEASURED LOCATIONS.
8. THE SQUARE FOOTAGE TOTALS AS SHOWN HEREON ARE BASED ON THE MATHEMATICAL CLOSURE OF THE COURSES AND DISTANCES REFLECTED ON THIS SURVEY. IT DOES NOT INCLUDE THE TOLERANCES THAT MAY BE PRESENT DUE TO THE POSITIONAL ACCURACY OF THE BOUNDARY MONUMENTATION.
9. THIS SURVEY DOES NOT DETERMINE THE LOCATION OF WETLANDS, FAULT LINES, TOXIC WASTE, CEMETERIES, LANDFILLS, DUMPS OR ANY OTHER ENVIRONMENTAL ISSUES.
10. KMS SURVEYING, LLC HAS NOT BEEN PROVIDED WITH CONSTRUCTION PLANS SHOWING THE LOCATION OF UNDERGROUND UTILITIES. UNDERGROUND UTILITIES MAY EXIST WHICH ARE NOT SHOWN HEREON.
11. READILY VISIBLE IMPROVEMENTS/UTILITIES WERE LOCATED WITH THIS SURVEY. NO SUBSURFACE PROBING, EXCAVATION OR EXPLORATION WAS PERFORMED BY KMS SURVEYING, LLC.

METES AND BOUNDS DESCRIPTION
10.000 ACRES IN THE
W.C.R.R. CO. SURVEY, SECTION 4, ABSTRACT 1225
HARRIS COUNTY, TEXAS.

A 10.000-ACRE TRACT OF LAND SITUATED IN THE W.C.R.R. CO. SURVEY, SECTION 4, ABSTRACT 1225, HARRIS COUNTY, TEXAS, BEING OUT OF THE RESIDUE OF THAT CALLED 2,226.33-ACRE TRACT DESCRIBED IN DEED TO CANYON LAKES 1892, LTD AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER Y047799 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, SAID 10.000-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a 5/8-inch iron rod with a cap stamped "[illegible]" found marking the northeast corner of a called 190.0000-acre tract described in a deed to Harris County Flood Control District as recorded under Harris County Clerk's File Number [illegible] of the Official Public Records of Real Property, said point being in the common line between said residue of a called 2,226.33-acre tract and a called 8.512-acre tract described in a deed to Houston Lighting and Power as recorded under Harris County Clerk's File Number [illegible] of the Official Public Records of Real Property, and being the southeast corner of the herein described tract;

(1) THENCE South 87°08'07" West 731.57 feet, along the common line between said residue of a called 2,226.33-acre tract and said called 190.0000-acre tract to a 3/4-inch iron rod with cap stamped "KMS Surveying" set for the southwest corner of the herein described tract;

(2) THENCE North 02°47'00" West 595.11 feet, to a 3/4-inch iron rod with cap stamped "KMS Surveying" set in the common line between said residue of a called 2,226.33-acre tract and Restricted Reserve "A" of Cypress-Fairbanks I.S.D. Elementary School No. 44 as recorded under Film Code Number 596099 of the Harris County Map Records, and being the northwest corner of the herein described tract;

(3) THENCE North 87°08'07" East, along said common line, at 384.07 feet passing a 5/8-inch iron rod found marking the southeast corner of said Restricted Reserve "A" and the southwest corner of the residue of a called 200.000-acre tract described in a deed to North Harris Montgomery Community College District as recorded under Harris County Clerk's File Number [illegible] of the Official Public Records of Real Property, and continuing for a total distance of 731.47 feet to a 3/4-inch iron rod with cap stamped "KMS Surveying" set for the northwest corner of said called 8.512-acre tract and being the northeast corner of the herein described tract;

(4) THENCE South 02°47'00" East 595.11 feet, along the common line of said called 8.512-acre tract and said residue of a called 2,226.33-acre tract to the POINT OF BEGINNING and containing 10.000 acres of land.

TO: CANYON LAKES 1892, LTD
LAWYERS TITLE INSURANCE COMPANY
VORTA DEVELOPMENT, LLC
PRIME CAPITAL CORP.

WE, KMS SURVEYING, LLC ACTING BY AND THROUGH KEVIN DREW MORAE, A TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION II LAND TITLE SURVEY.

SURVEYED ON THIS THE 20TH DAY OF JANUARY, 2009

STATE OF TEXAS
REGISTERED
KEVIN DREW MORAE
5485
PROFESSIONAL
LAND SURVEYOR

KEVIN DREW MORAE
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 5485

KMS Surveying, LLC
2550 GRAY FALLS – SUITE 215
HOUSTON, TEXAS 77077

LAND TITLE SURVEY
10.000 ACRES (435,602 SQUARE FEET)
OUT OF THE RESIDUE OF
A CALLED 2,226.33 ACRE TRACT
CANYON LAKES 1892, LTD.
H.C.C.F. NO. Y047799, O.P.R.O.R.P.
W.C.R.R. CO. SURVEY, SECTION 4, A-1225
HARRIS COUNTY, TEXAS

Original 09986

METES AND BOUNDS DESCRIPTION
10.000 ACRES IN THE
W.C.R.R. CO. SURVEY, SECTION 4, ABSTRACT 1225
HARRIS COUNTY, TEXAS

A 10.000-ACRE TRACT OF LAND SITUATED IN THE W.C.R.R. CO. SURVEY, SECTION 4, ABSTRACT 1225, HARRIS COUNTY, TEXAS, BEING OUT OF THE RESIDUE OF THAT CALLED 2,226.33-ACRE TRACT DESCRIBED IN DEED TO CANYON LAKES 1892, LTD AS RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER Y047799 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, SAID 10.000-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a 5/8-inch iron rod with a cap stamped "Huitt-Zollars" found marking the northeast corner of a called 190.0000-acre tract described in a deed to Harris County Flood Control District as recorded under Harris County Clerk's File Number W075837 of the Official Public Records of Real Property, said point being in the common line between said residue of a called 2,226.33-acre tract and a called 8.512-acre tract described in a deed to Houston Lighting and Power as recorded under Harris County Clerk's File Number G004854 of the Official Public Records of Real Property, and being the southeast corner of the herein described tract;

(1) **THENCE** South 87°08'07" West 731.97 feet, along the common line between said residue of a called 2,226.33-acre tract and said called 190.0000-acre tract to a 3/4-inch iron rod with cap stamped "KMS Surveying" set for the southwest corner of the herein described tract;

(2) **THENCE** North 02°47'00" West 595.11 feet, to a 3/4-inch iron rod with cap stamped "KMS Surveying" set in the common line between said residue of a called 2,226.33-acre tract and Restricted Reserve "A" of Cypress-Fairbanks I.S.D. Elementary School No. 44 as recorded under Film Code Number 596099 of the Harris County Map Records, and being the northwest corner of the herein described tract;

(3) **THENCE** North 87°08'07" East, along said common line, at 556.07 feet passing a 5/8-inch iron rod found marking the southeast corner of said Restricted Reserve "A" and the southwest corner of the residue of a called 200.000-acre tract described in a deed to North Harris Montgomery Community College District as recorded under Harris County Clerk's File Number V017199 of the Official Public Records of Real Property, and continuing for a total distance of 731.97 feet to a 3/4-inch iron rod with cap stamped "KMS Surveying" set for the northwest corner of said called 8.512-acre tract and being the northeast corner of the herein described tract;

(4) **THENCE** South 02°47'00" East 595.11 feet, along the common line of said called 8.512-acre tract and said residue of a called 2,226.33-acre tract to the **POINT OF BEGINNING** and containing 10.000 acres of land. This description accompanies a Land Title Survey, prepared by KMS Surveying, LLC and dated February 25, 2009.

KMS SURVEYING, LLC
Kevin Drew McRae, R.P.L.S.
Texas Registration No. 5485
2550 Gray Falls Drive, Suite 215
Houston, Texas 77077
281-598-0000

STATE OF TEXAS REGISTERED KEVIN DREW McRAE 5485 PROFESSIONAL LAND SURVEYOR

Kevin Drew McRae
2/24/09

Date: 2/25/2009 gw
Job No: 51201-0901-102
File No: X:\1200\1201-0901\documents\technical\12010901-PBLT01.doc

09986

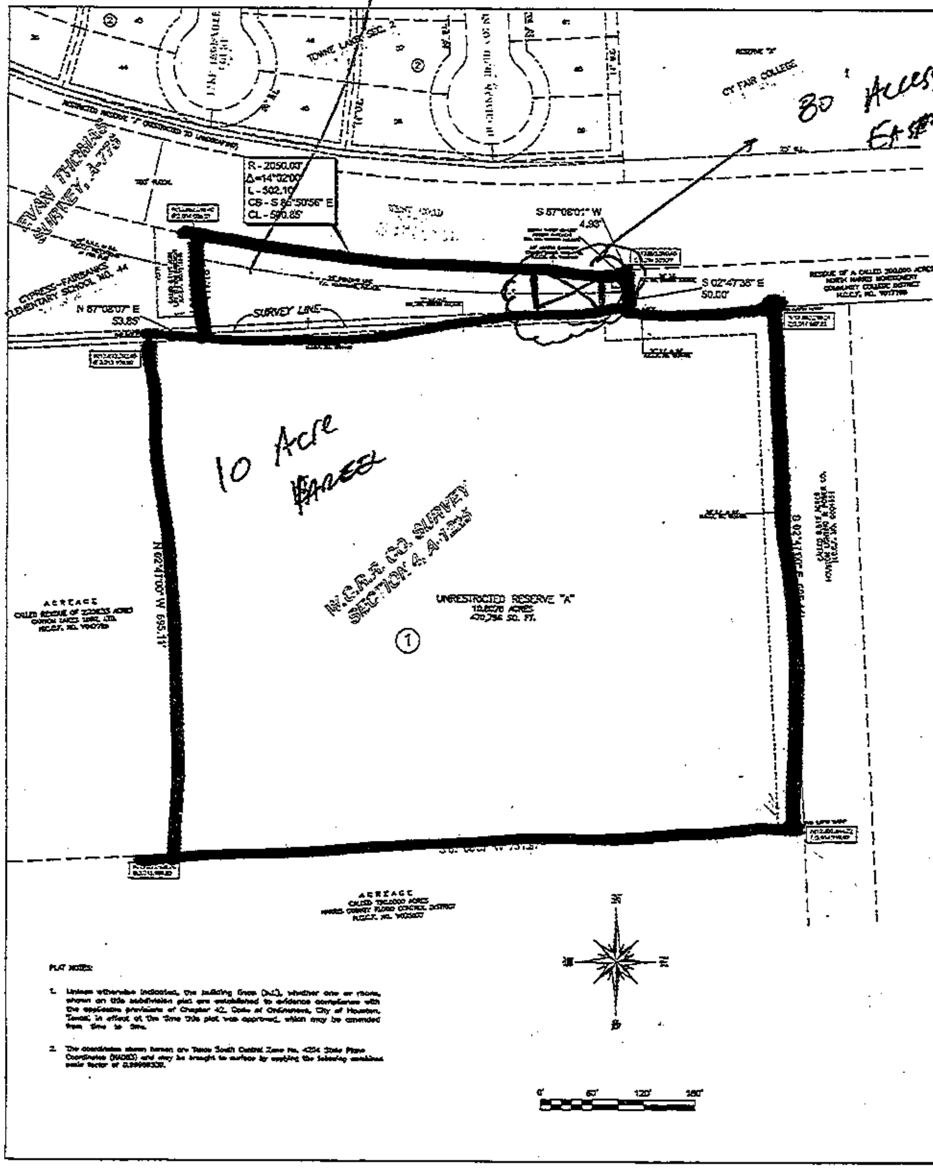
Exhibit B

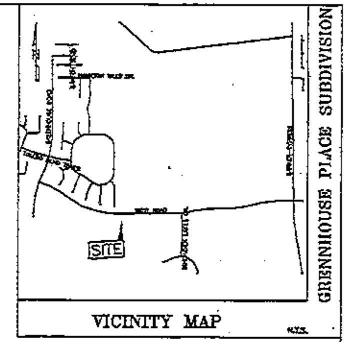
Revised Site

Survey and Revised Site Plan

9 09986

Revised





GREENHOUSE PLACE SUBDIVISION

GREENHOUSE PLACE SUBDIVISION

A SUBDIVISION OF 10.8078 ACRES OF LAND PARTIALLY SITUATED IN THE EVAN THOMAS SURVEY, ABSTRACT NO. 775, AND PARTIALLY IN THE W.C.R.R. CO. SURVEY, SECTION 4, ABSTRACT NO. 1225, HARRIS COUNTY, TEXAS, ALSO BEING A PARTIAL REPLAT OF A PORTION OF RESTRICTED RESERVE "A", BLOCK 1, CYPRESS–FAIRBANKS I.S.D. ELEMENTARY SCHOOL NO. 44, A SUBDIVISION ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED UNDER FILM CODE NO. 596099, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

SCALE: 1" = 60' DATE: OCTOBER, 2009

1 UNRESTRICTED RESERVE 1 BLOCK

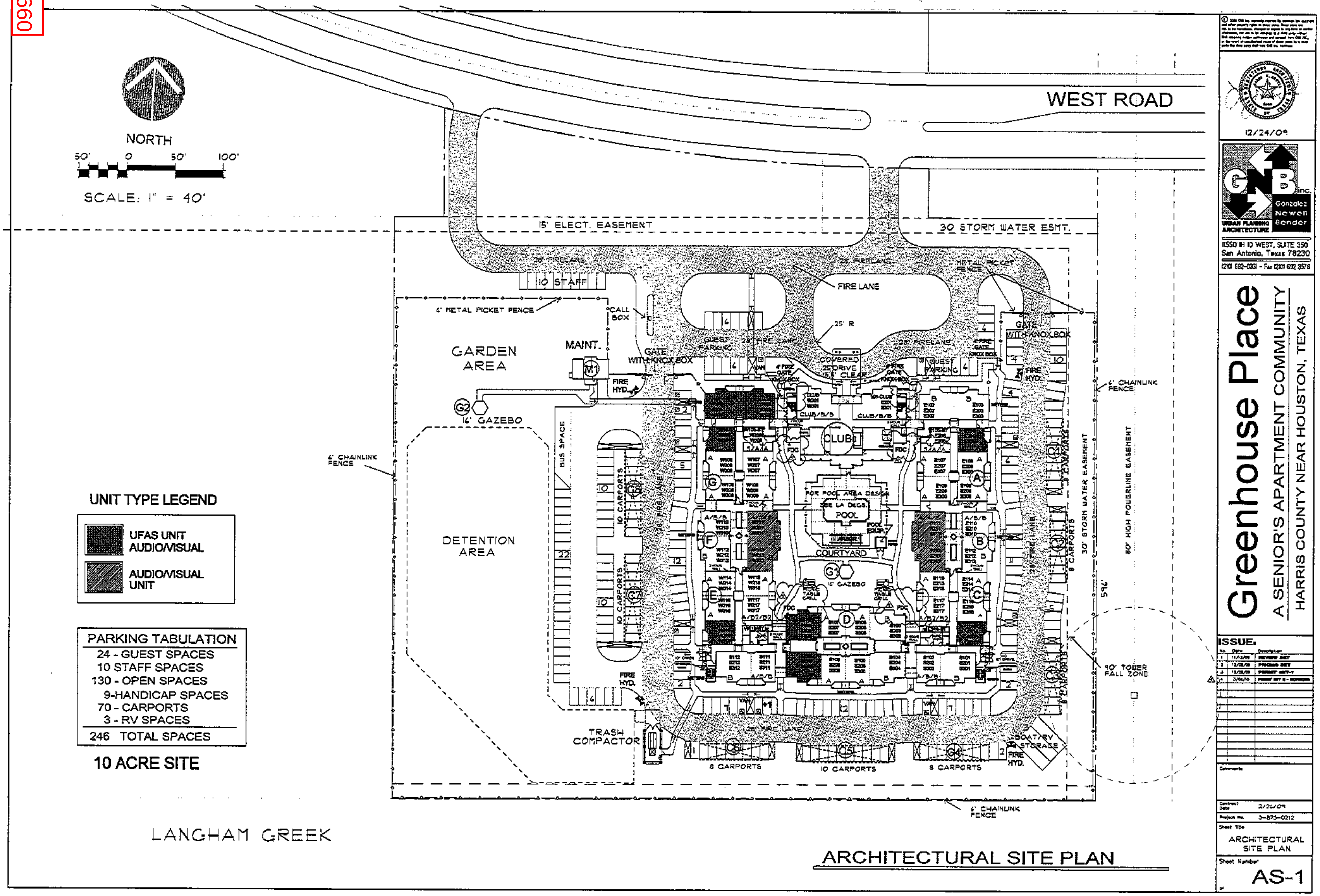
OWNER:

ENGINEER:
LOTT & BROWN CONSULTING ENGINEERS

LAND SURVEYOR:
TOTAL SURVEYORS, INC.
A PROFESSIONAL LAND SURVEYING COMPANY

09986

Revised



11

09986

Exhibit C

Tax Credit Application

Volume 3, Tab 1, Part B., SPECIFICATIONS AND AMENITIES

12

Original 09986

Volume 3, Tab 1
PART B. SPECIFICATIONS AND AMENITIES

SITE ATTRIBUTES

Total Acquisition Acreage: 10 Development Site Acreage: 10 # Units per Acre: 14

☒ Single Site ☐ Contiguous Multiple Sites (# Sites: __) ☐ Scattered Sites (# Sites: __)**

**** Note: If Scattered Site, submit evidence of scattered site pursuant to ASPM behind this tab.**

DEVELOPMENT ATTRIBUTES *Selections must be consistent with submitted architectural plans*

# of Residential Buildings: 1 Maximum # of Floors: 8 # of Non-Residential Buildings: ____

Configuration:
- ☐ Duplex
- ☐ Townhome
- ☐ Fourplex
- ☒ >4 units per building
- ☐ Single family construction
- ☐ SRO (per §42(i)(3)(B))
- ☐ Transitional (per §42(i)(3)(B))

☒ Fire Sprinkler in all residential areas # of Passenger Elevators: 4 Wt Capacity ____

EXTERIOR *Selections must be consistent with submitted architectural plans*

Subfloor
- ☐ Wood
- ☐ Concrete Slab
- ☐ Other *(Describe)*

Walls
- ____ % Plywood/Hardboard
- ____ % Vinyl or Aluminum Siding
- ____ % Masonry Veneer
- 25 % Fiber Cement Siding
- 35 % Stucco
- 40 % Other *Stone*

Parking
- ____ #Shed or Flat Roof Carport Spaces
- ____ #Detached Garage Spaces
- 194 #Uncovered Spaces
- ____ #Parking Garage Spaces

Roofs
- ☐ Built-Up Tar and Gravel
- ☐ Comp. Shingle
- ☒ Comp. Roll
- ☐ Elastomeric
- ☐ Wood Shake
- ☐ Other *(Describe)*

INTERIOR *Selections must be consistent with submitted architectural plans*

Flooring
- 76 % Carpet
- ____ % Resilient Covering
- ____ % Ceramic Tile
- ____ % Light Concrete
- 24 % Other *Ceramic/VCT Tile*

Air System
- ☐ Forced Air
- ☐ Furnace
- ☐ Hot Water
- ☒ Warm and Cooled Air
- ☐ Heat Pump, packaged
- ☐ Wall Units
- ☐ Other *(Describe)*

Walls
- ☒ Drywall
- ☐ Plaster
- ☒ 9 - Foot Ceilings

Other
- ☐ Washer and Dryers onsite (# ____)
- ☐ Fireplace included in all Units
- ☐ Fireplace onsite (# ____)
- ☐ Other *(Describe)*

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09986

Exhibit D

Revised Tax Credit Application

Volume 3, Tab 1, Part B., SPECIFICATIONS AND AMENITIES

Revised 14
09986

Volume 3, Tab 1
PART B. SPECIFICATIONS AND AMENITIES

SITE ATTRIBUTES

Total Acquisition Acreage: 10   Development Site Acreage: 10   # Units per Acre: 14

☒ Single Site   ☐ Contiguous Multiple Sites (# Sites: __)   ☐ Scattered Sites (# Sites: __)**

** **Note: If Scattered Site, submit evidence of scattered site pursuant to ASPM behind this tab.**

DEVELOPMENT ATTRIBUTES *Selections must be consistent with submitted architectural plans*

# of Residential Buildings: 1   Maximum # of Floors: 3   # of Non-Residential Buildings: _____

Configuration:
- ☐ Duplex
- ☐ Townhome
- ☐ Fourplex
- ☒ >4 units per building
- ☐ Single family construction
- ☐ SRO (per §42(i)(3)(B))
- ☐ Transitional (per §42(i)(3)(B))

☒ Fire Sprinkler in all residential areas   # of Passenger Elevators: 4   Wt Capacity _____

EXTERIOR *Selections must be consistent with submitted architectural plans*

Subfloor
- ☐ Wood
- ☐ Concrete Slab
- ☐ Other *(Describe)*

Walls
- _____ % Plywood/Hardboard
- _____ % Vinyl or Aluminum Siding
- _____ % Masonry Veneer
- 25 % Fiber Cement Siding
- 35 % Stucco
- 40 % Other *Stone*

Parking
- ___ #Shed or Flat Roof Carport Spaces
- ___ #Detached Garage Spaces
- 194 #Uncovered Spaces
- ___ #Parking Garage Spaces

Roofs
- ☐ Built-Up Tar and Gravel
- ☒ Comp. Shingle
- ☐ Comp. Roll
- ☐ Elastomeric
- ☐ Wood Shake
- ☐ Other *(Describe)*

INTERIOR *Selections must be consistent with submitted architectural plans*

Flooring
- 76 % Carpet
- _____ % Resilient Covering
- _____ % Ceramic Tile
- _____ % Light Concrete
- 24 % Other *Ceramic/VCT Tile*

Air System
- ☒ Forced Air
- ☐ Furnace
- ☐ Hot Water
- ☐ Warm and Cooled Air
- ☐ Heat Pump, packaged
- ☐ Wall Units
- ☐ Other *(Describe)*

Walls
- ☒ Drywall
- ☐ Plaster
- ☒ 9 - Foot Ceilings

Other
- ☐ Washer and Dryers onsite (# _____)
- ☐ Fireplace included in all Units
- ☐ Fireplace onsite (# _____)
- ☐ Other *(Describe)*

15

09986

Exhibit E

<u>Tax Credit Application</u>

Volume 4, Tab 16, GREEN BUILDING INITIATIVES

Volume 4, Tab 16 (§49.9(i)(17))
Green Building Initiatives

Application may qualify to receive up to 6 points for providing green building amenities. **Points for this section may not be requested for the same items utilized for points under Threshold Amenities.** Developments proposing Rehabilitation will receive 1.5 times the point value for any selected amenity **(do not round)**. Developments involving non-contiguous scattered sites must include a separate onsite amenities form for each separate site. Each separate form must have the address of the site clearly indicated.

Green Building Amenities (indicate which below)

☐ (-a-) evaporative coolers (for use in designated counties listed in the Application Materials, 2009 Housing Tax Credit Site Demographics Information) (1 point)

☐ (-b-) passive solar heating/cooling (3 points maximum)

☐ Two points for completing both of the following:

(-1-). The glazing area on the north- and south-facing walls of the building is at least 50% greater than the sum of the glazing area on the east- and west- facing walls; and

(-2-). The east-west axis of the building is within 15 degrees of due east-west

☐ One point for completing all of the following:

(-1-). In addition to the east-west axis of the building oriented within 15 degrees of due east-west, utilize a narrow floor plate (less than 40 feet), single loaded corridors and open floor plan to optimize daylight penetration and passive ventilation (note: to qualify for this particular point, application must also implement building orientation option b. above) ; and

(-2-). 100% of HVAC condenser units are shaded so they are fully shaded 75% of the time during summer months (May through August); and

(-3-). Solar screens or solar film on all East, West, and South Windows with building oriented to east-west axis within 15 degrees of due east-west, west-south axis within 15 degrees of due west-south, and south-east axis within 15 degrees of due south-east.

☒ (-c-) water conserving features (2 points maximum, 1 point for each):

☒ Install low-flow toilets using less than or equal to 1.6 gallons per flush, or high efficiency toilets using less than or equal to 1.28 gallons per flush; and/or

☒ Install bathroom lavatory faucets and showerheads that do not exceed 2.0 gallons per minute and kitchen faucets that do not exceed 1.5 gallons per minute. This applies to all fixtures throughout the development. Rehabilitation projects may choose to install compliant faucet aerators instead of replacing entire faucets.

☐ (-d-) solar water heaters (Solar water heaters designed to provide at least 25% of the average energy used to heat domestic water throughout the entire development.) (2 points);

☒ (-e-) irrigation and landscaping (must implement both of the following) (2 points)

(-1-). Collected water (at least 50%) for irrigation purposes; and

(-2-). selection of native trees and plants that are appropriate to the site's soils and microclimate and locate then to allow for shading in the sumer and allow for heat gain in the winter

☐ (-f-) sub-metered utility meters (2 points maximum);

☐ Sub-metered utility meters on rehab project without existing sub-meters or new construction senior project (2 points); or

☐ Sub-metered utility meters on new construction project (excluding new construction senior project) (1 point)

(list continues)

☐ (-g-) energy efficiency (4 points maximum);

☐ Energy Elements (must implement i-iii) (3 points)

(i) Energy-Star qualified windows and glass doors; and

(ii) Exterior envelope insulation, vapor barriers and air barriers greater than or equal to Energy Star air barrier and insulation criteria; and

(iii) HVAC, domestic hot water heater, and insulation that exceeds Energy Star standards or exceeds the IRC 2006; or

☐ The project promotes energy efficiency by meeting the requirements of Energy Star for Homes by either complying with the appropriate builder option package or a HERS score of 85 (4 points)

☐ (-h-) thermally and draft efficient doors (SHGC of 0.40 or lower and U-value specified by climate zone according to the 2006 IECC) (2 points);

☐ (-i-) photovoltaic panels for electricity and design and wiring for the use of such panels (3 points maximum);

☐ Photovoltaic panels that total 10 kW (1point); or

☐ Photovoltaic panels that total 20 kW (2 points); or

☐ Photovoltaic panels that total 30 kW (3 points)

☒ (-j-) construction waste management and implementation of EPA's Best Management Practices for erosion and sedimentation control during construction (1 point);

☒ (-k-) recycling service provided throughout the compliance period (1 point);

☐ (-l-) water permeable walkways (at least 20% of walkways and parking) (1 point); or

☐ (-m-) bamboo flooring, wool carpet, linoleum flooring, straw board, poplar OSB, or cotton batt insulation (50% of flooring on the ground floor of the development must be finished concrete and/or ceramic tile. 50% of the flooring on upper floors must be ceramic tile and/or a flooring material that is Floor Score Certified (developed by the Resilient Floor Covering Institute), applied with a Floor Score Certified adhesive and comes with a minimum 7-year wear through warranty. (2 points)

Exhibit F

Revised Tax Credit Application

Volume 4, Tab 16, GREEN BUILDING INITIATIVES

Volume 4, Tab 16 (§49.9(i)(17))
Green Building Initiatives

Application may qualify to receive up to 6 points for providing green building amenities. <u>Points for this section may not be requested for the same items utilized for points under Threshold Amenities.</u> Developments proposing Rehabilitation will receive 1.5 times the point value for any selected amenity **(do not round)**. Developments involving non-contiguous scattered sites must include a separate onsite amenities form for each separate site. Each separate form must have the address of the site clearly indicated.

Green Building Amenities (indicate which below)

☐ (-a-) evaporative coolers (for use in designated counties listed in the Application Materials, 2009 Housing Tax Credit Site Demographics Information) (1 point)

☐ (-b-) passive solar heating/cooling (3 points maximum)

☐Two points for completing both of the following:
(-1-). The glazing area on the north- and south-facing walls of the building is at least 50% greater than the sum of the glazing area on the east- and west- facing walls; and
(-2-). The east-west axis of the building is within 15 degrees of due east-west

☐One point for completing all of the following:
(-1-). In addition to the east-west axis of the building oriented within 15 degrees of due east-west, utilize a narrow floor plate (less than 40 feet), single loaded corridors and open floor plan to optimize daylight penetration and passive ventilation (note: to qualify for this particular point, application must also implement building orientation option b. above) ; and
(-2-). 100% of HVAC condenser units are shaded so they are fully shaded 75% of the time during summer months (May through August); and
(-3-). Solar screens or solar film on all East, West, and South Windows with building oriented to east-west axis within 15 degrees of due east-west, west-south axis within 15 degrees of due west-south, and south-east axis within 15 degrees of due south-east.

☒ (-c-) water conserving features (2 points maximum, 1 point for each):

☒Install low-flow toilets using less than or equal to 1.6 gallons per flush, or high efficiency toilets using less than or equal to 1.28 gallons per flush; and/or

☒Install bathroom lavatory faucets and showerheads that do not exceed 2.0 gallons per minute and kitchen faucets that do not exceed 1.5 gallons per minute. This applies to all fixtures throughout the development. Rehabilitation projects may choose to install compliant faucet aerators instead of replacing entire faucets.

☐ (-d-) solar water heaters (Solar water heaters designed to provide at least 25% of the average energy used to heat domestic water throughout the entire development.) (2 points);

☐ (-e-) irrigation and landscaping (must implement both of the following) (2 points)
(-1-). Collected water (at least 50%) for irrigation purposes; and
(-2-). selection of native trees and plants that are appropriate to the site's soils and microclimate and locate then to allow for shading in the sumer and allow for heat gain in the winter

☐ (-f-) sub-metered utility meters (2 points maximum);

☐Sub-metered utility meters on rehab project without existing sub-meters or new construction senior project (2 points); or

☐Sub-metered utility meters on new construction project (excluding new construction senior project) (1 point)

(list continues)

☐ (-g-) energy efficiency (4 points maximum);

☐ Energy Elements (must implement i-iii) (3 points)

(i) Energy-Star qualified windows and glass doors; and

(ii) Exterior envelope insulation, vapor barriers and air barriers greater than or equal to Energy Star air barrier and insulation criteria; and

(iii) HVAC, domestic hot water heater, and insulation that exceeds Energy Star standards or exceeds the IRC 2006; or

☐ The project promotes energy efficiency by meeting the requirements of Energy Star for Homes by either complying with the appropriate builder option package or a HERS score of 85 (4 points)

☒ (-h-) thermally and draft efficient doors (SHGC of 0.40 or lower and U-value specified by climate zone according to the 2006 IECC) (2 points);

☐ (-i-) photovoltaic panels for electricity and design and wiring for the use of such panels (3 points maximum);

☐ Photovoltaic panels that total 10 kW (1point); or

☐ Photovoltaic panels that total 20 kW (2 points); or

☐ Photovoltaic panels that total 30 kW (3 points)

☒ (-j-) construction waste management and implementation of EPA's Best Management Practices for erosion and sedimentation control during construction (1 point);

☒ (-k-) recycling service provided throughout the compliance period (1 point);

☐ (-l-) water permeable walkways (at least 20% of walkways and parking) (1 point); or

☐ (-m-) bamboo flooring, wool carpet, linoleum flooring, straw board, poplar OSB, or cotton batt insulation (50% of flooring on the ground floor of the development must be finished concrete and/or ceramic tile. 50% of the flooring on upper floors must be ceramic tile and/or a flooring material that is Floor Score Certified (developed by the Resilient Floor Covering Institute), applied with a Floor Score Certified adhesive and comes with a minimum 7-year wear through warranty. (2 points)

SUMMARY
Proposed Greenhouse Place II
18200 Block of West Road
Houston, Harris County, Texas

Versa Development, LLC (Versa) has engaged QORE, Inc. (QORE) to perform a Phase I Environmental Site Assessment (ESA) and Additional Services of the proposed Greenhouse Place II property, located in the 18200 block of West Road in Houston, Harris County, Texas (subject property). The subject property encompassed a 0.8078 acre tract of vacant land. The subject property was located in an area characterized by schools, Lone Star College, single-family residences, and a volunteer fire department facility.

Based on the information obtained to date, Targus' conclusions and recommendations are as follows:

- The results of Targus' subject property and area reconnaissance did not indicate *recognized environmental conditions* associated with current subject property or surrounding land use. Review of historical and regulatory agency information did not indicate on-site or off-site sources of *recognized environmental conditions* associated with current or historical subject property or surrounding land use.

- Targus conducted additional services in accordance with the proposed scope of work, including the assessment of asbestos, radon, lead-based paint, lead-in-drinking water, and flood plain designation. A noise survey was not conducted based on information provided by the Client that indicated no structures were proposed in the subject property. The subject reportedly is going to be utilized as an access easement only. Based on Targus' understanding of the Client's risk tolerance and future plans for the subject property, this assessment/review did not identify issues that appear to be *business environmental risks* to the subject property.

ASTM Issues

Targus has performed a Phase I ESA of the proposed Greenhouse Place Apartments property, located in the 18200 block of West Road in Houston, Harris County, Texas in general conformance with the scope and limitations of ASTM Practice E 1527-05. Exceptions to, or deletions from, this practice are described in Section 10.0 of this report.

Based upon the information obtained, as reflected in this report, this assessment has revealed no evidence of *recognized environmental conditions* in connection with the subject property.

Non-ASTM Issues

In accordance with the proposed scope of work, Targus conducted additional services as discussed in Section 11.0 of this report. Based on Targus' understanding of the Client's objectives, risk tolerance, and future plans for the subject property, this assessment/review did not identify *business environmental risk* associated with the additional services performed.

This summary is for convenience only and should not be relied upon without first reading the full contents of this report, including appendix materials.

6.0 INTERVIEWS

ASTM E 1527-05 requires that a reasonable attempt be made to interview past and present owners, operators, and occupants who are likely to have material information about uses and conditions that could present a suspect *recognized environmental condition* to the subject property. ASTM E 1527-05 requires that the owner or its representative be asked to identify a person with good knowledge of the uses and physical characteristics of the subject property who is defined as the Key Site Manager. The interviews were conducted in person, by telephone, or in writing and are discussed in the following table.

Name/ Company	Title/ Position	Comments
Mr. James Henrie/ Land Tejas	Project Manager/ Owner Representative	Targus interviewed the Key Site Manager. No information regarding environmental liens, AULs, or governmental notification relating to past or recurrent violations of environmental laws with respect to the subject property were reported to Targus during this interview. Targus inquired whether the Key site Manager was aware of (1) any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the property; (2) any pending, threatened, or past administrative proceedings relevant to hazardous substances or petroleum products in, on or from the subject property; or (3) any notices from governmental entities regarding possible violations of environmental laws or possible liabilities relating to hazardous substances or petroleum products, of which Mr. Henrie replied that he was unaware. Other information provided by Mr. Henrie can be found in Section 5.2.
	Past Owner/ Occupant	The prior owner of the subject property was not available.
	Local Gov. Officials	Information obtained from interviews and contact with local governmental officials is discussed in Section 4.2 of this report.

Records of communication for the interviews conducted are provided in Appendix E.

7.0 FINDINGS

Based on the information obtained by Targus to date, no known or suspect *recognized environmental conditions* associated with the subject property, including *historical recognized environmental conditions*, *de minimis* conditions, and other environmental conditions were identified.

8.0 OPINION

Based on the information obtained by Targus to date, no known or suspect *recognized environmental conditions* associated with the subject property, including *historical recognized environmental conditions*, *de minimis* conditions, and other environmental conditions, were identified.

9.0 CONCLUSIONS AND RECOMMENDATIONS

9.1 ASTM ISSUES

Targus has performed a Phase I Environmental Site Assessment of the Greenhouse Place II property located at the 18200 block of West Road in Houston, Harris County, Texas in general conformance with the scope and limitations of ASTM Practice E 1527-05. Exceptions to, or deletions from, this practice are described in Section 10.0 of this report.

Based upon the information obtained, as reflected in this report, this assessment has revealed no evidence of *recognized environmental conditions* in connection with the subject property.

9.2 NON-ASTM ISSUES

In accordance with the proposed scope of work, Targus conducted additional services as discussed in Section 11 of this report, including the assessment of: asbestos, radon, lead-based paint, lead-in-drinking water, and flood plain designation. A noise survey was not conducted based on information provided by the Client that indicated no structures were proposed in the subject property. The subject reportedly is going to be utilized as an access easement only. Based on Targus' understanding of the Client's risk tolerance and future plans for the subject property, this assessment/review did not identify issues that appear to be *business environmental risks* to the subject property.

10.0 DATA GAPS AND DEVIATIONS

Data gaps are defined as a lack of or inability to obtain information required by ASTM E 1527-05 despite good faith efforts. Significant data gaps that affected the ability of the environmental professional to identify *recognized environmental conditions* were not identified.

Neither Title documents nor a lien or AUL search were provided by the Client or obtained by Targus for the subject property in the last 180 days. The lack of a lien/AUL search in the last 180 days is considered a data gap; however, in light of the other information identified during the preparation of this report this was not considered to be a significant data gap, nor did it prevent the environmental professional from forming an opinion.

11.0 ADDITIONAL (Non-ASTM) SERVICES

In accordance with the scope of work presented in the proposal, Targus has conducted additional services as presented in this section of the report.

11.1 ASBESTOS

The subject property was vacant land at the time of Targus' subject property reconnaissance. No structures or building material debris likely to contain asbestos-containing materials were observed on the subject property.

11.2 RADON

Radon (Rn^{222}) is a naturally occurring inert, colorless, odorless radioactive gas derived from the decay of radium (R^{226}). Radium occurs in geologic formations containing uranium, granite, shale, phosphate, or pitchblende and was commercially used in luminescent products. Radium decays into reactive, radioactive daughter particles that attach themselves to other particles such as dust and are a lung cancer risk. Radon can move through

HOME PROGRAM DIVISION

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve HOME Program Award Recommendations from the 2009 HOME Program Single Family Owner-Occupied Housing Assistance (OCC), Tenant-Based Rental Assistance (TBRA), and Homebuyer Assistance (HBA) Programs Notice of Funding Availability (NOFA), involving the award of ten (10) applications, totaling $3,225,386 in project funds and $153,014 in administrative funds, which will result in assistance for 89 low-income households.

> **RESOLVED,** that the award of contracts to the Rockwall Housing Development Corporation, City of Beeville, City of Queen City, City of Bonham, City of Deport, City of Whitney, City of Paris, City of Rio Hondo, County of Fannin, and Affordable Housing of Parker County, Inc., totaling $3,225,386 in project funds and $153,014 in administrative funds, resulting in assistance for 89 low income households, are hereby approved in the form presented to this meeting.

Background

Staff is recommending for award applications received in response to the 2009 Single Family Programs NOFA. The award recommendations total $3,225,386 in project funds and $153,014 in administrative funds to assist 89 households for the following ten (10) applications:

Rockwall Housing Development Corporation	Applicant will receive $160,000 in project funds which will be used to provide up to $80,000 per household for the rehabilitation or reconstruction of 2 homes owned by low-income households that are in significant disrepair.
City of Beeville **City of Queen City**	Each Applicant will receive $400,000 in project funds which will be used to provide up to $80,000 per household for the rehabilitation or reconstruction of 5 homes owned by low-income households that are in significant disrepair.

City of Bonham **City of Deport**	Each Applicant will receive $432,693 in project funds which will be used to provide up to $80,000 per household for the rehabilitation or reconstruction of 5 homes owned by low-income households that are in significant disrepair.
City of Whitney **City of Paris**	Each Applicant will receive $300,000 in project funds to provide up to $20,000 in downpayment and closing costs assistance to 14 eligible low-income first-time homebuyers.
City of Rio Hondo	Applicant will receive $300,000 in project funds to provide up to $20,000 in downpayment and closing costs assistance to 15 eligible low-income first-time homebuyers.
County of Fannin	Applicant will receive $200,000 in project funds to provide up to $20,000 in downpayment and closing costs assistance to 10 eligible low-income first-time homebuyers.
Affordable Housing of Parker County	Applicant will receive $300,000 in project funds to provide rental assistance to at least 14 low-income households. The rental assistance will be in the form of a grant for vouchers that can be used for a safe, decent, and affordable unit of their choice.

The Board previously approved funding for 45 applications totaling $16,488,542 in project funds and $754,880 in administrative funds under this NOFA. In addition to the 10 applications being recommended for funding, 11 applications requesting a total of $3,762,540 in project funds are still under review and funds remain available to award these applications if they are determined to be eligible once the Department's review is complete.

The NOFA was approved on July 16, 2009 which made available $25,923,970 in HOME funds originally restricted in set-asides for each activity and by region. The NOFA expired on April 30, 2010. The unsubscribed balance of funds totaling $2,500,000 was approved for reprogramming by the Board on May 12, 2010.

All applications being recommended for funding have been reviewed by the Compliance and Asset Oversight Division, and no issues of material non-compliance, unresolved audit findings or questioned or disallowed costs have been identified.

Attached are the Application and Award Recommendations Logs.

2009 SF Application Log Final Collapse

Sorted by date/time received

Total NOFA Amount - $25,923,970

Total Amount Available: $9,435,427

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0019 2009 OCC	8/17/2009	1:45 PM	City of Cooper	4	$432,693	$17,307	5	$432,693	$17,307	5	Awarded 10/15/2009
2009-0021 2009 TBRA	8/19/2009	3:27 PM	Ellis Community Resources Inc.	9	$300,000	$36,000	27				Withdrawn
2009-0022 2009 OCC	8/28/2009	2:06 PM	City of Weimar	6	$432,000	$17,280	6	$432,000	$17,280	6	Awarded 10/15/2009
2009-0026 2009 HBA	8/31/2009		Community Development Corporation of Brownsville	11	$300,000	$12,000	30				Terminated
2009-0030 2009 OCC	8/31/2009	2:55 PM	City of Martindale	7	$432,000	$17,280	6	$432,000	$17,280	6	Awarded 11/9/2009
2009-0025 2009 OCC	8/31/2009	4:00 PM	Community Development Corporation of Brownsville	11	$432,000	$17,280	10	$432,000	$17,280	10	Awarded 10/15/2009
2009-0024 2009 OCC	8/31/2009	4:00 PM	City of Huntsville	6	$432,000	$17,280	6	$432,000	$17,280	6	Awarded 10/15/2009
2009-0023 2009 OCC	8/31/2009	4:00 PM	City of Bloomburg	4	$240,000	$9,600	3	$240,000	$9,600	3	Awarded 10/15/2009
2009-0031 2009 TBRA	9/2/2009	1:17 PM	Buckner Children & Family Services, Inc. dba Buckner Family Place	6	$162,624	$22,176	11				Terminated
2009-0033 2009 TBRA	9/2/2009	2:22 PM	Buckner Children & Family Services, Inc. dba Buckner Family Place	5	$133,056	$18,144	11				Terminated

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0028 2009 OCC	9/2/2009	4:38 PM	City of Commerce	3	$432,693	$17,307	5	$432,693	$17,307	5	Awarded 11/9/2009
2009-0032 2009 OCC	9/3/2009	4:31 PM	City of Gatesville	8	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 10/15/2009
2009-0034 2009 HBA	9/18/2009	4:13 PM	City of Waxahachie	3	$220,000	$8,800	11	$220,000	$8,800	11	Awarded 11/9/2009
2009-0035 2009 TBRA	9/24/2009	2:43 PM	Housing Authority of New Braunfels	9	$300,000	$36,000	27	$300,000	$36,000	27	Awarded 11/9/2009
2009-0036 2009 OCC	9/29/2009	9:59 AM	City of Belton	8	$400,000	$16,000	5	$0	$0	0	Withdrawn
2009-0037 2009 TBRA	9/29/2009	10:00 AM	Affordable Caring Housing, Inc.	4	$118,104	$4,724	10				Withdrawn
2009-0039 2009 OCC	10/2/2009	12:07 PM	City of Lorenzo	1	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 12/17/2009
2009-0038 2009 OCC	10/2/2009	12:08 PM	City of Floydada	1	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 12/17/2009
2009-0040 2009 OCC	10/8/2009	4:15 PM	City of Sulphur Springs	4	$432,693	$17,307	5	$432,693	$17,307	5	Awarded 11/9/2009
2009-0044 2009 TBRA	10/12/2009	2:15 PM	Ellis Community Resources Inc.	9	$300,000	$36,000	27	$300,000	$36,000	27	Awarded 11/9/2009
2009-0041 2009 OCC	10/14/2009	9:21 AM	Town of Van Horn	13	$432,000	$18,000	5				Withdrawn
2009-0042 2009 OCC	10/15/2009	11:39 AM	City of Bowie	2	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 12/17/2009

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0043 2009 TBRA	10/15/2009	4:31 PM	Catholic Charities of Corpus Christi, Inc	10	$300,000	$36,000	10				Withdrawn
2009-0050 2009 HBA	11/2/2009	11:50 AM	Town of Combes	11	$300,000	$12,000	15				Withdrawn
2009-0047 2009 OCC	11/2/2009	4:49 PM	City of Belton	8	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 12/17/2009
2009-0048 2009 OCC	11/4/2009	5:08 PM	City of Olton	1	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 12/17/2009
2009-0051 2009 OCC	11/10/2009	3:44 PM	Village of Vinton	13	$320,000	$12,800	4	$320,000	$12,800	4	Awarded 1/20/2010
2009-0054 2009 OCC	11/24/2009	12:00 PM	City of Muleshoe	1	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 1/20/2010
2009-0053 2009 OCC	11/25/2009		City of Atlanta	4	$432,000	$17,280	6	$432,000	$17,280	6	Awarded 1/20/2010
2009-0052 2009 OCC	11/25/2009	12:36 PM	City of DeKalb	4	$320,000	$12,800	4	$320,000	$12,800	4	Awarded 1/20/2010
2009-0058 2009 HBA	11/25/2009	12:58 PM	Southeast Texas HFC	6	$500,000	$20,000	50				Withdrawn
2009-0057 2009 HBA	11/30/2009	5:33 PM	Temple Housing Authority	8	$225,000	$9,000	15	$225,000	$9,000	15	Awarded 1/20/2010
2009-0055 2009 HBA	12/1/2009	12:39 PM	Midland Neighborhood Housing Services, Inc.	12	$300,000	$12,000	24				Withdrawn
2009-0056 2009 OCC	12/9/2009	5:24 PM	County of Crane	12	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 1/20/2010

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0059 2009 HBA	12/21/2009	4:04 PM	City of Hillsboro	8	$300,000	$12,000	13	$300,000	$12,000	14	Awarded 3/11/2010
2009-0060 2009 OCC	12/27/2009	5:36 PM	City of Albany	2	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 3/11/2010
2009-0061 2009 OCC	12/28/2009	12:27 PM	Town of Van Horn	13	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 1/20/2010
2009-0062 2009 OCC	12/28/2009	12:28 PM	City of Edgewood	4	$432,693	$17,307	5	$432,693	$17,307	5	Awarded 3/11/2009
2009-0064 2009 HBA	12/28/2009	12:29 PM	The Nehemiah Foundation	4	$200,000	$8,000	10				Withdrawn
2009-0063 2009 HBA	12/28/2009	5:21 PM	City of Carrollton	3	$96,000	$3,840	5	$96,000	$3,840	5	Awarded 3/11/2010
2009-0067 2009 OCC	1/8/2010	12:29 PM	City of George West	10	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 3/11/2010
2009-0068 2009 TBRA	1/29/2010	4:47 PM	Buckner Children & Family Services, Inc. dba Buckner Family Place	5	$300,000	$36,000	18	$300,000	$36,000	18	Awarded 5/12/2010
2009-0069 2009 OCC	2/3/2010	4:44 PM	City of Asherton	11	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 5/12/2010
2009-0066 2009 OCC	2/3/2010	4:45 PM	City of Ingleside	10	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 5/12/2010
2009-0073 2009 OCC	2/18/2010	2:00 PM	Hill Country Home Opportunity Council, Inc.	9	$240,000	$9,600	3	$240,000	$9,600	3	Awarded 5/12/2010
2009-0072 2009 OCC	2/18/2010	4:33 PM	City of Sinton	10	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 5/12/2010

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0070 2009 OCC	2/19/2010	4:55 PM	City of Encinal	11	$432,000	$18,000	7				Withdrawn
2009-0074 2009 OCC	2/22/2010	4:59 PM	City of West Tawakoni	3	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 5/12/2010
2009-0071 2009 HBA	2/23/2010	10:54 AM	Town of Combes	11	$300,000	$12,000	15	$300,000	$12,000	15	Awarded 3/11/2010
2009-0076 2009 OCC	3/12/2010	12:12 PM	Zavala County	11	$432,000	$17,280	6	$432,000	$17,280	6	Awarded 5/12/2010
2009-0075 2009 OCC	3/18/2010	10:42 AM	Terry County	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 5/12/2010
2009-0077 2009 OCC	3/18/2010	10:43 AM	City of Brownfield	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 5/12/2010
2009-0078 2009 OCC	3/18/2010	10:44 AM	Cochran County	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 5/12/2010
2009-0079 2009 OCC	3/23/2010	10:42 AM	City of Aransas Pass	10	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 5/12/2010
2009-0080 2009 TBRA	4/6/2010	3:13 PM	Burke Center	5	$291,770	$35,012	30	$291,770	$35,012	30	Awarded 5/12/2010
2009-0082 2009 HBA	4/9/2010	1:50 AM	City of Texarkana	4	$100,000	$4,000	5	$100,000	$4,000	5	Awarded 5/12/2010
2009-0081 2009 OCC	4/9/2010	1:49 PM	City of Texarkana	4	$400,000	$16,000	5	$400,000	$16,000	5	Awarded 5/12/2010
2009-0083 2009 OCC	4/9/2010	1:52 PM	Haskell County	2	$432,000	$17,280	5	$432,000	$17,280	5	Awarded 5/12/2010

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0085 2009 OCC	4/15/2010	1:37 PM	Willacy County	11	$400,000	$16,000	6				Under Review
2009-0089 2009 OCC	4/22/2010	4:48 PM	City of Beeville	10	$400,000	$16,000	5	$400,000	$16,000	5	Pending Award
2009-0088 2009 HBA	4/26/2010	1:03 PM	Community Development Corporation of Brownsville	11	$300,000	$12,000	30	$0	$0	0	Under Review
2009-0090 2009 TBRA	4/26/2010	1:12 PM	Texas Star Homes Consultant	6	$250,000	$10,000	10				Under Review
2009-0094 2009 HBA	4/26/2010	1:14 PM	City Of Paris	4	$300,000	$12,000	14	$300,000	$12,000	14	Pending Award
2009-0091 2009 HBA	4/27/2010	11:12 AM	City of Whitney	8	$300,000	$12,000	14	$300,000	$12,000	14	Pending Award
2009-0093 2009 OCC	4/27/2010	11:45 AM	Rockwall Housing Development Corporation	3	$160,000	$6,400	2	$160,000	$6,400	2	Pending Award
2009-0092 2009 TBRA	4/27/2010	11:41 PM	Affordable Housing of Parker County, Inc.	3	$301,350	$12,054	14	$300,000	$36,000	14	Pending Award
2009-0105 2009 OCC	4/30/2010		City of Deport	4	$432,693	$17,307	5	$432,693	$17,307	5	Pending Award
2009-0101 2009 OCC	4/30/2010		City of Bonham	3	$432,700	$17,300	5	$432,693	$17,307	5	Pending Award
2009-0095 2009 HBA	4/30/2010	9:22 AM	El Paso Collaborative for Community and Economic Development	13	$500,000	$20,000	25				Under Review
2009-0096 2009 OCC	4/30/2010	9:23 AM	El Paso Collaborative for Community and Economic Development	13	$432,000	$18,000	5				Under Review

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0097 2009 OCC	4/30/2010	9:23 AM	City of Queen City	4	$400,000	$16,000	5	$400,000	$16,000	5	Pending Award
2009-0098 2009 HBA	4/30/2010	9:24 AM	City of Rio Hondo	11	$300,000	$12,000	15	$300,000	$12,000	15	Pending Award
2009-0087 2009 HBA	4/30/2010	9:25 AM	Midessa Homes, LLC	12	$100,000	$4,000	5				Terminated
2009-0086 2009 HBA	4/30/2010	9:26 AM	Midland Community Development Corp.	12	$300,000	$12,000	14				Under Review
2009-0099 2009 HBA	4/30/2010	10:32 AM	Fannin County	3	$200,000	$8,000	10	$200,000	$8,000	10	Pending Award
2009-0100 2009 HBA	4/30/2010	10:32 AM	Starr County	11	$300,000	$12,000	20				Under Review
2009-0104 2009 OCC	4/30/2010	4:45 PM	City of Santa Rosa	11	$432,000	$18,000	6				Under Review
2009-0102 2009 OCC	4/30/2010	4:45 PM	City of Primera	11	$432,000	$18,000	6				Under Review
2009-0103 2009 HBA	4/30/2010	4:45 PM	City of Primera		$300,000	$12,000	15				Under Review
2009-0109 2009 TBRA	5/4/2010	3:15 PM	Orange Inter City Re-Development Corporation		$116,540	$4,616	80				Under Review
				Totals:	**$27,455,609**	**$1,273,601**	**871**	**$19,713,928**	**$907,894**	**435**	

2009 HOME SF NOFA (2009 OCC) - Award Recommendations Log

June 17, 2010

Sorted by Date and Time Received

Statewide Summary	Totals
SF NOFA Amount:	**$25,923,970**
OCC Set-Aside Amount:	**$18,146,779**
Total Recommended:	**$1,825,386**
Total Apps. Recommended:	**5**

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0089	4/22/2010	4:48 PM	City of Beeville	10	$400,000	$16,000	5	$400,000	$16,000	5	Pending Award
2009-0093	4/27/2010	11:45 AM	Rockwall Housing Development Corporation	3	$160,000	$6,400	2	$160,000	$6,400	2	Pending Award
2009-0101	4/30/2010		City of Bonham	3	$432,700	$17,300	5	$432,693	$17,307	5	Pending Award
2009-0105	4/30/2010		City of Deport	4	$432,693	$17,307	5	$432,693	$17,307	5	Pending Award
2009-0097	4/30/2010	9:23 AM	City of Queen City	4	$400,000	$16,000	5	$400,000	$16,000	5	Pending Award
				Totals:	**$1,825,393**	**$73,007**	**22**	**$1,825,386**	**$73,014**	**22**	

2009 HOME SF NOFA (2009 HBA) - Award Recommendations Log

June 17, 2010

Sorted by Date and Time Received

Statewide Summary	Totals
SF NOFA Amount:	**$25,923,970**
HBA Set-Aside Amount:	**$3,888,595**
Total Recommended:	**$1,100,000**
Total Apps. Recommended:	**4**

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0094	4/26/2010	1:14 PM	City Of Paris	4	$300,000	$12,000	14	$300,000	$12,000	14	Pending Award
2009-0091	4/27/2010	11:12 AM	City of Whitney	8	$300,000	$12,000	14	$300,000	$12,000	14	Pending Award
2009-0098	4/30/2010	9:24 AM	City of Rio Hondo	11	$300,000	$12,000	15	$300,000	$12,000	15	Pending Award
2009-0099	4/30/2010	10:32 AM	Fannin County	3	$200,000	$8,000	10	$200,000	$8,000	10	Pending Award
				Totals:	**$1,100,000**	**$44,000**	**53**	**$1,100,000**	**$44,000**	**53**	

2009 HOME SF NOFA (2009 TBRA) - Award Recommendations Log

June 17, 2010

Sorted by Date and Time Received

Statewide Summary	Totals
SF NOFA Amount:	**$25,923,970**
TBRA Set-Aside Amount:	**$3,888,595**
Total Recommended:	**$300,000**
Total Apps. Recommended:	**1**

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0092	4/27/2010	11:41 PM	Affordable Housing of Parker County, Inc.	3	$301,350	$12,054	14	$300,000	$36,000	14	Pending Award
				Totals:	**$301,350**	**$12,054**	**14**	**$300,000**	**$36,000**	**14**	

HOME PROGRAM DIVISION

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve HOME Program Award Recommendation, involving the award of one (1) application, totaling $500,000 in project funds and $20,000 in administrative funds, which will result in assistance for 6 low-income households who were directly affected by the disaster which occurred on December 23, 2009.

RESOLVED, that the award of a contract to Lufkin County totaling $500,000 in project funds and $20,000 in administrative funds, resulting in assistance for 6 low-income households that were directly affected by the disaster which occurred on December 23, 2009, is hereby approved in the form presented to this meeting.

Background

An application for Owner-Occupied Housing Assistance disaster relief funds for Lufkin County was received in response to a notification letter sent by the Department to the Lufkin County Judge informing the County of available disaster relief funds under the HOME Owner-Occupied Housing Assistance disaster relief set-aside. The award recommendation of $500,000 in project funds and $20,000 in administrative funds will be used to provide up to $80,000 per household for the rehabilitation or reconstruction of 6 homes owned by low-income households that were affected by the disaster caused by a tornado and severe storms that occurred on December 23, 2009.

The Application has been reviewed by the Compliance and Asset Oversight Division, and no issues of material non-compliance, unresolved audit findings or questioned or disallowed costs have been identified.

The Department maintains a balance equal to 5% of the annual allocation, currently $2,150,000, available for disaster relief applications. Attached are the Application and Award Recommendations Logs.

Disaster - Application Log

Sorted by date/time received

Total Set-Aside Amount - $6,850,000

Total Amount Available Prior to Action: $1,350,000

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0001	2/1/2008	8:23 AM	Crystal City	11	$500,000	$20,000	9	$500,000	$20,000	9	Awarded 3/13/2008
2008-0010	2/18/2008	11:36 AM	City of Ames	6	$500,000	$20,000	6	$500,000	$10,000	7	Awarded 5/8/2008
2008-0009	2/19/2008	9:30 AM	City of Cleveland	6	$500,000	$20,000	6	$500,000	$10,000	7	Awarded 5/8/2008
2008-0011	2/20/2008	10:27 AM	Liberty County	6	$500,000	$20,000	5	$500,000	$10,000	7	Awarded 5/8/2008
2008-0029	3/27/2008	11:15 AM	Baylor County	3	$500,000	$20,000	10	$0	$0	0	Declined
2008-0056	5/29/2008	4:06 PM	City of Dayton	6	$500,000	$20,000	6	$500,000	$10,000	7	Awarded 7/31/2008
2008-0061	7/23/2008	4:13 PM	County of La Salle	11	$500,000	$10,000	9	$500,000	$10,000	7	Awarded 9/4/2008
2008-0131	2/13/2009	2:21 PM	City of Roma	11	$500,000	$20,000	7	$500,000	$20,000	7	Awarded 4/23/2009
2008-0164	4/22/2009	11:50 AM	City of Lyford	11	$500,000	$20,000	8	$500,000	$20,000	8	Awarded 7/16/2009
2008-0166	4/27/2009	3:50 AM	Jim Hogg County	11	$500,000	$20,000	6				Withdrawn

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0167	4/29/2009	1:08 PM	Starr County	11	$500,000	$20,000	7	$500,000	$20,000	7	Awarded 3/11/2010
2009-0018	6/5/2009	3:25 PM	Bastrop County	7	$500,000	$20,000	5	$500,000	$20,000	5	Awarded 7/16/2009
2009-0020	8/10/2009	2:07 PM	Montague County	2	$500,000	$10,000	10	$500,000	$10,000	10	Awarded 12/17/2009
2009-0106	4/29/2010	11:19 AM	City of Lufkin	5	$500,000	$20,000	6	$500,000	$20,000	6	Pending Award
				Totals:	**$7,000,000**	**$260,000**	**100**	**$6,000,000**	**$180,000**	**87**	

Disaster - Award Recommendations Log

Sorted by date/time received

Total Set-Aside Amount - $6,850,000

Total Amount Available Prior to Action: $1,350,000

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0106	4/29/2010	11:19 AM	City of Lufkin	5	$500,000	$20,000	6	$500,000	$20,000	6	Pending Award
				Totals:	**$500,000**	**$20,000**	**6**	**$500,000**	**$20,000**	**6**	

HOME PROGRAM DIVISION

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve HOME Program Award Recommendations from the 2010 Rental Housing Development (RHD) Program Notice of Funding Availability (NOFA), involving the award of three (3) applications, totaling $4,171,502 in project funds and $100,000 in CHDO operating expense funds.

> **RESOLVED,** that the award of contracts for development of Luling Senior Housing Phase II, Angelina Development, and Cherrywood Apartments, totaling $4,171,502 in project funds and $100,000 in CHDO operating expense funds, subject to the conditions of the underwriting reports, is hereby approved in the form presented to this meeting.

Background

On January 20, 2010, the Board approved the 2010 HOME Rental Housing Development (RHD) Program Notice of Funding Availability (NOFA) with $11,527,136 in funds. Subsequently, on May 12, 2010, the Board approved the addition of $10,500,000 in returned and deobligated funds to the 2010 RHD NOFA. Currently, $13,500,000 remains available under the General Set-Aside, with $7,527,136 available under the CHDO Set-Aside and $500,000 available under the Persons with Disabilities Set-Aside. Demand for these funds has been high due to requests in conjunction with the 9% tax credit round; a total of 39 applications are currently active, with requests totaling $49,759,810.

Staff is recommending for award two applications under the CHDO Set-Aside. These two applications are the last remaining active applications that were transferred from the 2009 NOFA and are not layered with tax credits or other Department funds. Additionally, staff is recommending for award an application under the General Set-Aside. This application received a 2009 9% tax credit allocation and subsequently, a tentative allocation of Exchange funds in the amount of $2,458,658 at the November 9, 2009 Board meeting. The applicant is seeking HOME funds in the amount of $710,074 in order to fill a gap in financing.

All three applications have completed the three review stages, including an evaluation by the Real Estate Analysis Division. Additionally, compliance histories for the ownership and development teams have been reviewed and no Material Noncompliance or outstanding issues of noncompliance were identified. Furthermore, the two applications recommended under the CHDO Set-Aside have completed the Department’s CHDO certification process.

If the recommended applications are approved, $12,789,926 will remain available under the General Set-Aside, $4,065,708 will remain under the CHDO Set-Aside, and $500,000 will remain available under the Persons with Disabilities Set-Aside. The application acceptance period ends on December 31, 2010.

Attached are the Application and Award Recommendations Logs and the underwriting reports.

2010 HOME Rental Housing Development Program - Application Log

Application Acceptance Period: 1/24/2010 to 12/31/2010

Total NOFA Amount: $22,027,136

Total Set-Aside Funding Level*: $13,500,000

Available Balance: $13,500,000

General Set-Aside

File #	Reg.	Received By Date	Development Name	City	Housing Actvty(1)	Reqstd HOME Units	Total Units	Target(2) Population	Layering (3) 9%	4%	HTF	Requested Project Funds	Awarded / Recommended Project Funds	CHDO	Requested CHDO Funds	Awarded / Recommended CHDO Funds	Status
10039	4	2/23/2010	Paris Retirement Village II	Paris	NC	19	80	Elderly	Yes	No	No	$1,850,000		N	$0		Under Review
10220	10	2/24/2010	Casa Ricardo	Kingsville	R	19	60	Elderly	Yes	No	No	$2,000,000		N	$0		Under Review
10223	11	2/25/2010	Sunset Terrace Senior Village	Pharr	NC	22	80	Elderly	Yes	No	No	$2,000,000		N	$0		Under Review
10033	4	2/26/2010	Sulphur Springs Pioneer Crossing for Seniors	Sulphur Springs	NC	20	80	Elderly	Yes	No	No	$2,000,000		N	$0		Under Review
10283	5	3/1/2010	Lufkin Pioneer Crossing	Lufkin	NC	20	80	General	Yes	No	No	$2,000,000		N	$0		Under Review
10262	11	3/1/2010	Las Brisas Manor	Del Rio	NC	15	48	Elderly	Yes	No	No	$1,907,548		N	$0		Under Review
10257	3	3/1/2010	The Colony at Lake Granbury	Granbury	NC	16	80	Elderly	Yes	No	No	$990,000		N	$0		Under Review
10151	11	3/2/2010	Sunflower Estates	La Feria	NC	8	80	General	Yes	No	No	$792,008		N	$0		Under Review
10279	5	3/9/2010	Hudson Green	Hudson	NC	20	80	General	Yes	No	No	$415,000		N	$0		Under Review
10271	5	3/9/2010	Hudson Manor	Hudson	NC	16	80	Elderly	Yes	No	No	$517,970		N	$0		Under Review
10112	10	3/12/2010	Country Village Apts	Mathis	R	8	36	Elderly	Yes	No	No	$617,040		N	$0		Under Review
10226	3	3/15/2010	Red Oak Apts	Red Oak	R	115	116	General	Yes	No	No	$1,150,000		N	$0		Under Review
10252	5	3/15/2010	Terracewood Apts	Woodville	R	19	40	General	Yes	No	No	$1,355,566		N	$0		Withdrawn
10121	9	3/16/2010	Mesquite Place	Pearsall	NC	16	80	General	Yes	No	No	$1,300,000		N	$0		Under Review

Sorted by Date and Time Received

1 = Housing Activity: New Construction=NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg
3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program, HTF = Housing Trust Fund

File #	Reg.	Received By Date	Development Name	City	Housing Actvty(1)	Reqstd HOME Units	Total Units	Target(2) Population	Layering (3) 9%	4%	HTF	Requested Project Funds	Awarded / Recommended Project Funds	CHDO	Requested CHDO Funds	Awarded / Recommended CHDO Funds	Status
10130	3	3/22/2010	Meadow Vista	Weatherford	NC	16	80	Elderly	Yes	No	No	$500,000		N	$0		Under Review
10132	10	3/22/2010	Seaside Manor	Ingleside	NC	20	100	Elderly	Yes	No	No	$550,000		N	$0		Under Review
10213	6	3/22/2010	Heritage Square Apts	Wallis	R	7	24	General	Yes	No	No	$626,111		N	$0		Under Review
10212	8	3/23/2010	Longbridge Apts	Groesbeck	R	8	28	General	Yes	No	No	$567,779		N	$0		Under Review
10023	2	3/26/2010	Burkburnett Pioneer Crossing for Seniors	Burkburnett	NC	20	80	Elderly	Yes	No	No	$2,000,000		N	$0		Under Review
10237	5	3/29/2010	Prince Hall Manor	Crockett	R		70	General	Yes	No	No	$458,402		N	$0		Terminated
10507	8	3/30/2010	Cherrywood Apartments	West	R	13	44	Elderly	No	No	No	$710,074	$710,074	N	$0	$0	Pending Award 6/28/2010
10238	8	3/30/2010	Prince Hall Plaza	Navasota	R	3	60	General	Yes	No	No	$354,594		N	$0		Under Review
10014	11	3/31/2010	Artisan at Port Isabel	Port Isabel	R		73	General	Yes	No	No	$2,000,000		N	$0		Under Review
10270	12	3/31/2010	Gateway to Eden	Eden	NC		17	General	Yes	No	No	$639,436		N	$0		Under Review
10026	4	3/31/2010	Silverleaf at Chandler II	Chandler	NC	9	44	Elderly	Yes	No	No	$1,539,272		N	$0		Under Review
10211	4	4/1/2010	Riverplace Apts	Hooks	R	14	40	General	Yes	No	No	$1,313,082		N	$0		Under Review
10143	7	4/1/2010	Oak Creek Townhomes	Marble Falls	R	18	80	General	Yes	No	No	$2,000,000		N	$0		Under Review
10235	7	4/1/2010	Villas of Giddings	Giddings	NC	22	36	General	Yes	No	No	$2,000,000		N	$0		Under Review
10253	6	4/1/2010	Brookswood Apts	West Columbia	R	24	50	Elderly	Yes	No	No	$1,651,152		N	$0		Under Review
10174	3		Westgate Senior Villas	Wylie	NC		120	Elderly	Yes	No	No	$1,500,000		N	$0		Terminated
Total HOME Applications		**30**		**Unit Totals:**		**507**	**1,966**		**Fund Totals:**			**$37,305,034**	**$710,074**		**$0**	**$0**	

Sorted by Date and Time Received

1 = Housing Activity: New Construction=NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg
3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program, HTF = Housing Trust Fund

CHDO Set-Aside

Total Set-Aside Funding Level: **$7,527,136**
Available Balance: **$7,527,136**

File #	Reg.	Received By Date	Development Name	City	Housing Actvty(1)	Reqstd HOME Units	Total Units	Target(2) Population	Layering (3) 9%	4%	HTF	Requested Project Funds	Awarded / Recommended Project Funds	CHDO	Requested CHDO Funds	Awarded / Recommended CHDO Funds	Status
10500	5	4/27/2009	Magnolia Place	Newton	NC		12	Family	No	No	No	$750,000		Y	$30,000		Terminated
10501	3	4/29/2009	West Park Senior Housing	Corsicana	NC		40	Elderly	No	No	No	$4,000,000		Y	$50,000		Withdrawn
10502	7	12/15/2009	Luling Senior Housing Phase II	Luling	NC	29	29	Elderly	No	No	No	$2,498,529	$2,498,529	Y	$50,000	$50,000	Pending Award 6/28/2010
10503	5	12/18/2009	Angelina Development	Lufkin	NC	11	11	Family	No	No	No	$962,899	$962,899	Y	$50,000	$50,000	Pending Award 6/28/2010
10137	3	1/29/2010	Evergreen at Wylie	Wylie	NC	32	160	Elderly	Yes	No	No	$2,000,000		Y	$50,000		Under Review
10040	9	2/22/2010	Ashton Senior Village	Schertz	NC	36	176	Elderly	Yes	No	No	$2,000,000		Y	$50,000		Under Review
10136	3	3/1/2010	Evergreen at Richardson	Richardson	NC	32	170	Eldery	Yes	No	No	$2,000,000		Y	$50,000		Under Review
10059	3	3/1/2010	Westway Place	Corsicana	NC		40	General	Yes	No	No	$1,200,000		Y	$0		Under Review
10050	3	3/1/2010	West Park Senior Housing	Corsicana	NC	25	48	Elderly	Yes	No	No	$1,025,000		Y	$50,000		Under Review
10241	5	3/10/2010	Timberland Trails Apts	Lufkin	R	31	80	General	Yes	No	No	$2,000,000		Y	$0		Under Review
Total HOME Applications	**10**			**Unit Totals:**		**196**	**766**		**Fund Totals:**			**$18,436,428**	**$3,461,428**		**$380,000**	**$100,000**	

Sorted by Date and Time Received

1 = Housing Activity: New Construction=NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg
3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program, HTF = Housing Trust Fund

Total Set-Aside Funding Level: $1,000,000

Available Balance: $500,000

PWD Set-Aside

File #	Reg.	Received By Date	Development Name	City	Housing Actvty(1)	Reqstd HOME Units	Total Units	Target(2) Population	Layering (3) 9%	4%	HTF	Requested Project Funds	Awarded / Recommended Project Funds	CHDO	Requested CHDO Funds	Awarded / Recommended CHDO Funds	Status
10504	2	8/4/2009	Abilene Senior Village	Abilene	NC	5	92	Elderly	Yes	No	No	$500,000	$500,000	N	$0	$0	Awarded 5/12/2010
10125	10	2/28/2010	Costa Tarragona II	Corpus Christi	NC	10	96	General	Yes	No	No	$500,000		N	$0		Under Review
10093	3	3/1/2010	Greenhaus at East Side Apts	Dallas	NC	13	24	General	Yes	No	No	$500,000		N	$0		Under Review
10126	5	3/11/2010	Auburn Square	Vidor	NC	28	80	General	Yes	No	No	$500,000		N	$0		Under Review
10153	3	3/31/2010	Britain Way	Irving	R	36	168	General	Yes	No	No	$500,000		N	$0		Under Review
Total HOME Applications		**5**		**Unit Totals:**		**92**	**460**		**Fund Totals:**			**$2,500,000**	**$500,000**		**$0**	**$0**	

Sorted by Date and Time Received

1 = Housing Activity: New Construction=NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg
3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program, HTF = Housing Trust Fund

2010 HOME Rental Housing Development Program - Award Recommendations

Application Acceptance Period: 1/24/2010 to 12/31/2010

Total NOFA Amount: $22,027,136

Total Set-Aside Funding Level: $13,500,000
Available Balance: $13,500,000

General Set-Aside

File #	Reg.	Received By Date	Development Name	City	Housing Actvty(1)	Reqstd HOME Units	Total Units	Target(2) Population	Layering (3) 9%	4%	HTF	Requested Project Funds	Awarded / Recommended Project Funds	CHDO	Requested CHDO Funds	Awarded / Recommended CHDO Funds	Status
10507	8	3/30/2010	Cherrywood Apartments	West	R	13	44	Elderly	No	No	No	$710,074	$710,074	N	$0	$0	Pending Award 6/28/2010
Total HOME Applications	**1**			**Unit Totals:**		**13**	**44**	**Fund Totals:**				**$710,074**	**$710,074**		**$0**	**$0**	

Total Set-Aside Funding Level: $7,527,136
Available Balance: $7,527,136

CHDO Set-Aside

File #	Reg.	Received By Date	Development Name	City	Housing Actvty(1)	Reqstd HOME Units	Total Units	Target(2) Population	Layering (3) 9%	4%	HTF	Requested Project Funds	Awarded / Recommended Project Funds	CHDO	Requested CHDO Funds	Awarded / Recommended CHDO Funds	Status
10502	7	12/15/2009	Luling Senior Housing Phase II	Luling	NC	29	29	Elderly	No	No	No	$2,498,529	$2,498,529	Y	$50,000	$50,000	Pending Award 6/28/2010
10503	5	12/18/2009	Angelina Development	Lufkin	NC	11	11	Family	No	No	No	$962,899	$962,899	Y	$50,000	$50,000	Pending Award 6/28/2010
Total HOME Applications	**2**			**Unit Totals:**		**40**	**40**	**Fund Totals:**				**$3,461,428**	**$3,461,428**		**$100,000**	**$100,000**	

Sorted by Date and Time Received

1 = Housing Activity: New Construction=NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg
3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program, HTF = Housing Trust Fund

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report - HOME / EXCHANGE ADDENDUM

Development Name:	**Cherrywood Apartments**	**Date:**	June 16, 2010
Address:	701 W. Tokio Rd and 1301 IH35 South	**FILE NUMBER:**	**10507**/09999/09165
City:	West	**Population:**	Elderly
County:	McLennan	**Activity:**	Acquisition/Rehab

	Amount	Interest Rate	Amort/Term	Lien Position
Request: TDHCA HOME Loan	$710,074	0.05%	40/40	Parity 1st
Recommendation: TDHCA HOME Loan	**$710,074**	**0.00%**	**30/30**	**Parity 1st**
Previously Awarded Exchange Funds:	**$2,458,658**	**$0.85**	**$289,254**	

Conditions to Recommendation

1. Receipt, review, and acceptance, by cost certification, of formal documentation that USDA/RD has approved an increase of at least 13% on average in the current basic rents.
2. Receipt, review, and acceptance, by cost certification, that there is no seller or residual receipt note for the equity or any portion of the equity to be paid to the seller.
3. Receipt, review and acceptance, by cost certification, of approval from the USDA National Office of the equity requested in association with the proposed transfer.
4. Receipt, review, and acceptance, prior to closing of the HOME loan, of USDA/RD agreement of a parity first lien of their existing loans with the proposed TDHCA HOME loan, and of their approval of the same rates and terms transfer of the existing loans.
5. Should the terms and rates of the proposed financing change, the transaction should be re-evaluated and an adjustment to the credit allocation amount may be warranted.

Property Summary

# Units	44	**Acreage:**	3.86
Year Built	1988 & 1990	**Units/Acre:**	11.40
Current Occupancy	95%	**Flood Zone:**	No
Number Buildings	6	**Zoning:**	MF - Multifamily
Units/Building	7.3	**Stabilized DCR:**	1.16

The Applicant was awarded Housing Tax Credit Exchange funds in February 2010, and is now requesting TDHCA HOME funds in the amount of $710,074 in order to replace the Lancaster Pollard mortgage of $775,000 proposed at the time the Exchange application was submitted to the Department.

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	12
50% of AMI	50% of AMI	20
60% of AMI	60% of AMI	12

Salient Issues

None

Operating Pro Forma

The Applicant's potential gross income projection has been reduced from $258,336 since the time of the original 9% HTC/HOME application in March 2009 and the Exchange Application in the fall of 2009, down to $215,040 now for this HOME loan application. The Applicant has stated that the higher rents were being projected in order to cover the expenses and higher debt service requirements that were being proposed at that time (due to the higher HOME loan being requested at original application, $1,127,371). Now however, with a smaller HOME loan and a lower interest rate, the Applicant can use reduced rents because total debt service is lower. The current proposed rents represent an increase on average of 13% from the currently approved USDA Basic Rents. Therefore, this report is conditioned on receipt, review, and acceptance, by cost certification, of formal documentation that USDA/RD has approved an increase of at least 13% on average in the current basic rents.

The Applicant's estimate of income, expenses and net operating income are within 5% of the Underwriter's estimate; therefore, the Applicant's Year One pro forma is used to determine the development's debt capacity and debt coverage ratio (DCR). Of note, the Applicant updated all expense items to equal the Underwriter's estimates at the time the Exchange application was underwritten in January 2010. The Underwriter's expense estimates reflect the most recent TDHCA database and IREM information as of the date of this report. Both the Applicant's and the Underwriter's DCR under the proposed financing structure are within the Department guidelines at 1.26.

The Applicant's expense to income ratio of 71.98% is above the Department's normal 65% maximum ratio; however, the development can still be characterized as feasible under Section 1.32(i)(6)(B)(ii) because the development will receive rental assistance for more than 50% of its units in association with the USDA/RD financing.

The Applicant’s submitted pro forma does meet current Department guidelines with regard to the DCR limit.

Source of Funds

The Applicant was awarded Exchange funds of $2,458,658 in February 2010.

The Applicant is requesting a TDHCA HOME loan in the amount of $710,074 at 0.5% interest for a term and amortization period of 40 years. The recommended term and amortization is equal to the term and amortization of the USDA loans being assumed. Of note, the Applicant originally requested a TDHCA HOME loan in the amount of $1,127,371 during the regular 9% Housing Tax Credit cycle; however, the application did not score high enough for the Applicant to receive a HOME award. At the time the Exchange application was submitted, the Applicant replaced the originally requested HOME loan of $1,127,371 with a loan from Lancaster Pollard Mortgage Co. in the amount of $775,000. The current request proposes a HOME loan of $710,074 to partially replace the Lancaster Pollard mortgage.

The Applicant will also be assuming two USDA loans which have current combined total balances of approximately $1,017,158. The Applicant is still proposing a same rates and terms transfer of the two USDA 515 mortgages which will provide an interest rate of 1.0%. The loans have different maturities; however, the Applicant has estimated that the term of the assumed loans will be 360 months. The term and amortization of the HOME loan will equal the USDA loans, and for the purpose of this analysis, the Underwriter has assumed a term and amortization of 360 months.

The Applicant also still intends to obtain an interim construction loan of $2.7M from First Financial Bank (formerly Irwin Union Bank). This loan will be for a term of 18 months with interest to be based on the WSJ prime rate plus 3%, floating. First Financial Bank has estimated the rate to be 6.25% for the purpose of underwriting.

Underwriting Assumptions/Limiting Conditions
Only those portions of the report that are materially affected by the proposed changes are discussed above. This report should be read in conjunction with the original underwriting report for a full evaluation of the originally proposed development plan and structure.
Based on the information provided, the Underwriter recommends a HOME loan be awarded in the amount of $710,074 with an amortization and term of approximately 30 years, at an interest rate of 0.0% per annum. Based on an interest rate of 0%, the development will have an acceptable DCR of 1.16. The HOME loan must be in a parity first lien position with the USDA/RD loans, and be fully amortized over a term equal to the approximate remaining term of the first originated USDA 515 loan (approximately 360 months); therefore, receipt, review and acceptance of documentation that USDA/RD has approved the parity first lien of the HOME funds prior to loan closing of said HOME loan is a condition of this report.

Underwriter:	*D.P. Burrell*	Date:	16-Jun-10
Manager of Real Estate Analysis:	*Audrey Martin*	Date:	16-Jun-10
Director of Real Estate Analysis:	*Brent Stewart*	Date:	16-Jun-10

MULTIFAMILY COMPARATIVE ANALYSIS

Cherrywood Apartments, West, HOME / EXCHANGE #10507/09999/09165

Type of Unit	HOME	Number	Bedrooms	No. of Baths	Size in SF	HTC Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	WS&T
TC 30%		12	1	1	665	$290	400	$4,800	$0.60	$71.00	$45.00
TC 50%	LH / 50% AMI	3	1	1	665	$485	400	$1,200	$0.60	$71.00	$45.00
TC 50%	LH / 50% AMI	6	1	1	665	$485	400	$2,400	$0.60	$67.00	$45.00
TC 50%		11	1	1	665	$485	400	$4,400	$0.60	$67.00	$45.00
TC 60%		1	1	1	665	$582	400	$400	$0.60	$71.00	$45.00
TC 60%		3	1	1	665	$485	400	$1,200	$0.60	$67.00	$45.00
TC 60%		4	2	1	799	$697	440	$1,760	$0.55	$68.00	$47.00
TC 60%	HH / 60% AMI	4	2	1	799	$697	440	$1,760	$0.55	$101.00	$47.00
TOTAL:		44		AVERAGE:	689		$407	$17,920	$0.59	$71.64	$45.36

					TDHCA-HOME App.	TDHCA - Exchange App.	TDHCA - Original UW	APPLICANT-Application	APPLICANT-Exchange	APPLICANT-HOME App.			
INCOME	Total Net Rentable Sq Ft:	30,332									COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT					$215,040	$258,336	$258,336	$258,336	$258,336	$215,040	McLennan		8
Secondary Income		Per Unit Per Month:		$15.00	7,920	7,920	7,920	7,920	7,920	7,920	$15.00	Per Unit Per Month	
Other Support Income:					0	0	0				$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME					$222,960	$266,256	$266,256	$266,256	$266,256	$222,960			
Vacancy & Collection Loss		% of Potential Gross Income:		-5.00%	(11,148)	(13,313)	(13,313)	(13,308)	(13,308)	(11,148)	-5.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions					0	0	0						
EFFECTIVE GROSS INCOME					$211,812	$252,943	$252,943	$252,948	$252,948	$211,812			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT							PER SQ FT	PER UNIT	% OF EGI
General & Administrative		6.72%	$324	0.47	$14,243	$9,385	$9,385	$11,650	$9,950	$9,385	$0.31	$213	4.43%
Management		5.00%	241	0.35	10,591	12,647	12,647	11,900	11,900	12,647	0.42	287	5.97%
Payroll & Payroll Tax		11.14%	536	0.78	23,592	23,592	23,592	33,350	30,750	23,592	0.78	536	11.14%
Repairs & Maintenance		14.69%	707	1.03	31,115	30,132	30,132	28,000	26,500	30,132	0.99	685	14.23%
Utilities		4.46%	215	0.31	9,456	7,849	8,130	7,500	10,500	7,849	0.26	178	3.71%
Water, Sewer, & Trash		8.07%	388	0.56	17,094	12,803	11,624	14,500	12,000	12,803	0.42	291	6.04%
Property Insurance		4.64%	223	0.32	9,820	10,250	10,250	12,000	10,250	10,250	0.34	233	4.84%
Property Tax	2.255111	6.28%	302	0.44	13,296	19,845	19,784	18,568	18,600	19,845	0.65	451	9.37%
Reserve for Replacements		10.39%	500	0.73	22,000	22,000	22,000	13,200	19,800	22,000	0.73	500	10.39%
TDHCA Compliance Fees		0.83%	40	0.06	1,760	1,760	1,760	1,760	1,760	1,760	0.06	40	0.83%
Asset Oversight Fees		1.04%	50	0.07	2,200	2,200	0	0	0	2,200	0.07	50	1.04%
Other:		0.00%	0	0.00	0	0	0	0	0	0	0.00	0	0.00%
TOTAL EXPENSES		73.26%	$3,527	$5.12	$155,167	$152,463	$149,304	$152,428	$152,010	$152,463	$5.03	$3,465	71.98%
NET OPERATING INC		26.74%	$1,287	$1.87	$56,645	$100,480	$103,639	$100,520	$100,938	$59,349	$1.96	$1,349	28.02%
DEBT SERVICE													
USDA-RD		12.91%	$622	$0.90	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$0.90	$622	12.91%
TDHCA HOME		9.25%	$445	$0.65	19,590	0	44,276	35,829	0	19,590	$0.65	$445	9.25%
Lancaster Pollard Mortgage Co.		0.00%	$0	$0.00	0	52,800	0	0	52,799	0	$0.00	$0	0.00%
NET CASH FLOW		4.58%	$220	$0.32	$9,700	$20,325	$32,007	$37,336	$20,784	$12,404	$0.41	$282	5.86%
AGGREGATE DEBT COVERAGE RATIO					1.21	1.25	1.45	1.59	1.26	1.26			
RECOMMENDED DEBT COVERAGE RATIO										1.16			

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA HOME Application	TDHCA - Exchange App.	TDHCA - Original UW	APPLICANT-Application	APPLICANT-Exchange	APPLICANT-HOME App.	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		28.46%	$27,799	$40.33	$1,223,158	$1,226,743	$1,226,743	$1,226,743	$1,226,743	$1,223,158	$40.33	$27,799	28.46%
Off-Sites		0.00%	0	0.00	0	0	0				0.00	0	0.00%
Sitework		3.90%	3,807	5.52	167,500	167,500	167,500	167,500	167,500	167,500	5.52	3,807	3.90%
Direct Construction		33.19%	32,417	47.02	1,426,341	1,426,341	1,445,421	1,426,341	1,426,341	1,426,341	47.02	32,417	33.19%
Contingency	4.99%	1.85%	1,808	2.62	79,533	79,533	79,533	79,533	79,533	79,533	2.62	1,808	1.85%
Contractor's Fees	13.97%	5.18%	5,060	7.34	222,659	222,659	222,659	222,659	222,659	222,659	7.34	5,060	5.18%
Indirect Construction		5.87%	5,731	8.31	252,172	252,172	252,172	252,172	252,172	252,172	8.31	5,731	5.87%
Ineligible Costs		0.99%	968	1.40	42,577	103,828	92,828	92,828	103,828	42,577	1.40	968	0.99%
Developer's Fees	14.95%	12.07%	11,789	17.10	518,700	518,790	518,790	518,790	518,790	518,700	17.10	11,789	12.07%
Interim Financing		5.89%	5,756	8.35	253,250	253,250	253,250	253,250	253,250	253,250	8.35	5,756	5.89%
Reserves		2.59%	2,529	3.67	111,286	111,286	111,286	108,314	119,366	111,286	3.67	2,529	2.59%
TOTAL COST		100.00%	$97,663	$141.67	$4,297,176	$4,362,102	$4,370,182	$4,348,130	$4,370,182	$4,297,176	$141.67	$97,663	100.00%
Construction Cost Recap		*44.12%*	***$43,092***	***$62.51***	***$1,896,033***					***$1,896,033***	***$62.51***	***$43,092***	*44.12%*

SOURCES OF FUNDS

	%	PER UNIT	PER SQ FT	TDHCA HOME Application	TDHCA - Exchange App.	TDHCA - Original UW	APPLICANT-Application	APPLICANT-Exchange	APPLICANT-HOME App.	RECOMMENDED	
USDA-RD	23.67%	$23,117	$33.53	$1,017,158	$1,017,158	$1,020,743	$1,020,743	$1,020,743	$1,017,158	$1,017,158	Developer Fee Available
Lancaster Pollard Mortgage Co.	0.00%	$0	$0.00	0	0			775,000	0	0	$0
TDHCA HOME	16.52%	$16,138	$23.41	710,074		1,127,371	1,127,371		710,074	710,074	$518,700
Cash Equity/Reserve Accounts	2.59%	$2,529	$3.67	111,286	111,286		146,167	108,257	111,286	111,286	
Tax Credit Exchange Program	57.22%	$55,879	$81.06	2,458,658	2,458,658	0		2,466,182	2,458,658	2,458,658	
HTC Syndication Proceeds	0.00%	$0	$0.00	0	0	2,040,674	2,040,674				% of Dev. Fee Deferred
Deferred Developer Fees	0.00%	$0	$0.00	0	0				0	0	0%
Additional (Excess) Funds Req'd	0.00%	$0	$0.00	0	775,000	181,394	13,175	(73,006)	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$4,297,176		$4,370,182	$4,348,130	$4,297,176	$4,297,176	$4,297,176	$80,576

Cherrywood Apartments, West, HOME / EXCHANGE #10507/09999/09165

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost				$0
Adjustments				
Exterior Wall Finish			$0.00	$0
Elderly			0.00	0
9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(2.42)	(73,403)
Floor Cover			2.38	72,190
Breezeways/Balconies	$22.95		0.00	0
Plumbing Fixtures	$835		0.00	0
Rough-ins	$410		0.00	0
Built-In Appliances	$1,800	44	2.61	79,200
Exterior Stairs	$1,875		0.00	0
Enclosed Corridors	($9.92)		0.00	0
Heating/Cooling			1.83	55,508
Garages/Carports			0.00	0
Comm &/or Aux Bldgs			0.00	0
Other: fire sprinkler	$2.15	30,332	2.15	65,214
SUBTOTAL			6.55	198,708
Current Cost Multiplier	1.01		0.07	1,987
Local Multiplier			(6.55)	(198,708)
TOTAL DIRECT CONSTRUCTION COSTS			$0.07	$1,987
Plans, specs, survy, bld prmts	3.90%		($0.00)	($77)
Interim Construction Interest	3.38%		(0.00)	(67)
Contractor's OH & Profit	11.50%		(0.01)	(229)
NET DIRECT CONSTRUCTION COSTS			$0.05	$1,614

PAYMENT COMPUTATION

USDA-RD	$1,017,158	Amort	360
Int Rate	1.00%	DCR	2.07
TDHCA HOME	$710,074	Amort	480
Int Rate	0.50%	Subtotal DCR	1.21
Additional	$0	Amort	
Int Rate		Aggregate DCR	1.21

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	$27,355
Secondary Debt Service	23,669
Additional Debt Service	0
NET CASH FLOW	$8,325

USDA-RD	$1,017,158	Amort	360
Int Rate	1.00%	DCR	2.17
TDHCA HOME	$710,074	Amort	360
Int Rate	0.00%	Subtotal DCR	1.16
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.16

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$215,040	$219,341	$223,728	$228,202	$232,766	$256,993	$283,741	$313,273	$381,878
Secondary Income	7,920	8,078	8,240	8,405	8,573	9,465	10,450	11,538	14,065
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	222,960	227,419	231,968	236,607	241,339	266,458	294,191	324,811	395,942
Vacancy & Collection Loss	(11,148)	(11,371)	(11,598)	(11,830)	(12,067)	(13,323)	(14,710)	(16,241)	(19,797)
Employee or Other Non-Rental Units or Con	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$211,812	$216,048	$220,369	$224,777	$229,272	$253,135	$279,481	$308,570	$376,145
EXPENSES at 3.00%									
General & Administrative	$9,385	$9,667	$9,957	$10,255	$10,563	$12,245	$14,196	$16,457	$22,116
Management	12,647	12,900	13,158	13,421	13,690	15,114	16,687	18,424	22,459
Payroll & Payroll Tax	23,592	24,300	25,029	25,780	26,553	30,782	35,685	41,369	55,596
Repairs & Maintenance	30,132	31,036	31,967	32,926	33,914	39,315	45,577	52,837	71,008
Utilities	7,849	8,084	8,327	8,577	8,834	10,241	11,872	13,763	18,497
Water, Sewer & Trash	12,803	13,187	13,583	13,990	14,410	16,705	19,366	22,450	30,171
Insurance	10,250	10,558	10,874	11,200	11,536	13,374	15,504	17,973	24,155
Property Tax	19,845	20,440	21,054	21,685	22,336	25,893	30,017	34,798	46,766
Reserve for Replacements	22,000	22,660	23,340	24,040	24,761	28,705	33,277	38,577	51,844
TDHCA Compliance Fee	1,760	1,813	1,867	1,923	1,981	2,296	2,662	3,086	4,148
TCAP Asset Oversight Fee	2,200	2,266	2,334	2,404	2,476	2,871	3,328	3,858	5,184
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	$152,463	$156,910	$161,489	$166,202	$171,054	$197,543	$228,172	$263,592	$351,945
NET OPERATING INCOME	$59,349	$59,138	$58,880	$58,575	$58,218	$55,592	$51,310	$44,978	$24,201
DEBT SERVICE									
First Lien Financing	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355
Second Lien	23,669	23,669	23,669	23,669	23,669	23,669	23,669	23,669	23,669
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$8,325	$8,113	$7,856	$7,550	$7,194	$4,568	$285	($6,047)	($26,824)
DEBT COVERAGE RATIO	1.16	1.16	1.15	1.15	1.14	1.09	1.01	0.88	0.47

HTC ALLOCATION ANALYSIS -Cherrywood Apartments, West, HOME / EXCHANGE #10507/09999/09165

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost						
Purchase of land	$154,400	$154,400				
Purchase of buildings	$1,068,758	$1,068,758	$1,068,758	$1,068,758		
Off-Site Improvements						
Sitework	$167,500	$167,500			$167,500	$167,500
Construction Hard Costs	$1,426,341	$1,426,341			$1,426,341	$1,426,341
Contractor Fees	$222,659	$222,659			$222,659	$222,659
Contingencies	$79,533	$79,533			$79,533	$79,533
Eligible Indirect Fees	$252,172	$252,172			$252,172	$252,172
Eligible Financing Fees	$253,250	$253,250			$253,250	$253,250
All Ineligible Costs	$42,577	$42,577				
Developer Fees						
Developer Fees	$518,700	$518,700	$159,749	$159,749	$358,951	$358,951
Development Reserves	$111,286	$111,286				
TOTAL DEVELOPMENT COSTS	$4,297,176	$4,297,176	$1,228,507	$1,228,507	$2,760,406	$2,760,406

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			$1,228,507	$1,228,507	$2,760,406	$2,760,406
High Cost Area Adjustment					100%	100%
TOTAL ADJUSTED BASIS			$1,228,507	$1,228,507	$2,760,406	$2,760,406
Applicable Fraction			100%	100%	100%	100%
TOTAL QUALIFIED BASIS			$1,228,507	$1,228,507	$2,760,406	$2,760,406
Applicable Percentage			3.42%	3.42%	9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS			$42,015	$42,015	$248,436	$248,436
Syndication Proceeds		**0.8500**	**$357,127**	**$357,127**	**$2,111,710**	**$2,111,710**

Total Tax Credits (Eligible Basis Method)	**$290,451**	**$290,451**
Exchange Proceeds	**$2,468,837**	**$2,468,837**
Previously Awarded Tax Credits - Original	**$290,139**	
Exchange Proceeds	**$2,466,182**	
Gap of Exchange Proceeds Needed	**$2,458,658**	**$2,458,658**
Total Tax Credits (Gap Method)	**$289,254**	**$289,254**
Exchange Funds Requested	**$2,458,658**	
Amount of Credits Returned (Applicant)	**$289,254**	

Recommended Structure

Tax Credit Exchange Program

$289,254
$2,458,658

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report - Tax Credit Exchange / 9% HTC ADDENDUM

Development Name:	**Cherrywood Apartments**	**Date:**	January 22, 2010
Address:	701 W. Tokio Rd.	**FILE NUMBER:**	09999/09165
City:	West	**Population:**	Seniors
County:	McLennan	**Activity:**	Acquisition/Rehab

	Award Amount	Exchange Price	Credits Being Exchanged
Request:	$2,466,182	$0.85	$290,139
Recommendation:	**$2,458,658**	**$0.85**	**$289,254**

The recommended Tax Credit Exchange award amount was calculated using the gap-driven method for determining the housing tax credit allocation, and was based on the Underwriter's cost schedule, as derived from the Property Condition Assessment/Capital Needs Assessment presented in the Application materials submitted by the Applicant. Any deviations from the Applicant's or PCA estimates are due to program and underwriting guidelines.

Conditions to Recommendation

1. Receipt, review, and acceptance, by cost certification, of formal documentation that USDA-RD has approved an increase of at least 36% on average in the current basic rents.
2. Should the terms and rates of the proposed financing change, the transaction should be re-evaluated and an adjustment to the credit allocation amount may be warranted.
3. Any condition of previous underwriting reports that has not been satisfied remains a condition of this report.

Property Summary

# Units	44	**Acreage:**	3.86
Year Built	1988 & 1990	**Units/Acre:**	11.40
Current Occupancy	98%	**Flood Zone:**	No
Number Buildings	6	**Zoning:**	MF - Multifamily
Units/Building	7.3	**Stabilized DCR:**	1.26

The Applicant is now requesting to change the financing structure, including the return of the entire housing tax credit allocation for Tax Credit Exchange Program (Exchange) funds. The Subject development has qualified for a tax credit exchange price of $0.85, by committing to provide an additional 20% of the units as 30% units.

TDHCA SET-ASIDES for LURA

Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	12
50% of AMI	50% of AMI	20
60% of AMI	60% of AMI	12

Salient Issues

None

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Operating Pro Forma

The Applicant's net rents are anticipated basic rent levels. These basic rents have not yet been approved by USDA-RD. The anticipated basic rents are 20% above the net program rents on average and 36% higher than the current USDA-RD basic rent levels. The property currently receives Rental Assistance on all the units, and the current owner has recently received the approval of increases in contract rents; however, the Applicant is to request rent increases separate and apart from that of the current owner. The appraisal reflects market rents well below the anticipated levels, which suggests that the anticipated rent levels may not be achievable in this market. However, discussions with USDA staff during the course of the original underwriting review indicate that these rents appear to be reasonable to USDA based on their review of the current comparable rents in the area.

The Underwriter therefore used the same USDA rents that the Applicant used, which reflect an increase of approximately 36% above current basic rents. USDA has provided the Applicant with a preliminary approval of the subject rent increases stated; accordingly, the previous condition for receipt, review, and acceptance, by cost certification, of formal documentation that USDA-RD is providing the increase of at least 45% on average in basic rents has been modified to require approval of a 36% increase, based on the most current approved basic rents.

The Applicant has estimated a reserve account expense of $300 per unit per year which is the Department's minimum requirement for rehabilitation properties; however, based upon the Capital Needs Assessment provider's estimate of capital needs over the next 15 years, the Underwriter has determined that at least $373 per unit per year will be required. Discussions with USDA staff, however, indicate that preliminary USDA analysis require $500 per unit per until a Capital Needs Assessment is provided to USDA for review and a more accurate estimate is calculated. As such, for purposes of this analysis the Underwriter has utilized USDA's preliminary reserve for replacement estimate of $500 per unit per year.

The Applicant's estimate of income, expenses and net operating income are within 5% of the Underwriter's estimate; therefore, the Applicant's Year One pro forma is used to determine the development's debt capacity and debt coverage ratio (DCR). Both the Applicant's and the Underwriter's DCR are within the Department's normal guideline at 1.26 and 1.25, respectively.

The Underwriter's estimate includes an Asset Oversight Fee of $50/unit/year, which the Applicant's estimate does not. If the fee was included in the Applicant's estimate, the Applicant's total expenses would still be within 5% of the Underwriter's, and the Applicant's DCR would fall to 1.23.

The Applicant’s submitted pro forma does meet current Department guidelines with regard to the DCR limit.

Uses of Funds/Scope of Work

Direct construction costs pursuant to the PCA derived estimate total $1,426,341.

The Applicant's total development costs increased by $22,052 since the original underwriting.

The Underwriter reduced the Applicant’s eligible interim financing fees by $26,751 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.

An eligible basis of $3,973,984 supports annual tax credits of $290,031.

The Underwriter’s cost schedule was derived from information presented in the Application materials submitted by the Applicant and particularly the CNA. Any deviations from the Applicant’s or CNA estimates are due to program and underwriting guidelines. Therefore, the Underwriter’s CNA derived development cost schedule will be used to determine the development’s need for permanent funds and to calculate eligible basis.

Source of Funds

The exchange price of $0.85 is $0.15 higher than the syndication rate utilized during the most recent underwriting, resulting in a increase in proceeds created by the tax credit allocation.

The Applicant originally requested a TDHCA HOME loan in the amount of $1,127,371 during the regular 9% Housing Tax Credit cycle; however, the application did not score high enough for the Applicant to receive a HOME award. The Lancaster Pollard Mortgage Co. will however provide permanent financing in the amount of $775,000. This loan will be fixed at a 6.25% interest rate, and will be fully amortized over 40 years.

As previously proposed in the original underwriting report, the Applicant will be assuming two USDA loans which have current combined total balances of approximately $1,017,158. The Applicant's proposed financing structure reflects a slightly higher loan balance of $1,020,743, consistent with original underwriting; however, because more current information is available, the recommended financing structure reflects the current balance. The Applicant is still proposing a same rates and terms transfer of the two USDA 515 mortgages which will provide an interest rate of 1.0% and a term of approximately 372 remaining months.

The Applicant also still intends to obtain an interim construction loan from First Financial Bank (Irwin Union Bank, the original lender was recently acquired by First Financial Bank). This loan will be for a term of 18 months with interest to be based on the WSJ prime rate plus 3%, floating. First Financial Bank has estimated the rate to be 6.25% for the purpose of underwriting.

Underwriting Assumptions/Limiting Conditions

Only those portions of the report that are materially affected by the proposed changes are discussed above. This report should be read in conjunction with the original underwriting report for a full evaluation of the originally proposed development plan and structure.

The Underwriter's total development cost estimate less permanent debt of $1,792,158 and transferable reserves of $111,286 indicates the need for $2,458,658 in gap funds. Based on the requested syndication terms, a tax credit allocation of $289,254 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant's request ($290,139), the gap-driven amount ($289,254), and the eligible basis-derived estimate ($290,031), the gap-driven amount is recommended resulting in proceeds of $2,458,658 based on a rate of 85%.

The Underwriter's recommended financing structure does not indicate the need for any additional permanent funds; however, in the event that additional funds are needed, then deferred developer fees of up to $357,854, which is equal to the projected 15 year cash flow, should be available to cover those costs.

Underwriter:	*D.P. Burrell*	Date:	22-Jan-10
Reviewer:	*Diamond Unique Thompson*	Date:	22-Jan-10
Manager of Real Estate Analysis:	*Audrey Martin*	Date:	22-Jan-10
Director of Real Estate Analysis:	*Brent Stewart*	Date:	22-Jan-10

MULTIFAMILY COMPARATIVE ANALYSIS

Cherrywood Apartments, West, Tax Credit Exchange / 9% HTC #09999/09165

Type of Unit	HOME	Number	Bedrooms	No. of Baths	Size in SF	HTC Rent Lmt.	Rent Collected		Rent per Month	Rent per SF	Tnt-Pd Util	WS&T
TC 30%		12	1	1	665	$290	472		$5,664	$0.71	$71.00	$45.00
TC 50%		4	1	1	665	$485	472		$1,888	$0.71	$71.00	$45.00
TC 50%		5	1	1	665	$485	472		$2,360	$0.71	$67.00	$45.00
TC 50%		11	1	1	665	$485	472		$5,192	$0.71	$67.00	$45.00
TC 60%		4	1	1	665	$582	472		$1,888	$0.71	$67.00	$45.00
TC 60%		4	2	1	799	$697	567		$2,268	$0.71	$68.00	$47.00
TC 60%		4	2	1	799	$697	567		$2,268	$0.71	$101.00	$47.00
TOTAL:		44		**AVERAGE:**	689		$489		$21,528	$0.71	$71.64	$45.36

					TDHCA-Exchange	TDHCA - UW	APPLICATION	APPLICANT-Exchange			
INCOME	Total Net Rentable Sq Ft:	30,332							COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT					$258,336	$258,336	$258,336	$258,336	McLennan		8
Secondary Income			Per Unit Per Month:	$15.00	7,920	7,920	7,920	7,920	$15.00	Per Unit Per Month	
Other Support Income:					0	0			$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME					$266,256	$266,256	$266,256	$266,256			
Vacancy & Collection Loss			% of Potential Gross Income:	-5.00%	(13,313)	(13,313)	(13,308)	(13,308)	-5.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions					0	0					
EFFECTIVE GROSS INCOME					$252,943	$252,943	$252,948	$252,948			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT					PER SQ FT	PER UNIT	% OF EGI
General & Administrative		3.71%	$213	0.31	$9,385	$9,385	$11,650	$9,950	$0.33	$226	3.93%
Management		5.00%	287	0.42	12,647	12,647	11,900	11,900	0.39	270	4.70%
Payroll & Payroll Tax		9.33%	536	0.78	23,592	23,592	33,350	30,750	1.01	699	12.16%
Repairs & Maintenance		11.91%	685	0.99	30,132	30,132	28,000	26,500	0.87	602	10.48%
Utilities		3.10%	178	0.26	7,849	8,130	7,500	10,500	0.35	239	4.15%
Water, Sewer, & Trash		5.06%	291	0.42	12,803	11,624	14,500	12,000	0.40	273	4.74%
Property Insurance		4.05%	233	0.34	10,250	10,250	12,000	10,250	0.34	233	4.05%
Property Tax	2.255111	7.85%	451	0.65	19,845	19,784	18,568	18,600	0.61	423	7.35%
Reserve for Replacements		8.70%	500	0.73	22,000	22,000	13,200	19,800	0.65	450	7.83%
TDHCA Compliance Fees		0.70%	40	0.06	1,760	1,760	1,760	1,760	0.06	40	0.70%
Asset Oversight Fees		0.87%	50	0.07	2,200	0	0	0	0.00	0	0.00%
Other:		0.00%	0	0.00	0	0	0	0	0.00	0	0.00%
TOTAL EXPENSES		60.28%	$3,465	$5.03	$152,463	$149,304	$152,428	$152,010	$5.01	$3,455	60.10%
NET OPERATING INC		39.72%	$2,284	$3.31	$100,480	$103,639	$100,520	$100,938	$3.33	$2,294	39.90%
DEBT SERVICE											
USDA-RD		10.81%	$622	$0.90	$27,355	$27,355	$27,355	$27,355	$0.90	$622	10.81%
Lancaster Pollard Mortgage Co.		20.87%	$1,200	$1.74	52,800	44,276	35,829	52,799	$1.74	$1,200	20.87%
Additional Financing		0.00%	$0	$0.00	0	0			$0.00	$0	0.00%
NET CASH FLOW		8.04%	$462	$0.67	$20,325	$32,007	$37,336	$20,784	$0.69	$472	8.22%
AGGREGATE DEBT COVERAGE RATIO					1.25	1.45	1.59	1.26			
RECOMMENDED DEBT COVERAGE RATIO								1.26			

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA-Exchange	TDHCA - UW	APPLICATION	APPLICANT-Exchange	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		28.12%	$27,881	$40.44	$1,226,743	$1,226,743	$1,226,743	$1,226,743	$40.44	$27,881	28.07%
Off-Sites		0.00%	0	0.00	0	0			0.00	0	0.00%
Sitework		3.84%	3,807	5.52	167,500	167,500	167,500	167,500	5.52	3,807	3.83%
Direct Construction		32.70%	32,417	47.02	1,426,341	1,445,421	1,426,341	1,426,341	47.02	32,417	32.64%
Contingency	4.99%	1.82%	1,808	2.62	79,533	79,533	79,533	79,533	2.62	1,808	1.82%
Contractor's Fees	13.97%	5.10%	5,060	7.34	222,659	222,659	222,659	222,659	7.34	5,060	5.09%
Indirect Construction		5.78%	5,731	8.31	252,172	252,172	252,172	252,172	8.31	5,731	5.77%
Ineligible Costs		2.38%	2,360	3.42	103,828	92,828	92,828	103,828	3.42	2,360	2.38%
Developer's Fees	15.01%	11.89%	11,791	17.10	518,790	518,790	518,790	518,790	17.10	11,791	11.87%
Interim Financing		5.81%	5,756	8.35	253,250	253,250	253,250	253,250	8.35	5,756	5.79%
Reserves		2.55%	2,529	3.67	111,286	111,286	108,314	119,366	3.94	2,713	2.73%
TOTAL COST		100.00%	$99,139	$143.81	$4,362,102	$4,370,182	$4,348,130	$4,370,182	$144.08	$99,322	100.00%
Construction Cost Recap		*43.47%*	***$43,092***	***$62.51***	***$1,896,033***			***$1,896,033***	***$62.51***	***$43,092***	*43.39%*

SOURCES OF FUNDS

				TDHCA-Exchange	TDHCA - UW	APPLICATION	APPLICANT-Exchange	RECOMMENDED	
USDA-RD	23.40%	$23,199	$33.65	$1,020,743	$1,020,743	$1,020,743	$1,020,743	$1,017,158	Developer Fee Available
Lancaster Pollard Mortgage Co.	17.77%	$17,614	$25.55	775,000			775,000	775,000	$0
TDHCA HOME Loan	0.00%	$0	$0.00		1,127,371	1,127,371		0	$518,790
Cash Equity/Reserve Accounts	2.48%	$2,460	$3.57	108,257		146,167	108,257	111,286	
Tax Credit Exchange Program	56.54%	$56,050	$81.31	2,466,182	0		2,466,182	2,458,658	
HTC Syndication Proceeds	0.00%	$0	$0.00	0	2,040,674	2,040,674			% of Dev. Fee Deferred
Deferred Developer Fees	0.00%	$0	$0.00	0				0	0%
Additional (Excess) Funds Req'd	-0.19%	($184)	($0.27)	(8,080)	181,394	13,175	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$4,362,102	$4,370,182	$4,348,130	$4,370,182	$4,362,102	$357,854

Cherrywood Apartments, West, Tax Credit Exchange / 9% HTC #09999/09165

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost				$0
Adjustments				
Exterior Wall Finish			$0.00	$0
Elderly			0.00	0
9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(2.42)	(73,403)
Floor Cover			2.38	72,190
Breezeways/Balconies	$22.95		0.00	0
Plumbing Fixtures	$835		0.00	0
Rough-ins	$410		0.00	0
Built-In Appliances	$1,800	44	2.61	79,200
Exterior Stairs	$1,875		0.00	0
Enclosed Corridors	($9.92)		0.00	0
Heating/Cooling			1.83	55,508
Garages/Carports			0.00	0
Comm &/or Aux Bldgs			0.00	0
Other: fire sprinkler	$2.15	30,332	2.15	65,214
SUBTOTAL			6.55	198,708
Current Cost Multiplier	1.01		0.07	1,987
Local Multiplier			(6.55)	(198,708)
TOTAL DIRECT CONSTRUCTION COSTS			$0.07	$1,987
Plans, specs, survy, bld prmts	3.90%		($0.00)	($77)
Interim Construction Interest	3.38%		(0.00)	(67)
Contractor's OH & Profit	11.50%		(0.01)	(229)
NET DIRECT CONSTRUCTION COSTS			$0.05	$1,614

PAYMENT COMPUTATION

Primary	$1,020,743	Amort	360
Int Rate	1.00%	DCR	3.67
Secondary	$775,000	Amort	480
Int Rate	6.25%	Subtotal DCR	1.25
Additional	$0	Amort	
Int Rate		Aggregate DCR	1.25

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	$27,355
Secondary Debt Service	52,800
Additional Debt Service	0
NET CASH FLOW	$20,783

Primary	$1,017,158	Amort	378
Int Rate	1.00%	DCR	3.69
Secondary	$775,000	Amort	480
Int Rate	6.25%	Subtotal DCR	1.26
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.26

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$258,336	$263,503	$268,773	$274,148	$279,631	$308,735	$340,869	$376,347	$458,765
Secondary Income	7,920	8,078	8,240	8,405	8,573	9,465	10,450	11,538	14,065
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	266,256	271,581	277,013	282,553	288,204	318,201	351,319	387,885	472,829
Vacancy & Collection Loss	(13,308)	(13,579)	(13,851)	(14,128)	(14,410)	(15,910)	(17,566)	(19,394)	(23,641)
Employee or Other Non-Rental Units or Concess	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$252,948	$258,002	$263,162	$268,425	$273,794	$302,291	$333,753	$368,490	$449,188
EXPENSES at 3.00%									
General & Administrative	$9,950	$10,249	$10,556	$10,873	$11,199	$12,982	$15,050	$17,447	$23,448
Management	11,900	12,138	12,381	12,628	12,881	14,221	15,701	17,336	21,132
Payroll & Payroll Tax	30,750	31,673	32,623	33,601	34,609	40,122	46,512	53,920	72,464
Repairs & Maintenance	26,500	27,295	28,114	28,957	29,826	34,576	40,084	46,468	62,449
Utilities	10,500	10,815	11,139	11,474	11,818	13,700	15,882	18,412	24,744
Water, Sewer & Trash	12,000	12,360	12,731	13,113	13,506	15,657	18,151	21,042	28,279
Insurance	10,250	10,558	10,874	11,200	11,536	13,374	15,504	17,973	24,155
Property Tax	18,600	19,158	19,733	20,325	20,934	24,269	28,134	32,615	43,832
Reserve for Replacements	19,800	20,394	21,006	21,636	22,285	25,835	29,949	34,719	46,660
TDHCA Compliance Fee	1,760	1,813	1,867	1,923	1,981	2,296	2,662	3,086	4,148
TCAP Asset Oversight Fee	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0
TOTAL EXPENSES	$152,010	$156,451	$161,023	$165,730	$170,576	$197,033	$227,630	$263,019	$351,311
NET OPERATING INCOME	$100,938	$101,551	$102,139	$102,695	$103,218	$105,257	$106,123	$105,471	$97,877
DEBT SERVICE									
First Lien Financing	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355
Second Lien	52,800	52,800	52,800	52,800	52,800	52,800	52,800	52,800	52,800
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$20,783	$21,396	$21,984	$22,540	$23,063	$25,102	$25,968	$25,316	$17,722
DEBT COVERAGE RATIO	1.26	1.27	1.27	1.28	1.29	1.31	1.32	1.32	1.22

HTC ALLOCATION ANALYSIS -Cherrywood Apartments, West, Tax Credit Exchange / 9% HTC #09999/09165

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost						
Purchase of land	$173,004	$173,004				
Purchase of buildings	$1,053,739	$1,053,739	$1,053,739	$1,053,739		
Off-Site Improvements						
Sitework	$167,500	$167,500			$167,500	$167,500
Construction Hard Costs	$1,426,341	$1,426,341			$1,426,341	$1,426,341
Contractor Fees	$222,659	$222,659			$222,659	$222,659
Contingencies	$79,533	$79,533			$79,533	$79,533
Eligible Indirect Fees	$252,172	$252,172			$252,172	$252,172
Eligible Financing Fees	$253,250	$253,250			$253,250	$253,250
All Ineligible Costs	$103,828	$103,828				
Developer Fees						
Developer Fees	$518,790	$518,790	$158,217	$158,217	$360,573	$360,573
Development Reserves	$119,366	$111,286				
TOTAL DEVELOPMENT COSTS	$4,370,182	$4,362,102	$1,211,956	$1,211,956	$2,762,028	$2,762,028

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		$1,211,956	$1,211,956	$2,762,028	$2,762,028
High Cost Area Adjustment				100%	100%
TOTAL ADJUSTED BASIS		$1,211,956	$1,211,956	$2,762,028	$2,762,028
Applicable Fraction		100%	100%	100%	100%
TOTAL QUALIFIED BASIS		$1,211,956	$1,211,956	$2,762,028	$2,762,028
Applicable Percentage		3.42%	3.42%	9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS		$41,449	$41,449	$248,583	$248,583
Syndication Proceeds	**0.8500**	**$352,316**	**$352,316**	**$2,112,952**	**$2,112,952**

Total Tax Credits (Eligible Basis Method)	**$290,031**	**$290,031**
Syndication Proceeds	**$2,465,267**	**$2,465,267**
Previously Awarded Tax Credits - Original	**$290,139**	
Syndication Proceeds	**$2,466,182**	
Gap of Syndication Proceeds Needed	**$2,466,738**	**$2,458,658**
Total Tax Credits (Gap Method)	**$290,205**	**$289,254**
Exchange Funds Requested	**$2,466,182**	
Amount of Credits Returned (Applicant)	**$290,139**	

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report (Amended Report*)

REPORT DATE: 08/14/09 PROGRAM: HTC 9%/HOME FILE NUMBER: **09165**

DEVELOPMENT

Cherrywood Apartments

Location: 701 W. Tokio Rd. Region: 8

City: West County: McLennan Zip: 76691 [X] QCT [ ] DDA

Key Attributes: Elderly, Rural, Acquisition/Rehabilitation

ALLOCATION

	REQUEST			**RECOMMENDATION**		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
HOME Activity Funds	$1,127,371	1.25%	480/480	**$1,127,371**	**1.25%**	**370/370**
Housing Tax Credit (Annual)	$290,139			**$290,139**		

* The Applicant's originally requested amount of $290,139 in tax credits were revised 6/19/2009 to $291,554; however, TDHCA's Qualified Allocation Plan and Rules (QAP) does not allow an Applicant to increase their originally requested tax credit amount. The original underwriting report however inadvertently used the revised tax credit amount of $291,554 and we must now make a revision to the underwriting report to restate the originally requested amount of $290,139.

* Parity lien position; fully amortized over a term equal to the approximate remaining term of the first originated USDA 515 loan (approximately 368 months).

CONDITIONS

1 Recommended HOME award is subject to availability of funds. As of the date of this report it does not appear that the application will score high enough in the TDHCA HOME allocation to be awarded funds. Without the HOME funds or a viable alternative, the application is not financially viable and no such alternative source has been provided. Should HOME funds not be awarded to this development or an acceptable confirmed alternative not be provided by commitment notice of the tax credit, an allocation of tax credits would not be recommended.

2 Receipt, review, and acceptance, by carryover, of USDA-RD approval of the same rates and terms transfer of the existing USDA-RD loans and acceptance of the additional HOME loan funds and a parity first lien.

3 Receipt, review, and acceptance, by cost certification, of formal documentation that USDA-RD has approved an increase of at least 45% on average in the current basic rents.

4 Receipt, review, and acceptance, by cost certification, that there is no seller or residual receipt note for the equity or any portion of the equity to be paid to the seller.

5 Receipt, review and acceptance, by carryover, of approval from the USDA National Office of the equity requested in association with the proposed transfer.

6 Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the allocation amount may be warranted.

SALIENT ISSUES

HTC SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	3
50% of AMI	50% of AMI	20
60% of AMI	60% of AMI	21

HOME SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	Low HOME	9
60% of AMI	High HOME	4

STRENGTHS/MITIGATING FACTORS

- Principals of Applicant have LIHTC development experience which mitigate any risk in developing or operating under Texas rules and procedures.
- Well located with good access to amenities will maintain competitive position in market.
- Maintains full occupancy due to USDA subsidies.
- USDA monitoring, interest rate and rental subsidies.

WEAKNESSES/RISK

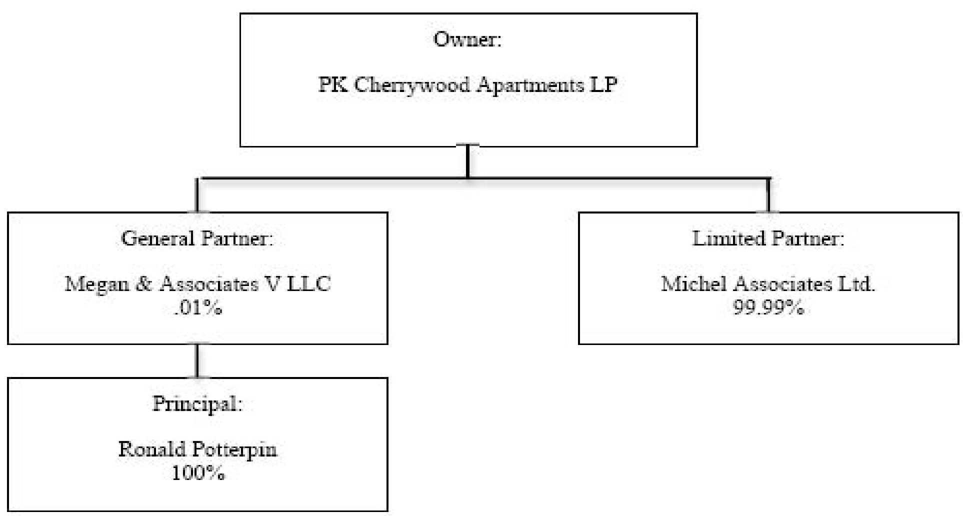
- LIHTC development experience is not in Texas.

PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: Pete Potterpin Phone: (517) 347-9662 Fax: (517) 347-9626
Email: ppotterpin@pkhousing.com

KEY PARTICIPANTS

Name	Financial Notes	# Completed Developments
Ronald Potterpin	Confidential	0
Megan & Associates V, LLC	Confidential	0

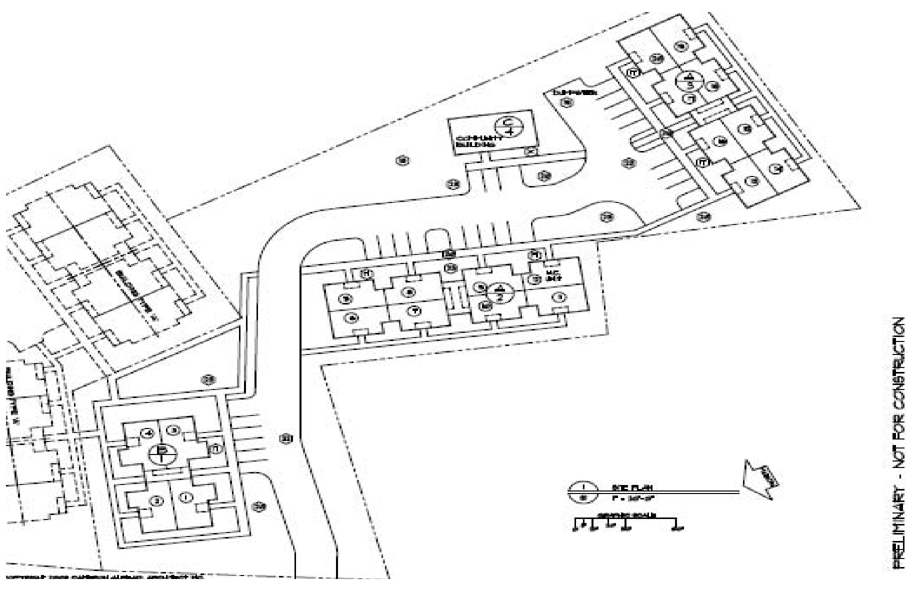
IDENTITIES of INTEREST

The Applicant, Developer, General Contractor and property manager are related entities. These are common relationships for HTC-funded developments.

PROPOSED SITE

SITE PLAN

SITE PLAN



BUILDING CONFIGURATION

Building Type	A	B	C	D							Total Buildings
Floors/Stories	1	1	1	1							
Number	2	1	2	1							**6**

BR/BA	SF	Units										Total Units	Total SF
1BR/1BA	665			8								16	10,640
1BR/1BA	665	8	4									20	13,300
2BR/1BA	799		4									4	3,196
2BR/1BA	799				4							4	3,196
Units per Building		8	8	8	4							**44**	**30,332**

Development Plan:

The development is approximately 20 years old and the property is currently considered to be in good condition and has had generally good maintenance. The majority of the funds will be expended on the repairs and replacement in items in the development units. The next largest expenditure will be for handicapped accessibility improvements to the units and common facilities, and the remaining funds will be used to enhance the amenities.

Relocation Plan:

The developer does not anticipate that relocation of tenants will be necessary. The renovations will be completed to individual units during pre-scheduled 8-hour days. Typically, the developer will pre-schedule construction so that construction teams will enter specific units and will complete renovations within 3 to 4 days total for those units. However, tenant's may request to relocate or have their personal belongings placed in storage while their unit is being renovated. The Applicant will be budgeting $1,000 per unit to cover the costs of those tenant's relocation or storage costs that choose to go that route.

SITE ISSUES

Total Size: 3.86 acres

Flood Zone: C

Zoning: MF - Multifamily

Scattered site? [X] Yes [ ] No

Within 100-yr floodplain? [ ] Yes [X] No

Needs to be re-zoned? [ ] Yes [X] No [ ] N/A

TDHCA SITE INSPECTION

Inspector: ORCA Staff   Date: 4/8/2009

Overall Assessment:

[ ] Excellent [X] Acceptable [ ] Questionable [ ] Poor [ ] Unacceptable

Surrounding Uses:

North: Tokio Rd. / Multifamily Apts.   East: Harrison Street / Multifamily Apts.

South: Baseball Field / Multifamily Apts.   West: IH-35 / Multifamily Apts.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: none   Date: N / A

Comments:

The 2009 QAP §49.9(h)(14)(A)(iv) states that Developments whose funds have been obligated by TRDO-USDA are not required to supply an Environmental Site Assessment; it is the Applicant's responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

MARKET HIGHLIGHTS

Provider: Rafael C. Luebbert Date: 1/6/2009

Contact: Rafael C. Luebbert Phone: (210) 408-6041 Fax: (210) 408-2539

Number of Revisions: none Date of Last Applicant Revision: N / A

Market Area:

"The market area is that geographical region enveloped by the smaller communities of located within McLennan County. There were insufficient numbers of conventional project samples within this immediate market area to enable the appraiser to deduce economic rentals from within the city. This market area is one which would influence the economics of the property within the described region. The selected complexes are considered to reflect trends in rental rates for conventional projects in that described market area." (p. 30)

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
PMA				SMA			
Name	File #	Total Units	Comp Units	Name	File #	Total Units	25% Comp Units
0				0			

INCOME LIMITS						
McLennan						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$10,550	$12,100	$13,600	$15,100	$16,300	$17,500
40	$14,120	$16,120	$18,160	$20,160	$21,760	$23,400
50	$17,650	$20,150	$22,700	$25,200	$27,200	$29,250
60	$21,180	$24,180	$27,240	$30,240	$32,640	$35,100

Primary Market Occupancy Rates:

"Multifamily properties of this type run nearly at 100% occupancy because of the subsidies and tax credit programs in effect or as suggested." (p. 30)

Unit Type (% AMI)	Current Basic Rent	Proposed Basic Rent	Market Rent	Underwriting Rent	Increase Over Contract
1 BR 665 SF 30%	$334	$472	$380	$472	$138
1 BR 665 SF 50%	$334	$472	$380	$472	$138
1 BR 665 SF 60%	$334	$472	$380	$472	$138
1 BR 665 SF 50%/LH	$330	$472	$380	$472	$142
1 BR 665 SF 50%	$330	$472	$380	$472	$142
1 BR 665 SF 60%	$330	$472	$380	$472	$142
2 BR 799 SF 60%/HH	$362	$567	$444	$567	$205
2 BR 799 SF 60%	$381	$567	$444	$567	$186

Comments:

USDA Developments with occupancy greater than 80% are not required to provide a market study. The required appraisal provides similar information regarding the market area and comparable market rents. The rent roll provided with the application indicates 3 vacancies out of 44 units, or 93% occupancy. No tenant relocation is expected during the rehabilitation.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: 1 Date of Last Applicant Revision: 4/27/2009

The Applicant's net rents are anticipated basic rent levels. These basic rents have not yet been approved by USDA-RD. The anticipated basic rents are 19% above the net program rents on average and 45% higher than the current USDA-RD basic rent levels. The property currently receives Rental Assistance on all the units. The appraisal reflects market rents well below the anticipated levels, which suggests that the anticipated rent levels may not be achievable in this market. However, discussions with USDA staff indicates that these rents appear to be reasonable to USDA based on their review of the current comparable rents in the area.

The Underwriter therefore used the same USDA rents that the Applicant used which is an increase of approximately 45% above current basic rents. USDA has provided the Applicant with a preliminary approval of the subject rent increases stated; accordingly, receipt, review, and acceptance, by cost certification, of formal documentation that USDA-RD is providing the increase of at least 45% on average in basic rents is a condition of this report. The Applicant's secondary income and vacancy and collection loss estimates are in line with Department's standards.

Expense: Number of Revisions: none Date of Last Applicant Revision: n/a

The Applicant's total annual operating expense projection of $3,464 per unit is within 5% of the Underwriter's estimate of $3,368 derived from the TDHCA database and the property's historical operating statements. However, the Applicant's estimates of some line items differ significantly from the Underwriter's, specifically, payroll and payroll expenses ($9K higher), and reserve for replacement ($8K lower).

The Applicant has estimated a reserve account expense of $300 per unit per year which is the Department's minimum requirement for rehabilitation properties; however, based upon the Capital Needs Assessment provider's estimate of capital needs over the next 15 years, the Underwriter has determined that at least $373 per unit per year will be required. Discussions with USDA staff, however, indicate that preliminary USDA analysis require $500 per unit per until a Capital Needs Assessment is provided to USDA for review and a more accurate estimate is calculated. As such, for purposes of this analysis the Underwriter has utilized USDA's preliminary reserve for replacement estimate of $500 per unit per year.

Conclusion:

The Applicant's estimate of income and net operating income are within 5% of the Underwriter's estimate; therefore, the Applicant's Year One proforma is used to determine the development's debt capacity and debt coverage ratio (DCR). Both the Applicant's and the Underwriter's DCR is above the Department's normal guideline of 1.35% however, this is a USDA/RD subsidized development and it is therefore allowed to have a DCR above 1.35%.

Lien position is another critical element in considering the financing of additional HOME funds for the transaction. There is no new money coming into the development from USDA and thus the additional lending risk associated with the development is primary vested in the additional HOME funding. In fact the USDA loan default risk decreases substantially with the infusion of capital from HOME and the HTC syndication. The Department has historically requested a parity lien with the existing USDA loans in such an instance so that the new HOME rehabilitation funds are not immediately subject to a default risk that might have more to do with USDA's regulations than the performance of the property which they generally control via the annual approval of budgets and basic rents. The request for a parity lien is an inducement for the department or any new lender by USDA to facilitate the preservation of a loan in their portfolio.

The approval of these issues by USDA is not a foregone conclusion however and therefore, receipt, review and acceptance of documentation that USDA-RD has approved the transfer and parity of the additional HOME debt by carryover are conditions of this report.

Feasibility:

The underwriting 30-year proforma utilizes a 2% annual growth factor for income and a 3% 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 1.15 and continued positive cash flow. Therefore, the development can be characterized as feasible.

ACQUISITION INFORMATION

APPRAISED VALUE

Provider:	Rafael C. Luebbert, MAI	Date:	1/6/2009
Number of Revisions:	none	Date of Last Applicant Revision:	n/a
Land Only: 3.86 acres	$95,200	As of:	1/6/2009
Existing Buildings: (as-is)	$1,094,800	As of:	1/6/2009
Total Development: (as-is)	$1,190,000	As of:	1/6/2009

Comments:

The appraiser provided an "as is and as restricted" market value of $824,000, with a contributory land value of $95,200 and a " Value of Financing Subsidy" value of $366,000. The Sum of Market Valve and Value of Financing Subsidy is the most important value for this particular case because it provides an estimate of the price that a purchaser will pay for the property when there is an interest credit subsidy provided by USDA/RD.

ASSESSED VALUE

Land Only: 3.86 acres	$50,477	Tax Year:	2008
Existing Buildings:	$425,450	Valuation by:	McLennan CAD
Total Assessed Value:	$475,927	Tax Rate:	2.248154

EVIDENCE of PROPERTY CONTROL

Type:	Option to Purchase Real Property	Acreage:	3.86
Contract Expiration:	12/30/2009	Valid Through Board Date?	[X] Yes [ ] No
Acquisition Cost:	$1,226,743	Other:	
Seller:	Country Place Retirement Ltd. & West Retirement Ltd.	Related to Development Team?	[ ] Yes [X] No

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: 1 Date of Last Applicant Revision: 5/28/2009

Acquisition Value:

The development costs of $27,881 per unit is assumed to be reasonable since the acquisition is an arm's length transaction. However, in addition to assuming the existing USDA loans that exist on these properties, the Applicant is also paying an additional $166K to the seller that will be in the form of cash to the seller at closing. The Earnest Money Contract states that there is to be a seller note if tax credits are not awarded for the development; however, the Applicant has committed that the entire $166K will be paid in cash at closing if tax credits are awarded and therefore there will be no seller note and no identity of interest on the transaction that would result from such note. Accordingly, it is a condition of this report that there be no seller or residual receipt note for the equity or any portion of the equity if tax credits are allocated to the Applicant.

Typically with USDA transfers, equity is only allowed to be paid and go back into the property. However, discussions with USDA staff indicate that the proposed transfer as structured appears to be acceptable, as long as it is approved by the USDA National Office as any equity being requested must be submitted to the National Office for approval. Therefore, any funding recommendation will be conditioned up receipt, review and acceptance, by carryover, of approval from the USDA National Office of the equity requested in association with the proposed transfer.

Additionally, the Applicant attributed the entire $166K in equity that will be paid to the seller into the acquisition basis. However, this is not an accurate allocation of the funds because the Applicant is acquiring both land and buildings. Therefore, the Underwriter has appropriately allocated a portion of the equity to the land and buildings as reflected by the Applicant.

The Applicant's total acquisition cost includes $114,400 as the value for the land, $906,343 for the building basis, $40,000 in closing costs and $166,000 as equity to the seller (all included in acquisition basis). As a result, the Applicant has calculated a total $1,072,343 in acquisition basis for purposes of determining the acquisition credits. However, as stated previously including the entire $166K equity to be paid to the seller at closing, the acquisition basis is not accurate. Therefore, the Underwriter has appropriately distributed the $166K between land and buildings based on the Applicant's prorata values for each. As a result, the Underwriter's calculated acquisition eligible basis is $1,053,739.

Sitework Cost:

The Applicant's proposed site work cost of $3,807 per unit is within the Department's guidelines. The Underwriter's sitework estimate was derived from the Capital Needs Assessment provided in the application. The underwriting analysis will reflect the CNA value of $3,807 per unit.

Direct Construction Cost:

The Applicant's direct construction cost is $19K or (1% lower) than the Underwriter's estimate derived from the third party Capital Needs Assessment. The underwriting analysis will reflect the CNA value.

Interim Interest Expense:

The Applicant's interim interest expense is overstated by $26,751, and accordingly, an adjustment of this amount has been made removing it from eligible basis and moving it into ineligible costs.

Conclusion:

The Applicant's total development cost is within 5% of the Underwriter's estimate; however, since this is a rehabilitation development the Underwriter's cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis. A total eligible basis of $3,958,381 supports total annual tax credits of $297,456. 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

SOURCES & USES Number of Revisions: 1 Date of Last Applicant Revision: 6/18/2009

Source: Irwin Union Bank Type: **Interim Financing**

Principal: $2,700,000 Interest Rate: 6.25% ☐ Fixed Term: TBD months

Comments:

This interim construction loan is to be based on the WSJ prime rate plus 3 basis points floating. The lender has estimated the rate to be 6.25% for the purpose of underwriting.

Source: USDA/RD | Type: **Permanent Financing**

Permanent: $1,020,743 | Interest Rate: 1.0% | X Fixed | Term: 378 months

Comments:

The Applicant is proposing a same rates and terms transfer of two existing USDA Section 515 mortgages. This type of transfer is generally intended to preserve the below market loan.

The Applicant provided a promissory note, for Country Place Retirement (20 units) dated December 18, 1990, reflecting an original balance of $484,449 and a 50 year term. The remaining balance for the Country Place Retirement mortgage as of 6/11/2009 was estimated to be $460,945. A promissory note was also provided for West Retirement (24 units) dated March 16, 1989 reflecting an original balance of $590,172 and a 50 year term. The remaining balance for West Retirement as of 6/11/2009 was estimated to be $559,797.

Section 515 loans generally provide a subsidy of the market interest rate down to an effective rate of approximately 1%. The remaining term for Country Place Retirement is approximately 389 and the remaining term for West Retirement is approximately 368 months (378 months average). The total remaining estimated balances are reflected as a source of funds in the recommended financing structure.

Source: Michel Associates | Type: **Syndication**

Proceeds: $2,030,767 | Syndication Rate: 70% | Anticipated HTC: $ 290,139

Comments:

The committed credit price appears to be consistent with recent trends in pricing. However, the Underwriter has performed a sensitivity test and determined that the credit price can decline to $0.685. At this point the financial viability of the transaction may be jeopardized.

Amount: $146,167 | Type: **Existing Reserves**

Comments:

The existing reserves balance will be transferred to the partnership and be retained for future capital needs. This has been reflected as both a source and a use of funds. While the Applicant has reflected the amount of reserves indicated above, the Applicant was only able to document a total of $111,287 via bank statements from First Victoria Bank. The documented amount has been reflected in the underwriter's analysis.

Amount: $0 | Type: **Deferred Developer Fees**

CONCLUSIONS

Recommended Financing Structure:

As stated above, the proforma analysis results in a debt coverage ratio that is not within the Department’s normal guideline of 1.15 to 1.35; however, because this is a USDA financed and subsidized and monitored loan it is considered acceptable. The Underwriter has reduced the term of the HOME loan to match the remaining term on the earliest expiring USDA-515 loan, which results in a slight increase in the annual debt service and results in a healthy projected DCR of 1.15.

The Underwriter’s total development cost estimate less the permanent loan of $1,020,743, requested HOME loan of $1,127,371, and existing reserves of $111,287 indicates the need for $2,110,782 in gap funds. Based on the submitted syndication terms, a tax credit allocation of $301,571 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant’s request ($290,139), the gap-driven amount ($301,571), and eligible basis-derived estimate ($291,797), the Applicant’s request of $290,139 is recommended resulting in proceeds of $2,030,767 based on a syndication rate of 70%.

The Underwriter’s recommended financing structure indicates the need for $80,015 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cashflow within 3 years of stabilized operation. If the HOME award is ultimately not awarded, the gap in financing would increase to an amount greater than the developer fee available for deferral and the transaction would not be financially viable unless another source of funds was received.

The HOME award amount is below the 221(d)(3) limit for this project. In addition, the HOME award is below the prorata share of development cost based on the number of HOME units to total units.

Return on Equity:

This is a USDA-RD transaction, in which the Applicant is restricted by the loan agreement to a return of no more than 8% per annum on the borrower’s original investment, with any excess cash flow going to fund replacement reserves. USDA-RD will manage this return on equity restriction.

Underwriter:	*D.P. Burrell*	Date:	August 14, 2009
Reviewing Underwriter:	*Raquel Morales*	Date:	August 14, 2009
Director of Real Estate Analysis:	*Brent Stewart*	Date:	August 14, 2009

MULTIFAMILY COMPARATIVE ANALYSIS

Cherrywood Apartments, West, HTC 9%/HOME #09165

Type of Unit	Other	Number	Bedrooms	No. of Baths	Size in SF	HTC Rent Limit	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	WS&T
TC 30%		3	1	1	665	$283	$472	$1,416	$0.71	$71.00	$45.00
TC 50%	LH	3	1	1	665	$472	$472	$1,416	$0.71	$71.00	$45.00
TC 60%		10	1	1	665	$567	$472	$4,720	$0.71	$71.00	$45.00
TC 50%	LH	6	1	1	665	$472	$472	$2,832	$0.71	$67.00	$45.00
TC 50%		11	1	1	665	$472	$472	$5,192	$0.71	$67.00	$45.00
TC 60%		3	1	1	665	$567	$472	$1,416	$0.71	$67.00	$45.00
TC 60%		4	2	1	799	$681	$567	$2,268	$0.71	$68.00	$47.00
TC 60%	HH	4	2	1	799	$681	$567	$2,268	$0.71	$101.00	$47.00
TOTAL:		44		AVERAGE:	689		$489	$21,528	$0.71	$71.64	$45.36

INCOME	Total Net Rentable Sq Ft:		30,332		TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT					$258,336	$258,336	McLennan		8
Secondary Income			Per Unit Per Month:	$15.00	7,920	7,920	$15.00	Per Unit Per Month	
Other Support Income:					0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME					$266,256	$266,256			
Vacancy & Collection Loss			% of Potential Gross Income:	-5.00%	(13,313)	(13,308)	-5.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions					0				
EFFECTIVE GROSS INCOME					$252,943	$252,948			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT			PER SQ FT	PER UNIT	% OF EGI
General & Administrative		3.71%	$213	0.31	$9,385	$11,650	$0.38	$265	4.61%
Management		5.00%	287	0.42	12,647	11,900	0.39	270	4.70%
Payroll & Payroll Tax		9.33%	536	0.78	23,592	33,350	1.10	758	13.18%
Repairs & Maintenance		11.91%	685	0.99	30,132	28,000	0.92	636	11.07%
Utilities		3.21%	185	0.27	8,130	7,500	0.25	170	2.97%
Water, Sewer, & Trash		4.60%	264	0.38	11,624	14,500	0.48	330	5.73%
Property Insurance		4.05%	233	0.34	10,250	12,000	0.40	273	4.74%
Property Tax	2.25	7.82%	450	0.65	19,784	18,568	0.61	422	7.34%
Reserve for Replacements		8.70%	500	0.73	22,000	13,200	0.44	300	5.22%
TDHCA Compliance Fees		0.70%	40	0.06	1,760	1,760	0.06	40	0.70%
Other:		0.00%	0	0.00	0	0	0.00	0	0.00%
TOTAL EXPENSES		59.03%	$3,393	$4.92	$149,304	$152,428	$5.03	$3,464	60.26%
NET OPERATING INC		40.97%	$2,355	$3.42	$103,639	$100,520	$3.31	$2,285	39.74%
DEBT SERVICE									
USDA/RD Assumption Loan		10.81%	$622	$0.90	$27,355	$27,355	$0.90	$622	10.81%
TDHCA HOME Loan		17.50%	$1,006	$1.46	44,276	35,829	$1.18	$814	14.16%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		12.65%	$727	$1.06	$32,007	$37,336	$1.23	$849	14.76%
AGGREGATE DEBT COVERAGE RATIO					1.45	1.59			
RECOMMENDED DEBT COVERAGE RATIO					1.40				

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)		28.07%	$27,881	$40.44	$1,226,743	$1,226,743	$40.44	$27,881	28.21%
Off-Sites		0.00%	0	0.00	0		0.00	0	0.00%
Sitework		3.83%	3,807	5.52	167,500	167,500	5.52	3,807	3.85%
Direct Construction		33.07%	32,850	47.65	1,445,421	1,426,341	47.02	32,417	32.80%
Contingency	4.93%	1.82%	1,808	2.62	79,533	79,533	2.62	1,808	1.83%
Contractor's Fees	13.80%	5.09%	5,060	7.34	222,659	222,659	7.34	5,060	5.12%
Indirect Construction		5.77%	5,731	8.31	252,172	252,172	8.31	5,731	5.80%
Ineligible Costs		2.12%	2,110	3.06	92,828	92,828	3.06	2,110	2.13%
Developer's Fees	14.93%	11.87%	11,791	17.10	518,790	518,790	17.10	11,791	11.93%
Interim Financing		5.79%	5,756	8.35	253,250	253,250	8.35	5,756	5.82%
Reserves		2.55%	2,529	3.67	111,286	108,314	3.57	2,462	2.49%
TOTAL COST		100.00%	$99,322	$144.08	$4,370,182	$4,348,130	$143.35	$98,821	100.00%
Construction Cost Recap		*43.82%*	***$43,525***	***$63.14***	***$1,915,113***	***$1,896,033***	***$62.51***	***$43,092***	*43.61%*

SOURCES OF FUNDS

					TDHCA	APPLICANT	RECOMMENDED		
USDA/RD Assumption Loan		23.36%	$23,199	$33.65	$1,020,743	$1,020,743	$1,020,743	Developer Fee Available	
TDHCA HOME Loan		25.80%	$25,622	$37.17	1,127,371	1,127,371	1,127,371	$518,790	
Existing Reserves Accounts						146,167	111,286		
HTC Syndication Proceeds		46.70%	$46,379	$67.28	2,040,674	2,040,674	2,030,767	% of Dev. Fee Deferred	
Deferred Developer Fee		0.00%	$0	$0.00	0		80,015	15%	
Additional (Excess) Funds Req'd		4.15%	$4,123	$5.98	181,394	13,175	0	15-Yr Cumulative Cash Flow	
TOTAL SOURCES					$4,370,182	$4,348,130	$4,370,182	$478,006	

Cherrywood Apartments, West, HTC 9%/HOME #09165

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$0.00	$0
Adjustments				
Exterior Wall Finish			$0.00	$0
Elderly			0.00	0
9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			0.00	0
Floor Cover			0.00	0
Breezeways/Balconies			0.00	0
Plumbing Fixtures			0.00	0
Rough-ins			0.00	0
Built-In Appliances		0	0.00	0
Exterior Stairs			0.00	0
Enclosed Corridors			0.00	0
Heating/Cooling				
Garages/Carports			0.00	0
Comm &/or Aux Bldgs			0.00	0
Other: fire sprinkler		0	0.00	0
SUBTOTAL			0.00	0
Current Cost Multiplier			0.00	0
Local Multiplier			0.00	0
TOTAL DIRECT CONSTRUCTION COSTS			$0.00	$0
Plans, specs, survy, bld prmts	0.00%		$0.00	$0
Interim Construction Interest	0.00%		0.00	0
Contractor's OH & Profit	0.00%		0.00	0
NET DIRECT CONSTRUCTION COSTS			$0.00	$0

PAYMENT COMPUTATION

Primary	$1,020,743	Amort	360
Int Rate	1.00%	DCR	3.79
Secondary	$1,127,371	Amort	480
Int Rate	1.25%	Subtotal DCR	1.45
Additional	$2,040,674	Amort	
Int Rate		Aggregate DCR	1.45

RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

Primary Debt Service	$27,355
Secondary Debt Service	44,276
Additional Debt Service	0
NET CASH FLOW	$28,889

Primary	$1,020,743	Amort	378
Int Rate	1.00%	DCR	3.67
Secondary	$1,127,371	Amort	368
Int Rate	1.25%	Subtotal DCR	1.40
Additional	$2,040,674	Amort	0
Int Rate	0.00%	Aggregate DCR	1.40

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$258,336	$263,503	$268,773	$274,148	$279,631	$308,735	$340,869	$376,347	$458,765
Secondary Income	7,920	8,078	8,240	8,405	8,573	9,465	10,450	11,538	14,065
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	266,256	271,581	277,013	282,553	288,204	318,201	351,319	387,885	472,829
Vacancy & Collection Loss	(13,313)	(13,579)	(13,851)	(14,128)	(14,410)	(15,910)	(17,566)	(19,394)	(23,641)
Employee or Other Non-Rental Units or Conc	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$252,943	$258,002	$263,162	$268,425	$273,794	$302,291	$333,753	$368,490	$449,188
EXPENSES at 3.00%									
General & Administrative	$9,385	$9,666	$9,956	$10,255	$10,563	$12,245	$14,195	$16,456	$22,116
Management	12,647	12,900	13,158	13,421	13,690	15,115	16,688	18,425	22,459
Payroll & Payroll Tax	23,592	24,300	25,029	25,780	26,553	30,782	35,685	41,369	55,596
Repairs & Maintenance	30,132	31,036	31,967	32,926	33,914	39,316	45,578	52,837	71,008
Utilities	8,130	8,374	8,625	8,884	9,151	10,608	12,298	14,256	19,159
Water, Sewer & Trash	11,624	11,973	12,332	12,702	13,083	15,167	17,583	20,384	27,394
Insurance	10,250	10,557	10,874	11,200	11,536	13,373	15,503	17,973	24,154
Property Tax	19,784	20,377	20,989	21,618	22,267	25,813	29,925	34,691	46,622
Reserve for Replacements	22,000	22,660	23,340	24,040	24,761	28,705	33,277	38,577	51,844
Other	1,760	1,813	1,867	1,923	1,981	2,296	2,662	3,086	4,148
TOTAL EXPENSES	$149,304	$153,657	$158,138	$162,750	$167,499	$193,421	$223,394	$258,054	$344,501
NET OPERATING INCOME	$103,639	$104,345	$105,024	$105,675	$106,295	$108,869	$110,359	$110,437	$104,687
DEBT SERVICE									
First Lien Financing	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355
Second Lien	44,276	44,276	44,276	44,276	44,276	44,276	44,276	44,276	44,276
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$32,007	$32,714	$33,393	$34,044	$34,664	$37,238	$38,728	$38,805	$33,055
DEBT COVERAGE RATIO	1.45	1.46	1.47	1.48	1.48	1.52	1.54	1.54	1.46

HTC ALLOCATION ANALYSIS -Cherrywood Apartments, West, HTC 9%/HOME #09165

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost						
Purchase of land	$154,400	$173,004				
Purchase of buildings	$1,072,343	$1,053,739	$1,072,343	$1,053,739		
Off-Site Improvements						
Sitework	$167,500	$167,500			$167,500	$167,500
Construction Hard Costs	$1,426,341	$1,445,421			$1,426,341	$1,445,421
Contractor Fees	$222,659	$222,659			$222,659	$222,659
Contingencies	$79,533	$79,533			$79,533	$79,533
Eligible Indirect Fees	$252,172	$252,172			$252,172	$252,172
Eligible Financing Fees	$253,250	$253,250			$253,250	$253,250
All Ineligible Costs	$92,828	$92,828				
Developer Fees						
Developer Fees	$518,790	$518,790	$160,148	$157,348	$358,642	$361,442
Development Reserves	$108,314	$111,286				
TOTAL DEVELOPMENT COSTS	$4,348,130	$4,370,182	$1,232,491	$1,211,086	$2,760,097	$2,781,977

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			$1,232,491	$1,211,086	$2,760,097	$2,781,977
High Cost Area Adjustment					100%	100%
TOTAL ADJUSTED BASIS			$1,232,491	$1,211,086	$2,760,097	$2,781,977
Applicable Fraction			100%	100%	100%	100%
TOTAL QUALIFIED BASIS			$1,232,491	$1,211,086	$2,760,097	$2,781,977
Applicable Percentage			3.42%	3.42%	9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS			$42,151	$41,419	$248,409	$250,378
	Syndication Proceeds	**0.6999**	**$295,028**	**$289,905**	**$1,738,685**	**$1,752,468**
	Total Tax Credits (Eligible Basis Method)				**$290,560**	**$291,797**
	Syndication Proceeds				**$2,033,713**	**$2,042,373**
	Requested Tax Credits				**$290,139**	
	Syndication Proceeds				**$2,030,767**	
	Gap of Syndication Proceeds Needed				**$2,088,730**	**$2,110,782**
	Total Tax Credits (Gap Method)				**$298,420**	**$301,571**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report (Amended Report*)

REPORT DATE: 08/07/09 PROGRAM: HTC 9%/HOME FILE NUMBER: **09165**

DEVELOPMENT

Cherrywood Apartments

Location: 701 W. Tokio Rd. Region: 8

City: West County: McLennan Zip: 76691 [X] QCT [ ] DDA

Key Attributes: Elderly, Rural, Acquisition/Rehabilitation

ALLOCATION

	REQUEST			RECOMMENDATION		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
HOME Activity Funds	$1,127,371	1.25%	480/480	**$1,127,371**	**1.25%**	**370/370**
Housing Tax Credit (Annual)	$290,139			**$290,139**		

* The Applicant's originally requested amount of $290,139 in tax credits were revised 6/19/2009 to $291,554; however, TDHCA's Qualified Allocation Plan and Rules (QAP) does not allow an Applicant to increase their originally requested tax credit amount. The original underwriting report however inadvertently used the revised tax credit amount of $291,554 and we must now make a revision to the underwriting report to restate the originally requested amount of $290,139.

* Parity lien position; fully amortized over a term equal to the approximate remaining term of the first originated USDA 515 loan (approximately 368 months).

CONDITIONS

1. Recommended HOME award is subject to availability of funds. As of the date of this report it does not appear that the application will score high enough in the TDHCA HOME allocation to be awarded funds. Without the HOME funds or a viable alternative, the application is not financially viable and no such alternative source has been provided. Should HOME funds not be awarded to this development or an acceptable confirmed alternative not be provided by commitment notice of the tax credit, an allocation of tax credits would not be recommended.
2. Receipt, review, and acceptance, by carryover, of USDA-RD approval of the same rates and terms transfer of the existing USDA-RD loans and acceptance of the additional HOME loan funds and a parity first lien.
3. Receipt, review, and acceptance, by cost certification, of documentation that USDA-RD has approved an increase of at least 35% on average in the current basic rents.
4. Receipt, review and acceptance, by carryover, of approval from the USDA National Office of the equity requested in association with the proposed transfer.
5. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the allocation amount may be warranted.

SALIENT ISSUES

HTC SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	3
50% of AMI	50% of AMI	20
60% of AMI	60% of AMI	21

HOME SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	Low HOME	9
60% of AMI	High HOME	4

STRENGTHS/MITIGATING FACTORS

- Principals of Applicant have LIHTC development experience which mitigate any risk in developing or operating under Texas rules and procedures.
- Well located with good access to amenities will maintain competitive position in market.
- Maintains full occupancy due to USDA subsidies.
- USDA monitoring, interest rate and rental subsidies.

WEAKNESSES/RISK

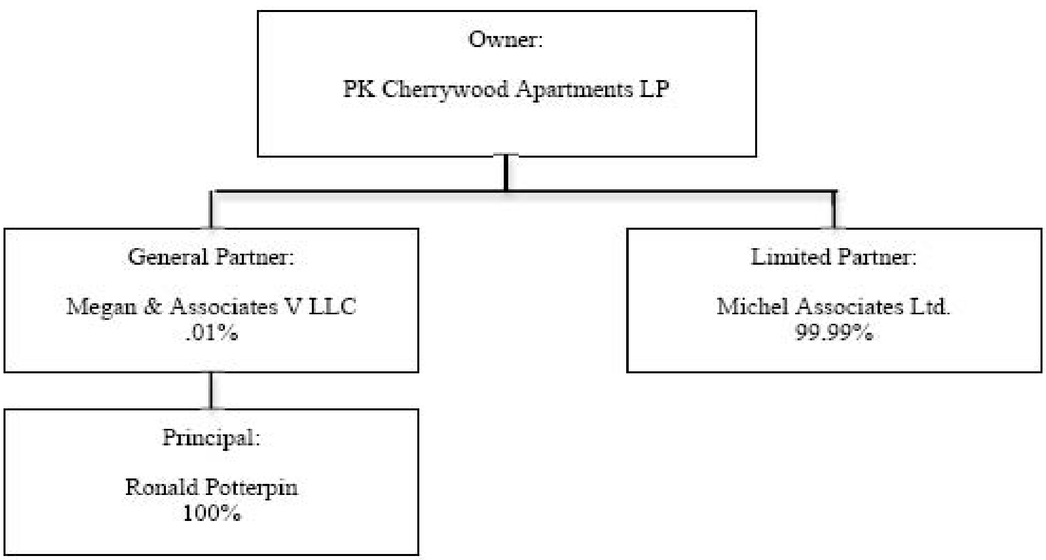
- LIHTC development experience is not in Texas.

PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: Pete Potterpin Phone: (517) 347-9662 Fax: (517) 347-9626
Email: ppotterpin@pkhousing.com

KEY PARTICIPANTS		
Name	Financial Notes	# Completed Developments
Ronald Potterpin	Confidential	0
Megan & Associates V, LLC	Confidential	0

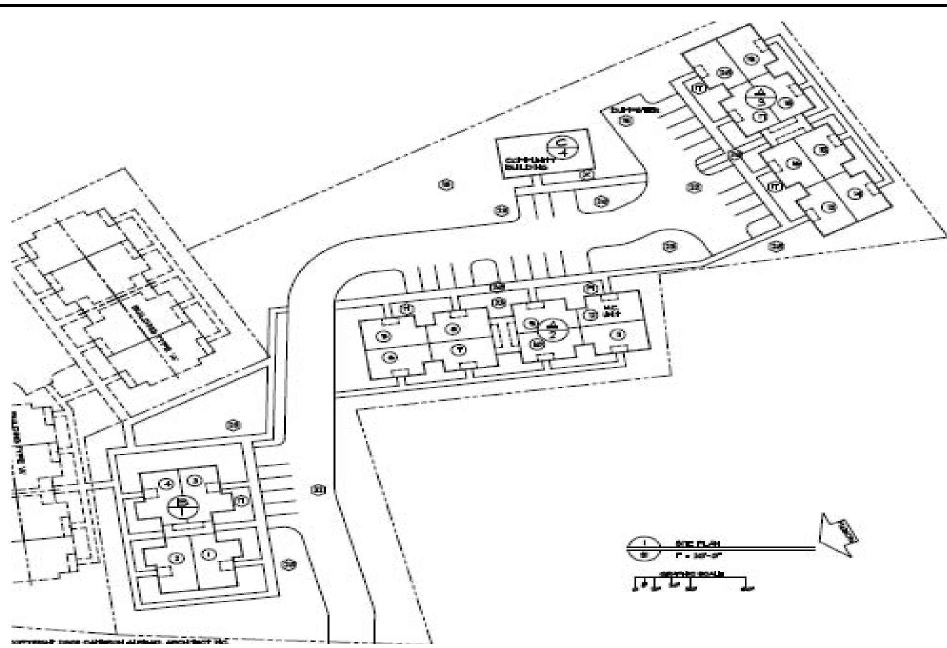
IDENTITIES of INTEREST

- The Applicant, Developer, General Contractor and property manager are related entities. These are common relationships for HTC-funded developments.
- The seller is regarded as a related party due to the proposed five-year seller financing.

PROPOSED SITE

SITE PLAN

SITE PLAN



BUILDING CONFIGURATION

Building Type	A	B	C	D							Total Buildings
Floors/Stories	1	1	1	1							
Number	2	1	2	1							**6**

BR/BA	SF	Units										Total Units	Total SF
1BR/1BA	665			8								16	10,640
1BR/1BA	665	8	4									20	13,300
2BR/1BA	799		4									4	3,196
2BR/1BA	799				4							4	3,196
Units per Building		8	8	8	4							**44**	**30,332**

Development Plan:

The development is approximately 20 years old and the property is currently considered to be in good condition and has had generally good maintenance. The majority of the funds will be expended on the repairs and replacement in items in the development units. The next largest expenditure will be for handicapped accessibility improvements to the units and common facilities, and the remaining funds will be used to enhance the amenities.

Relocation Plan:

The developer does not anticipate that relocation of tenants will be necessary. The renovations will be completed to individual units during pre-scheduled 8-hour days. Typically, the developer will pre-schedule construction so that construction teams will enter specific units and will complete renovations within 3 to 4 days total for those units. However, tenant's may request to relocate or have their personal belongings placed in storage while their unit is being renovated. The Applicant will be budgeting $1,000 per unit to cover the costs of those tenant's relocation or storage costs that choose to go that route.

SITE ISSUES

Total Size: 3.86 acres — Scattered site? [X] Yes [ ] No

Flood Zone: C — Within 100-yr floodplain? [ ] Yes [X] No

Zoning: MF - Multifamily — Needs to be re-zoned? [ ] Yes [X] No [ ] N/A

TDHCA SITE INSPECTION

Inspector: ORCA Staff — Date: 4/8/2009

Overall Assessment:

[ ] Excellent [X] Acceptable [ ] Questionable [ ] Poor [ ] Unacceptable

Surrounding Uses:

North: Tokio Rd. / Multifamily Apts. — East: Harrison Street / Multifamily Apts.

South: Baseball Field / Multifamily Apts. — West: IH-35 / Multifamily Apts.

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: none — Date: N / A

Comments:

The 2009 QAP §49.9(h)(14)(A)(iv) states that Developments whose funds have been obligated by TRDO-USDA are not required to supply an Environmental Site Assessment; it is the Applicant's responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

MARKET HIGHLIGHTS

Provider: Rafael C. Luebbert | Date: 1/6/2009

Contact: Rafael C. Luebbert | Phone: (210) 408-6041 | Fax: (210) 408-2539

Number of Revisions: none | Date of Last Applicant Revision: N / A

Market Area:

"The market area is that geographical region enveloped by the smaller communities of located within McLennan County. There were insufficient numbers of conventional project samples within this immediate market area to enable the appraiser to deduce economic rentals from within the city. This market area is one which would influence the economics of the property within the described region. The selected complexes are considered to reflect trends in rental rates for conventional projects in that described market area." (p. 30)

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
PMA				SMA			
Name	File #	Total Units	Comp Units	Name	File #	Total Units	25% Comp Units
0				0			

INCOME LIMITS						
McLennan						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$10,550	$12,100	$13,600	$15,100	$16,300	$17,500
40	$14,120	$16,120	$18,160	$20,160	$21,760	$23,400
50	$17,650	$20,150	$22,700	$25,200	$27,200	$29,250
60	$21,180	$24,180	$27,240	$30,240	$32,640	$35,100

Primary Market Occupancy Rates:

"Multifamily properties of this type run nearly at 100% occupancy because of the subsidies and tax credit programs in effect or as suggested." (p. 30)

Unit Type (% AMI)	Current Basic Rent	Proposed Basic Rent	Market Rent	Underwriting Rent	Increase Over Contract
1 BR 665 SF 30%	$334	$472	$380	$445	$138
1 BR 665 SF 50%	$334	$472	$380	$445	$138
1 BR 665 SF 60%	$334	$472	$380	$445	$138
1 BR 665 SF 50%/LH	$330	$472	$380	$445	$142
1 BR 665 SF 50%	$330	$472	$380	$445	$142
1 BR 665 SF 60%	$330	$472	$380	$445	$142
2 BR 799 SF 60%/HH	$362	$567	$444	$514	$205
2 BR 799 SF 60%	$381	$567	$444	$514	$186

Comments:

USDA Developments with occupancy greater than 80% are not required to provide a market study. The required appraisal provides similar information regarding the market area and comparable market rents. The rent roll provided with the application indicates 3 vacancies out of 44 units, or 93% occupancy. No tenant relocation is expected during the rehabilitation.

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OPERATING PROFORMA ANALYSIS

Income:	Number of Revisions:	1	Date of Last Applicant Revision:	4/27/2009

The Applicant's net rents are anticipated basic rent levels. These basic rents have not yet been approved by USDA-RD. The anticipated basic rents are 19% above the net program rents on average and 45% higher than the current USDA-RD basic rent levels. The property currently receives Rental Assistance on all the units. The appraisal reflects market rents well below the anticipated levels, which suggests that the anticipated rent levels may not be achievable in this market. However, discussions with USDA staff indicates that these rents appear to be reasonable to USDA based on their review of the current comparable rents in the area.

The Underwriter has determined that in order to maintain a minimum 1.15 DCR the development requires a 35% increase in the Basic rents as opposed to the Applicant's proposed 45% increase. As a result, the Underwriter's net rents will reflect this lower increased amount, but receipt, review, and acceptance, by cost certification, of documentation that USDA-RD has approved an increase of at least 35% on average in the current basic rents is a condition of this report. The Applicant's secondary income and vacancy and collection loss estimates are in line with Department standards.

Expense:	Number of Revisions:	none	Date of Last Applicant Revision:	n/a

The Applicant's total annual operating expense projection of $3,464 per unit is within 5% of the Underwriter's estimate of $3,368 derived from the TDHCA database and the property's historical operating statements. However, the Applicant's estimates of some line items differ significantly from the Underwriter's, specifically, payroll and payroll expenses ($9K higher), and reserve for replacement ($8K lower).

The Applicant has estimated a reserve account expense of $300 per unit per year which is the Department's minimum requirement for rehabilitation properties; however, based upon the Capital Needs Assessment provider's estimate of capital needs over the next 15 years, the Underwriter has determined that at least $373 per unit per year will be required. Discussions with USDA staff, however, indicate that preliminary USDA analysis require $500 per unit per until a Capital Needs Assessment is provided to USDA for review and a more accurate estimate is calculated. As such, for purposes of this analysis the Underwriter has utilized USDA's preliminary reserve for replacement estimate of $500 per unit per year.

Conclusion:

The Applicant's estimate of income and net operating income are not within 5% of the Underwriter's estimate; therefore, the Underwriter's Year One proforma is used to determine the development's debt capacity and debt coverage ratio (DCR). The Underwriter's DCR is within the parameters of the Department's guideline.

Lien position is another critical element in considering the financing of additional HOME funds for the transaction. There is no new money coming into the development from USDA and thus the additional lending risk associated with the development is primary vested in the additional HOME funding. In fact the USDA loan default risk decreases substantially with the infusion of capital from HOME and the HTC syndication. The Department has historically requested a parity lien with the existing USDA loans in such an instance so that the new HOME rehabilitation funds are not immediately subject to a default risk that might have more to do with USDA's regulations than the performance of the property which they generally control via the annual approval of budgets and basic rents. The request for a parity lien is an inducement for the department or any new lender by USDA to facilitate the preservation of a loan in their portfolio.

The approval of these issues by USDA is not a foregone conclusion however and therefore, receipt, review and acceptance of documentation that USDA-RD has approved the transfer and parity of the additional HOME debt by carryover are conditions of this report.

Feasibility:

The underwriting 30-year proforma utilizes a 2% annual growth factor for income and a 3% 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 1.15 and continued positive cash flow. Therefore, the development can be characterized as feasible.

ACQUISITION INFORMATION

APPRAISED VALUE

Provider:	Rafael C. Luebbert, MAI	Date:	1/6/2009
Number of Revisions:	none	Date of Last Applicant Revision:	n/a
Land Only: 3.86 acres	$95,200	As of:	1/6/2009
Existing Buildings: (as-is)	$1,094,800	As of:	1/6/2009
Total Development: (as-is)	$1,190,000	As of:	1/6/2009

Comments:

The appraiser provided an "as is and as restricted" market value of $824,000, with a contributory land value of $95,200 and a " Value of Financing Subsidy" value of $366,000. The Sum of Market Valve and Value of Financing Subsidy is the most important value for this particular case because it provides an estimate of the price that a purchaser will pay for the property when there is an interest credit subsidy provided by USDA/RD.

ASSESSED VALUE

Land Only: 3.86 acres	$50,477	Tax Year:	2008
Existing Buildings:	$425,450	Valuation by:	McLennan CAD
Total Assessed Value:	$475,927	Tax Rate:	2.248154

EVIDENCE of PROPERTY CONTROL

Type:	Option to Purchase Real Property	Acreage:	3.86
Contract Expiration:	12/30/2009	Valid Through Board Date?	[X] Yes [ ] No
Acquisition Cost:	$1,226,743	Other:	
Seller:	Country Place Retirement Ltd. & West Retirement Ltd.	Related to Development Team?	[ ] Yes [X] No

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: 1 Date of Last Applicant Revision: 5/28/2009

Acquisition Value:

The development costs of $27,881 per unit is assumed to be reasonable since the acquisition is an arm's length transaction. However, in addition to assuming the existing USDA loans that exist on these properties, the Applicant is also paying an additional $166K to the seller. $89K of that will be in the form of cash to the seller at closing and the remaining $77K will be in the form of a five year seller note on the property. Therefore, since the seller will retain interest in the property after closing on the transfer, the Underwriter characterizes this transaction to be an identity of interest. As a result, no developer fee on the acquisition of the buildings will be allowed.

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Typically with USDA transfers, equity is only allowed to be paid and go back into the property. However, discussions with USDA staff indicate that the proposed transfer as structured appears to be acceptable, as long as it is approved by the USDA National Office as any equity being requested must be submitted to the National Office for approval. Therefore, any funding recommendation will be conditioned up receipt, review and acceptance, by carryover, of approval from the USDA National Office of the equity requested in association with the proposed transfer.

Additionally, the Applicant attributed the entire $166K in equity that will be paid to the seller into the acquisition basis. However, this is not an accurate allocation of the funds because the Applicant is acquiring both land and buildings. Therefore, the Underwriter has appropriately allocated a portion of the equity to the land and buildings as reflected by the Applicant.

The Applicant's total acquisition cost includes $114,400 as the value for the land, $906,343 for the building basis, $40,000 in closing costs and $166,000 as equity to the seller (all included in acquisition basis). As a result, the Applicant has calculated a total $1,072,343 in acquisition basis for purposes of determining the acquisition credits. However, as stated previously including the entire $166K equity to be paid to the seller at closing in acquisition basis is not accurate. Therefore, the Underwriter has appropriately distributed the $166K between land and buildings based on the Applicant's prorata values for each. As a result, the Underwriter's calculated acquisition eligible basis is $1,053,739.

Sitework Cost:

The Applicant's proposed site work cost of $3,807 per unit is within the Department's guidelines. The Underwriter's sitework estimate was derived from the Capital Needs Assessment provided in the application. The underwriting analysis will reflect the CNA value of $3,807 per unit.

Direct Construction Cost:

The Applicant's direct construction cost is $19K or (1% lower) than the Underwriter's estimate derived from the third party Capital Needs Assessment. The underwriting analysis will reflect the CNA value.

Interim Interest Expense:

The Applicant's interim interest expense is overstated by $26,751, and accordingly, an adjustment of this amount has been made removing it from eligible basis and moving it into ineligible costs.

Contingency & Fees:

As a result of the identity of interest involved in this transaction, the Applicant's developer fees have been overstated by approximately $38,499. Accordingly this amount has been moved to ineligible costs.

Conclusion:

The Applicant's total development cost is within 5% of the Underwriter's estimate; however, since this is a rehabilitation development the Underwriter's cost schedule will be used to determine the development's need for permanent funds and to calculate eligible basis. A total eligible basis of $3,958,381 supports total annual tax credits of $297,456. 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

SOURCES & USES Number of Revisions: 1 Date of Last Applicant Revision: 6/18/2009

Source: Irwin Union Bank Type: **Interim Financing**

Principal: $2,700,000 Interest Rate: 6.25% ☐ Fixed Term: TBD months

Comments:

This interim construction loan is to be based on the WSJ prime rate plus 3 basis points floating. The lender has estimated the rate to be 6.25% for the purpose of underwriting.

Source:	USDA/RD			Type:	**Permanent Financing**		
Permanent:	$1,020,743	Interest Rate:	1.0%	X	Fixed	Term:	378 months

Comments:

The Applicant is proposing a same rates and terms transfer of two existing USDA Section 515 mortgages. This type of transfer is generally intended to preserve the below market loan.

The Applicant provided a promissory note, for Country Place Retirement (20 units) dated December 18, 1990, reflecting an original balance of $484,449 and a 50 year term. The remaining balance for the Country Place Retirement mortgage as of 6/11/2009 was estimated to be $460,945. A promissory note was also provided for West Retirement (24 units) dated March 16, 1989 reflecting an original balance of $590,172 and a 50 year term. The remaining balance for West Retirement as of 6/11/2009 was estimated to be $559,797.

Section 515 loans generally provide a subsidy of the market interest rate down to an effective rate of approximately 1%. The remaining term for Country Place Retirement is approximately 389 and the remaining term for West Retirement is approximately 368 months (378 months average). The total remaining estimated balances are reflected as a source of funds in the recommended financing structure.

Source:	Michel Associates		Type:	**Syndication**	
Proceeds:	$2,030,767	Syndication Rate:	70%	Anticipated HTC:	$ 290,139

Comments:

The committed credit price appears to be consistent with recent trends in pricing. However, the Underwriter has performed a sensitivity test and determined that the credit price can decline to $0.685. At this point the financial viability of the transaction may be jeopardized.

Amount:	$146,167	Type:	**Existing Reserves**

Comments:

The existing reserves balance will be transferred to the partnership and be retained for future capital needs. This has been reflected as both a source and a use of funds. While the Applicant has reflected the amount of reserves indicated above, the Applicant was only able to document a total of $111,287 via bank statements from First Victoria Bank. The documented amount has been reflected in the underwriter's analysis.

Amount:	$0	Type:	**Deferred Developer Fees**

CONCLUSIONS

Recommended Financing Structure:

As stated above, the proforma analysis results in a debt coverage ratio within the Department’s guideline of 1.15 to 1.35. However, the Underwriter has reduced the term of the HOME loan to match the remaining term on the earliest expiring USDA-515 loan, which results in a slight increase in the annual debt service and results in a healthy projected DCR of 1.15.

The Underwriter’s total development cost estimate less the permanent loan of $1,020,743, requested HOME loan of $1,127,371, and existing reserves of $111,287 indicates the need for $2,110,782 in gap funds. Based on the submitted syndication terms, a tax credit allocation of $301,571 annually would be required to fill this gap in financing. Of the three possible tax credit allocations, Applicant’s request ($290,139), the gap-driven amount ($301,571), and eligible basis-derived estimate ($297,456), the Applicant’s request of $290,139 is recommended resulting in proceeds of $2,030,767 based on a syndication rate of 70%.

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The Underwriter's recommended financing structure indicates the need for $80,015 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cashflow within 4 years of stabilized operation. If the HOME award is ultimately not awarded, the gap in financing would increase to an amount greater than the developer fee available for deferral and the transaction would not be financially viable unless another source of funds was received.

The HOME award amount is below the 221(d)(3) limit for this project. In addition, the HOME award is below the prorata share of development cost based on the number of HOME units to total units.

Return on Equity:

This is a USDA-RD transaction, in which the Applicant is restricted by the loan agreement to a return of no more than 8% per annum on the borrower's original investment, with any excess cash flow going to fund replacement reserves. USDA-RD will manage this return on equity restriction.

Underwriter:	______________________ *D.P. Burrell*	Date:	August 7, 2009
Reviewing Underwriter:	______________________ *Raquel Morales*	Date:	August 7, 2009
Director of Real Estate Analysis:	______________________ *Brent Stewart*	Date:	August 7, 2009

MULTIFAMILY COMPARATIVE ANALYSIS

Cherrywood Apartments, West, HTC 9%/HOME #09165

Type of Unit	Other	Number	Bedrooms	No. of Baths	Size in SF	HTC Rent Limit	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	WS&T
TC 30%		3	1	1	665	$283	$445	$1,335	$0.67	$71.00	$45.00
TC 50%	LH	3	1	1	665	$472	$445	$1,335	$0.67	$71.00	$45.00
TC 60%		10	1	1	665	$567	$445	$4,449	$0.67	$71.00	$45.00
TC 50%	LH	6	1	1	665	$472	$445	$2,670	$0.67	$67.00	$45.00
TC 50%		11	1	1	665	$472	$445	$4,894	$0.67	$67.00	$45.00
TC 60%		3	1	1	665	$567	$445	$1,335	$0.67	$67.00	$45.00
TC 60%		4	2	1	799	$681	$514	$2,055	$0.64	$68.00	$47.00
TC 60%	HH	4	2	1	799	$681	$514	$2,055	$0.64	$101.00	$47.00
TOTAL:		44		AVERAGE:	689		$457	$20,127	$0.66	$71.64	$45.36

INCOME Total Net Rentable Sq Ft: 30,332

			TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT			$241,529	$258,336	McLennan		8
Secondary Income	Per Unit Per Month:	$15.00	7,920	7,920	$15.00	Per Unit Per Month	
Other Support Income:			0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME			$249,449	$266,256			
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(18,709)	(13,308)	-5.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions			0				
EFFECTIVE GROSS INCOME			$230,740	$252,948			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.07%	$213	0.31	$9,385	$11,650	$0.38	$265	4.61%
Management		5.00%	262	0.38	11,537	11,900	0.39	270	4.70%
Payroll & Payroll Tax		10.22%	536	0.78	23,592	33,350	1.10	758	13.18%
Repairs & Maintenance		13.06%	685	0.99	30,132	28,000	0.92	636	11.07%
Utilities		3.52%	185	0.27	8,130	7,500	0.25	170	2.97%
Water, Sewer, & Trash		5.04%	264	0.38	11,624	14,500	0.48	330	5.73%
Property Insurance		4.44%	233	0.34	10,250	12,000	0.40	273	4.74%
Property Tax	2.25	8.57%	450	0.65	19,784	18,568	0.61	422	7.34%
Reserve for Replacements		9.53%	500	0.73	22,000	13,200	0.44	300	5.22%
TDHCA Compliance Fees		0.76%	40	0.06	1,760	1,760	0.06	40	0.70%
Other:		0.00%	0	0.00	0	0	0.00	0	0.00%
TOTAL EXPENSES		64.23%	$3,368	$4.89	$148,194	$152,428	$5.03	$3,464	60.26%
NET OPERATING INC		35.77%	$1,876	$2.72	$82,546	$100,520	$3.31	$2,285	39.74%
DEBT SERVICE									
USDA/RD Assumption Loan		11.86%	$622	$0.90	$27,355	$27,355	$0.90	$622	10.81%
TDHCA HOME Loan		19.19%	$1,006	$1.46	44,276	35,829	$1.18	$814	14.16%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		4.73%	$248	$0.36	$10,915	$37,336	$1.23	$849	14.76%
AGGREGATE DEBT COVERAGE RATIO					1.15	1.59			
RECOMMENDED DEBT COVERAGE RATIO					1.15				

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)		28.07%	$27,881	$40.44	$1,226,743	$1,226,743	$40.44	$27,881	28.21%
Off-Sites		0.00%	0	0.00	0		0.00	0	0.00%
Sitework		3.83%	3,807	5.52	167,500	167,500	5.52	3,807	3.85%
Direct Construction		33.07%	32,850	47.65	1,445,421	1,426,341	47.02	32,417	32.80%
Contingency	4.93%	1.82%	1,808	2.62	79,533	79,533	2.62	1,808	1.83%
Contractor's Fees	13.80%	5.09%	5,060	7.34	222,659	222,659	7.34	5,060	5.12%
Indirect Construction		5.77%	5,731	8.31	252,172	252,172	8.31	5,731	5.80%
Ineligible Costs		2.12%	2,110	3.06	92,828	92,828	3.06	2,110	2.13%
Developer's Fees	14.93%	11.87%	11,791	17.10	518,790	518,790	17.10	11,791	11.93%
Interim Financing		5.79%	5,756	8.35	253,250	253,250	8.35	5,756	5.82%
Reserves		2.55%	2,529	3.67	111,286	108,314	3.57	2,462	2.49%
TOTAL COST		100.00%	$99,322	$144.08	$4,370,182	$4,348,130	$143.35	$98,821	100.00%
Construction Cost Recap		*43.82%*	***$43,525***	***$63.14***	***$1,915,113***	***$1,896,033***	***$62.51***	***$43,092***	*43.61%*

SOURCES OF FUNDS

				TDHCA	APPLICANT	RECOMMENDED	
USDA/RD Assumption Loan	23.36%	$23,199	$33.65	$1,020,743	$1,020,743	$1,020,743	Developer Fee Available
TDHCA HOME Loan	25.80%	$25,622	$37.17	1,127,371	1,127,371	1,127,371	$480,291
Existing Reserves Accounts					146,167	111,286	
HTC Syndication Proceeds	46.70%	$46,379	$67.28	2,040,674	2,040,674	2,030,767	% of Dev. Fee Deferred
Deferred Developer Fee	0.00%	$0	$0.00	0		80,015	17%
Additional (Excess) Funds Req'd	4.15%	$4,123	$5.98	181,394	13,175	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$4,370,182	$4,348,130	$4,370,182	$174,028

Cherrywood Apartments, West, HTC 9%/HOME #09165

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook
Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$0.00	$0
Adjustments				
Exterior Wall Finish			$0.00	$0
Elderly			0.00	0
9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			0.00	0
Floor Cover			0.00	0
Breezeways/Balconies			0.00	0
Plumbing Fixtures			0.00	0
Rough-ins			0.00	0
Built-In Appliances		0	0.00	0
Exterior Stairs			0.00	0
Enclosed Corridors			0.00	0
Heating/Cooling				
Garages/Carports			0.00	0
Comm &/or Aux Bldgs			0.00	0
Other: fire sprinkler		0	0.00	0
SUBTOTAL			0.00	0
Current Cost Multiplier			0.00	0
Local Multiplier			0.00	0
TOTAL DIRECT CONSTRUCTION COSTS			$0.00	$0
Plans, specs, survy, bld prmts	0.00%		$0.00	$0
Interim Construction Interest	0.00%		0.00	0
Contractor's OH & Profit	0.00%		0.00	0
NET DIRECT CONSTRUCTION COSTS			$0.00	$0

PAYMENT COMPUTATION

Primary	$1,020,743	Amort	360
Int Rate	1.00%	DCR	3.02

Secondary	$1,127,371	Amort	480
Int Rate	1.25%	Subtotal DCR	1.15

Additional	$2,040,674	Amort	
Int Rate		Aggregate DCR	1.15

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$27,355
Secondary Debt Service	44,276
Additional Debt Service	0
NET CASH FLOW	$10,915

Primary	$1,020,743	Amort	378
Int Rate	1.00%	DCR	3.02

Secondary	$1,127,371	Amort	368
Int Rate	1.25%	Subtotal DCR	1.15

Additional	$2,040,674	Amort	0
Int Rate	0.00%	Aggregate DCR	1.15

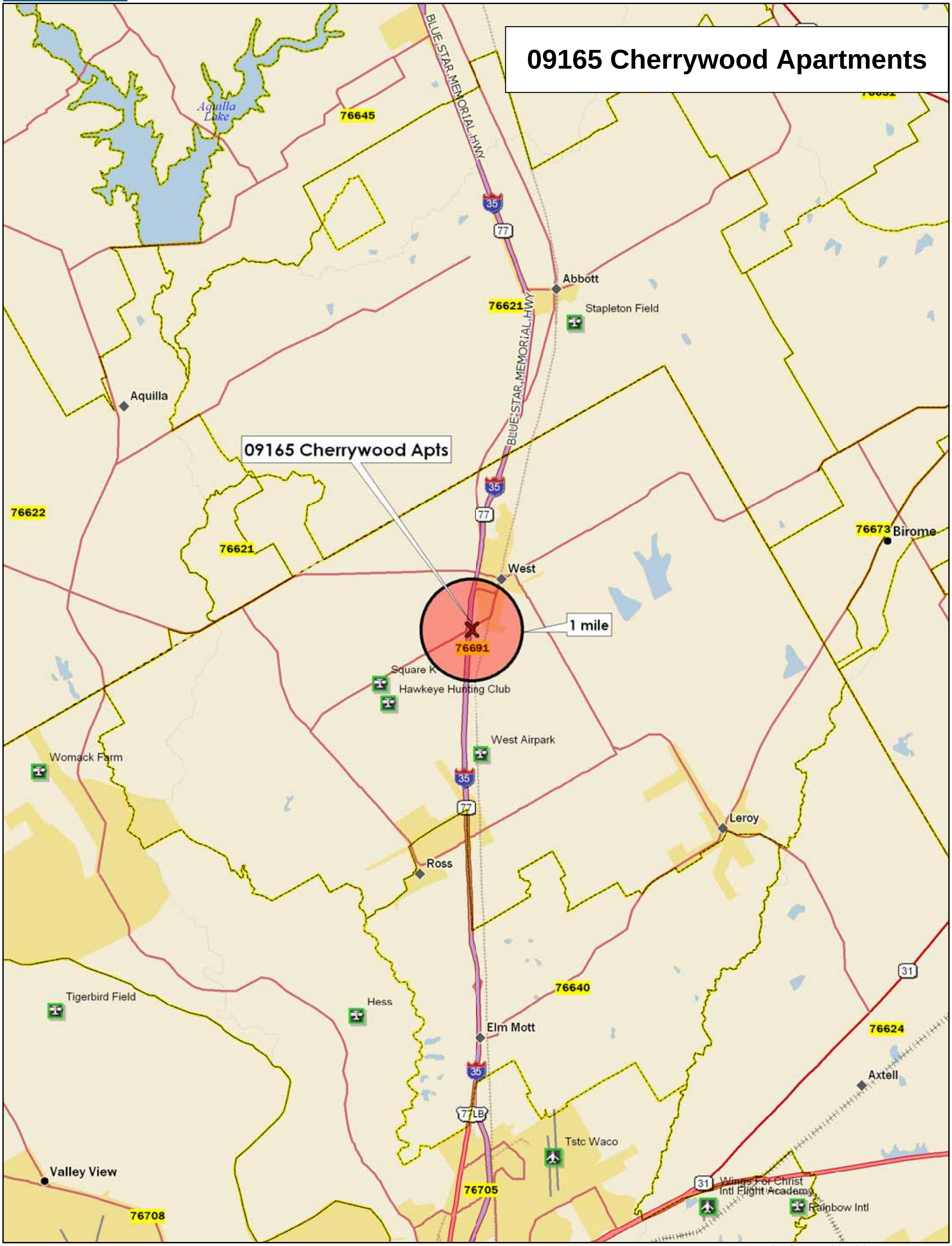
OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$241,529	$246,360	$251,287	$256,313	$261,439	$288,650	$318,692	$351,862	$428,918
Secondary Income	7,920	8,078	8,240	8,405	8,573	9,465	10,450	11,538	14,065
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	249,449	254,438	259,527	264,717	270,012	298,115	329,143	363,400	442,983
Vacancy & Collection Loss	(18,709)	(19,083)	(19,465)	(19,854)	(20,251)	(22,359)	(24,686)	(27,255)	(33,224)
Employee or Other Non-Rental Units or Conc	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$230,740	$235,355	$240,062	$244,864	$249,761	$275,756	$304,457	$336,145	$409,759
EXPENSES at 3.00%									
General & Administrative	$9,385	$9,666	$9,956	$10,255	$10,563	$12,245	$14,195	$16,456	$22,116
Management	11,537	11,768	12,003	12,243	12,488	13,788	15,223	16,807	20,488
Payroll & Payroll Tax	23,592	24,300	25,029	25,780	26,553	30,782	35,685	41,369	55,596
Repairs & Maintenance	30,132	31,036	31,967	32,926	33,914	39,316	45,578	52,837	71,008
Utilities	8,130	8,374	8,625	8,884	9,151	10,608	12,298	14,256	19,159
Water, Sewer & Trash	11,624	11,973	12,332	12,702	13,083	15,167	17,583	20,384	27,394
Insurance	10,250	10,557	10,874	11,200	11,536	13,373	15,503	17,973	24,154
Property Tax	19,784	20,377	20,989	21,618	22,267	25,813	29,925	34,691	46,622
Reserve for Replacements	22,000	22,660	23,340	24,040	24,761	28,705	33,277	38,577	51,844
Other	1,760	1,813	1,867	1,923	1,981	2,296	2,662	3,086	4,148
TOTAL EXPENSES	$148,194	$152,525	$156,983	$161,572	$166,297	$192,094	$221,929	$256,436	$342,530
NET OPERATING INCOME	$82,546	$82,831	$83,080	$83,291	$83,464	$83,662	$82,528	$79,709	$67,230
DEBT SERVICE									
First Lien Financing	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355	$27,355
Second Lien	44,276	44,276	44,276	44,276	44,276	44,276	44,276	44,276	44,276
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$10,915	$11,199	$11,448	$11,660	$11,832	$12,030	$10,896	$8,077	($4,402)
DEBT COVERAGE RATIO	1.15	1.16	1.16	1.16	1.17	1.17	1.15	1.11	0.94

HTC ALLOCATION ANALYSIS -Cherrywood Apartments, West, HTC 9%/HOME #09165

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost						
Purchase of land	$154,400	$173,004				
Purchase of buildings	$1,072,343	$1,053,739	$1,072,343	$1,053,739		
Off-Site Improvements						
Sitework	$167,500	$167,500			$167,500	$167,500
Construction Hard Costs	$1,426,341	$1,445,421			$1,426,341	$1,445,421
Contractor Fees	$222,659	$222,659			$222,659	$222,659
Contingencies	$79,533	$79,533			$79,533	$79,533
Eligible Indirect Fees	$252,172	$252,172			$252,172	$252,172
Eligible Financing Fees	$253,250	$253,250			$253,250	$253,250
All Ineligible Costs	$92,828	$92,828				
Developer Fees					$480,291	$484,107
Developer Fees	$518,790	$518,790				
Development Reserves	$108,314	$111,286				
TOTAL DEVELOPMENT COSTS	$4,348,130	$4,370,182	$1,072,343	$1,053,739	$2,881,746	$2,904,642

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		$1,072,343	$1,053,739	$2,881,746	$2,904,642
High Cost Area Adjustment				100%	100%
TOTAL ADJUSTED BASIS		$1,072,343	$1,053,739	$2,881,746	$2,904,642
Applicable Fraction		100%	100%	100%	100%
TOTAL QUALIFIED BASIS		$1,072,343	$1,053,739	$2,881,746	$2,904,642
Applicable Percentage		3.42%	3.42%	9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS		$36,674	$36,038	$259,357	$261,418
Syndication Proceeds	**0.6999**	**$256,693**	**$252,239**	**$1,815,316**	**$1,829,739**
Total Tax Credits (Eligible Basis Method)				**$296,031**	**$297,456**
Syndication Proceeds				**$2,072,009**	**$2,081,978**
Requested Tax Credits				**$290,139**	
Syndication Proceeds				**$2,030,767**	
Gap of Syndication Proceeds Needed				**$2,088,730**	**$2,110,782**
Total Tax Credits (Gap Method)				**$298,420**	**$301,571**



TN
MN (4.4°E)

Scale 1 : 162,500
1" = 2.56 mi
Data Zoom 10-3

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

Real Estate Analysis Division
Underwriting Report

REPORT DATE: 06/11/10 PROGRAM: HOME FILE NUMBER: **10502**

DEVELOPMENT

Luling Senior Housing, Phase II

Location: 1330 E. Milam Street Region: 7

City: Luling County: Caldwell Zip: 78648 ☐ QCT ☐ DDA

Key Attributes: Senior, Rural, New Construction, and Townhomes

ALLOCATION

	REQUEST			RECOMMENDATION			
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**	**Lien Position**
HOME Activity Funds (Repayable)	$1,320,000	0.00%	40/40	**$1,320,000**	**0.00%**	**35/35**	**1st**
HOME Activity Funds (Forgivable)	$1,178,529	Deferred Forgivable		**$1,178,529**	**Deferred Forgivable**		**2nd**
HOME CHDO Operating Expenses	$50,000			**$50,000**			

CONDITIONS

1. If the site plan changes and any of the buildings or drives are ultimately built within the flood plain, receipt, review, and acceptance, by Cost Certification, of an architectural engineer's certification that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain, or a Letter of Map Amendment ("LOMA") or Letter of Map Revision ("LOMR-F") indicating that the development is no longer within the 100 year floodplain.

2. Should the terms or amounts of the proposed debt or equity change, the transaction should be reevaluated and an adjustment to the credit amount may be warranted.

SALIENT ISSUES

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	LH	3
50% of AMI	LH	17
60% of AMI	LH	7
80% of AMI	HH	2

STRENGTHS/MITIGATING FACTORS

- The existing 22 units of Luling Phase I are continually at 100% occupancy with a waiting list.
- The inclusive capture rate is 9%.
- The existing 22 units of Luling Phase I leased up within 30 days.

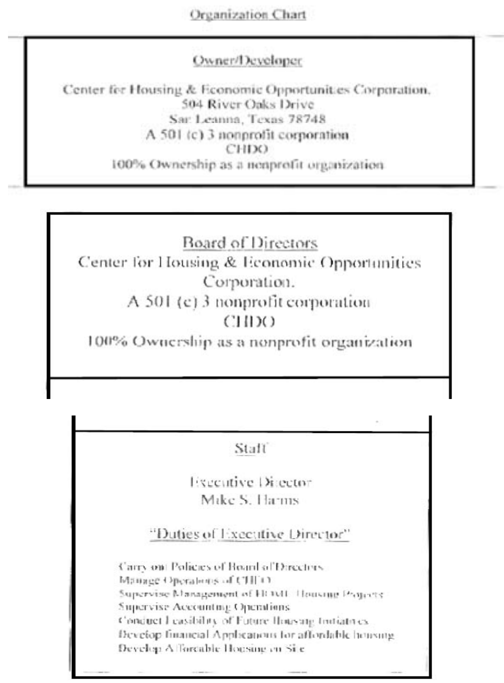
WEAKNESSES/RISKS

PREVIOUS UNDERWRITING REPORTS

None

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact:	Mike Harms	Phone:	(512) 292-3919	Fax:	(512) 292-0134
Email:	MikeSHarms@aol.com				

IDENTITIES of INTEREST

- The Applicant, Developer, property manager, and supportive services provider are related entities. These are common relationships for HOME-funded developments.

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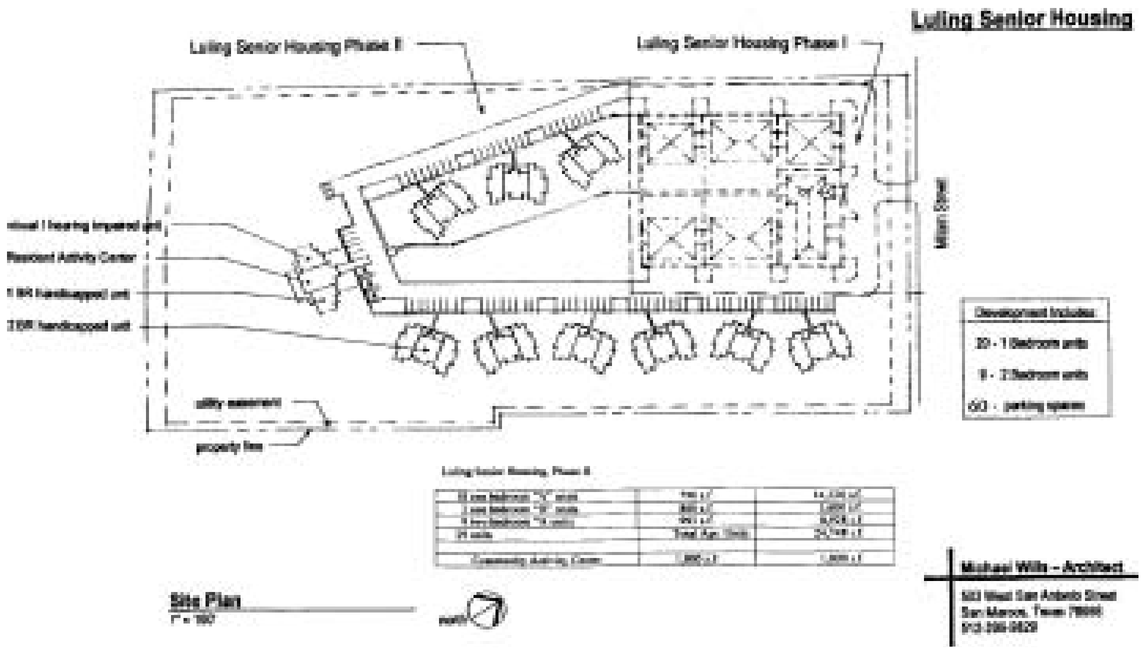
PROPOSED SITE

SITE PLAN



BUILDING CONFIGURATION

Building Type	A	D								Total Buildings
Floors/Stories	1	1								
Number	9	1								**10**

BR/BA		SF	Units										Total Units	Total SF
1	1	790	2										18	14,220
1	1	800		2									2	1,600
2	1	992	1										9	8,928
Units per Building			3	2									**29**	**24,748**

SITE ISSUES

Total Size:	8.115 acres	Scattered site?	☐ Yes	☑ No	
Flood Zone:	A & X	Within 100-yr floodplain?	☑ Yes	☑ No	
Zoning:	R-2	Needs to be re-zoned?	☐ Yes	☑ No	☐ N/A

Comments:

The property's far southwesterly tip is within Flood Zone A, but it does not encroach on any proposed buildings, interior streets, or parking areas of the proposed site which all lie in Flood Zone X. If future development should in the future be built on this portion of the property then a civil engineer's certification that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain, or a Letter of Map Amendment ("LOMA") or Letter of Map Revision ("LOMR-F") indicating that the development is no longer within the 100 year floodplain will be required.

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TDHCA SITE INSPECTION

Inspector: TDRA Staff | Date: 4/28/2010

Overall Assessment:

☐ Excellent ☑ Acceptable ☐ Questionable ☐ Poor ☐ Unacceptable

Surrounding Uses:

North: Residential Housing | East: Vacant Land

South: Vacant Land | West: Existing Luling Senior Housing Phase I

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Professional Service Industries, Inc. | Date: 2/24/2009

Recognized Environmental Concerns (RECs) and Other Concerns:

- The Phase I ESA has not disclosed evidence indicating the site to have recognized environmental conditions which would preclude the further development of the property. (p. 1)

MARKET ANALYSIS

Provider: Novogradac & Company LLP | Date: 3/31/2009

Contact: Brad Weinberg | Phone: (512) 340-0420

Number of Revisions: none | Date of Last Applicant Revision: N / A

Primary Market Area (PMA): 1248 sq. miles 20 mile equivalent radius

The Subject's Primary Market Area (PMA) is comprised by the following census tracts: 9605, 9606, 9607, 9902, 9901, 2105.01, 2109.01, 2105.04, 2109.02, 2108.01, 2102, 2103, 2104, and 2101.

ELIGIBLE HOUSEHOLDS BY INCOME

Caldwell County Income Limits

HH size	30% of AMI min	30% of AMI max	40% of AMI min	40% of AMI max	50% of AMI min	50% of AMI max	60% -80% of AMI min	60% -80% of AMI max
1	---	---	---	---	$9,888	$25,650	$21,888	$41,050
2	$16,464	$17,600	---	---	$9,888	$29,300	$21,888	$46,900
3	---	---	---	---	$19,800	$33,000	$21,888	$52,800
4	---	---	---	---	---	---	---	---
5	---	---	---	---	---	---	---	---
6	---	---	---	---	---	---	---	---

AFFORDABLE HOUSING INVENTORY in PRIMARY MARKET AREA

File #	Development	Type	Target Population	Comp Units	Total Units
Proposed, Under Construction, and Unstabilized Comparable Developments					
	none				
Other Affordable Developments in PMA since 2006					
07271	Hyatt Manor Apts	rehab	family	n/a	65
Stabilized Affordable Developments in PMA (pre-2006)					
	Total Properties (pre-2006)	7	Total Units		390

Proposed, Under Construction, and Unstabilized Comparable Supply:

"There are no unstabilized senior Tax Credit units in the Subject's PMA. There are no proposed LIHTC or HOME senior developments in the Subject's PMA." (p.54 & 56)

OVERALL DEMAND ANALYSIS		
	Market Analyst	**Underwriter**
Total Households in the Primary Market Area	25,655	25,655
Target Households in the Primary Market Area	N / A	6,157
Demand from Turnover	81	322
Demand from Growth	11	19
Total Demand	**92**	**341**
Subject Affordable Units	29	29
Unstabilized Comparable Units	0	0
RELEVANT SUPPLY	**29**	**29**
Relevant Supply ÷ Total Demand = INCLUSIVE CAPTURE RATE	**32%**	**9%**

Demand Analysis:

Due to the fact that the Market Study was prepared by Novogradac & Company on March 31, 2009 and the gross demand calculations were determined by turnover and growth versus the number of unstabilized LIHTC units including the subject property; therefore, equaling a capture rate of 32% which is significantly below the threshold of 75% for new senior properties in rural areas. The inclusive capture rate was determined using the 2009 REA rules which would allow the maximum inclusive capture rate to be a maximum of 75%.

The market analysis demand for turnover seems to be understated therefore the total demand number was under stated also. The underwriter determined the demand from turnover to be 322 and the demand from growth 19 causing the total demand to be 341 thus causing an inclusive capture rate of 9%.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE								
	Market Analyst				Underwriter			
Unit Type	Demand	Subject Units	Comp Units	Unit Capture Rate	Demand	Subject Units	Comp Units	Unit Capture Rate
1 BR / LH / 30%	76	3	0	4%	20	3	0	15%
1 BR / LH / 50%	181	17	0	9%	1,389	17	0	1%
2 BR / LH / 60%	65	7	0	11%	906	7	0	1%
2 BR / HH / 80%	88	2	0	2%	826	2	0	0.2%

Primary Market Vacancy Rates:

"Vacancy rates reported at the comparable properties ranged from zero to 24.0 percent, with an average vacancy rate of 9.2 percent. The LIHTC properties average vacancy rate is 5.8 percent, which is lower than the comparable market properties average of 8.7 percent" (p.45)

Absorption Projections:

"The only comparable property able to provide absorption information is Milam Creek Senior Village Phase I. According to the owner, there was such a large interest in the property, a “lottery” was held to accommodate the interested households when the property began leasing. It took Milam Creek Senior Apartments 30 days to lease all 22 units. Based on the current occupancy at the existing senior affordable developments and the absorption rate at Phase I, we anticipate a similar absorption period for the Subject. Therefore, we estimate the Subject will be 95 percent leased within one month." (p.44)

Market Impact:

"The current housing crisis has prevented many elderly Americans from moving into retirement communities or assisted-living centers. Many senior homeowners are unable to sell their homes and need to postpone moving into independent senior housing. As a result, an occurring trend is the decrease in occupancy rates and waiting lists at retirement and assisted living facilities across the country. However, the Subject is located within an area that has a sufficient percentage of senior renters and the inability of seniors selling homes will minimally affect seniors in the PMA" (p.43-44)

Comments:

The market study provides sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: Two Date of Last Applicant Revision: 6/11/2010

The Applicant's projected rents collected per unit are equal to the average rents on the existing 22 units in Phase I by bedroom type and median income, that will be in effect following a rent increase anticipated to occur upon the renewal of current leases. The projected rents are significantly below program maximum rents for most unit types; however, the Underwriter used these rents based on the fact that the Phase I is operating with rents at approximately this level. Tenants will be required to pay all electric utility costs.

The Applicant has indicated that there will be no secondary income due to the fact that they provide a laundry room with a washer and dryer in the community room at no charge to the residents. In addition they have no vending machines or other sources of secondary income. As a result, the Underwriter has not included any secondary income.

Expense: Number of Revisions: Two Date of Last Applicant Revision: 5/10/2010

The Applicant's total annual operating expense projection at $2,941 per unit is within 9% of the Underwriter's estimate of $2,690, derived from the actual existing expenses of Phase I prorated to the proposed 29 units in Phase II and adjusted expenses based on the Applicant's information of combining Phase I consisting of 22 units and the proposed property Phase II with 29 units. The Applicant's budget shows several line item estimates that deviate significantly when compared to these prorated expenses and adjusted expenses based on information provided by the Applicant, specifically: general & administrative (86% higher), repairs & maintenance (83% higher), utilities (54% higher), and property tax (24% lower). The Applicant provided information that since the proposed Phase II would be new construction, that in there previous experience the first year of operation there are greater expenses in general & administrative and in repairs & maintenance than the prorated actual expenses derived from Phase I. Based on the information provided the Underwriter retained the prorated expenses in these two categories due to the fact that the development's expenses are an on going issue and not just a first year issue.

Conclusion:

The Applicant's estimate of total expenses is not within 5% of the Underwriter's estimates; therefore, the Underwriter's year one pro forma is used to determine the development's debt capacity and debt coverage ratio (DCR). Based on the proposed permanent financing structure the calculated DCR of 1.32 falls within the Department's guidelines. The DCR under the recommended financing structure, 1.17, also falls within Department guidelines.

Feasibility:

The underwriting 30-year proforma utilizes a 2% annual growth factor for income and a 3% 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 1.15 and continued positive cash flow. Therefore, the development can be characterized as feasible.

ACQUISITION INFORMATION

APPRAISED VALUE

Provider: Menn & Associates — Date: 4/21/2010

Number of Revisions: None — Date of Last Applicant Revision: N/A

Land Only:	8.115 acres	$81,150	As of:	4/13/2010
Existing Buildings: (as-is)		$0	As of:	4/13/2010
Total Development: (as-is)		$81,150	As of:	4/13/2010

ASSESSED VALUE

Land Only:	8.115 acres	$63,630	Tax Year:	2009
Existing Buildings:		$0	Valuation by:	Caldwell CAD
Total Assessed Value:		$63,630	Tax Rate:	2.1244

EVIDENCE of PROPERTY CONTROL

Type: Option to Transfer — Acreage: 8.115

Contract Expiration: N/A — Valid Through Board Date? ☑ Yes ☐ No

Acquisition Cost: None — Other:

Seller: Luling Economic Development Corp — Related to Development Team? ☐ Yes ☑ No

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: None — Date of Last Applicant Revision: N/A

Acquisition Value:

The site is being donated by the Luling Economic Development Corporation. An acquisition cost of $81,150 is reflected in the Applicant's and Underwriter's cost schedule and is offset by a source of $81,150 identified as the appraised value of the donated land.

Sitework Cost:

The Applicant’s claimed sitework costs of $8,993 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 $102K or 7% higher than the Underwriter’s Marshall & Swift Residential Cost Handbook-derived estimate.

Conclusion:

The Applicant’s total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant’s development cost schedule will be used to determine the development’s need for permanent funds.

PROPOSED FINANCING STRUCTURE

SOURCES & USES Number of Revisions: One — Date of Last Applicant Revision: 3/8/2010

Source: TDHCA HOME (Repayable) — Type: **Interim to Permanent Financing**

Principal: $1,320,000 — Interest Rate: 0.0% — ☑ Fixed — Term: 480 months

Source: TDHCA HOME (Forgivable) — Type: **Interim to Permanent Financing**

Principal: $1,178,529 — Interest Rate: 0.0% — ☐ Fixed — Amort: 0 months

Comments:

Loan will be structured as forgivable according to the requirements of the Rental Housing Development Program NOFA, with a term equal to the affordability period.

Source: Luling Economic Development Corp. Type: **Interim to Permanent Financing**

Principal: $58,005 Interest Rate: 4.0% ☑ Fixed Amort: 240 months

Source: Luling Economic Development Corp. Type: **Value of Donated Land-8.115 acres**

Principal: $81,150 Conditions: None

Source: City of Luling Type: **In Kind Contribution**

Principal: $78,995 Conditions:

Comments:

The City of Luling is going to waive costs of the building permits, inspections, water/wastewater tap fees, and water/wastewater line extensions and electrical service.

CONCLUSIONS

Recommended Financing Structure:

As stated previously the Underwriter's pro forma is used to determine the development's debt service capacity and need for funds. The Underwriter recommends a total HOME award of $2,498,529 with $1,320,000 structured as a repayable loan at 0.0% interest and 35 year term and amortization, and $1,178,529 structured as a forgivable loan. Also a permanent loan provided by Luling Economic Development Corporation for $58,005 repayable at 4% interest and a 20-year amortization. This recommended financing structure yields a DCR of 1.17 which adheres to the Department's guidelines.

The Underwriter's recommended financing structure indicates the need for $160,145 in additional funds. These additional funds are being provided by the land being donated at a value of $81,150 and the City of Luling donated fees totaling $78,995.

The HOME award amount is below the 221(d)(3) limit for this project.

Underwriter:	*Carl Hoover*	Date:	June 11, 2010
Manager of Real Estate Analysis:	*Audrey Martin*	Date:	June 11, 2010
Director of Real Estate Analysis:	*Brent Stewart*	Date:	June 11, 2010

UNIT MIX/RENT SCHEDULE

Luling Senior Housing, Phase II, Luling, HOME #10502

LOCATION DATA	
CITY:	Luling
COUNTY:	Caldwell
SUB-MARKET:	
PROGRAM REGION:	7
RURAL RENT USED:	
IREM REGION:	

UNIT DISTRIBUTION		
# Beds	# Units	% Total
Eff		
1	20	69.0%
2	9	31.0%
3		
4		
TOTAL	29	100.0%

Other Unit Desgination						
PROGRAMS:		HOME				
Rent Limit	Eff	1	2	3	4	Total Units
LH	$641	$686	$825	$953	$1,062	27
HH	$658	$749	$912	$1,205	$1,324	2
MISC	#N/A	#N/A	#N/A	#N/A	#N/A	

OTHER ASSUMPTIONS		
DEVELOPMENT ACTIVITY:	New	
REVENUE GROWTH:	2.00%	
EXPENSE GROWTH:	3.00%	
HIGH COST ADJUSTMENT:	N/A	
APPLICABLE FRACTION:	100.00%	
APP % - ACQUISITION:	N/A	
APP % - CONSTRUCTION:	N/A	

UNIT MIX / MONTHLY RENT SCHEDULE

UNIT DESCRIPTION						PROGRAM RENT LIMITS			APPLICANT RENTS				TDHCA RENTS				MARKET RENTS	
Type	Other Designation	# Units	# Beds	# Baths	NRA	Gross Rent	Tenant Paid Utilities (Verified)	Max Net Program Rent	Delta to Max Program	Rent per NRA	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent per NRA	Delta to Max Program	Market Rent	TDHCA Savings to Market
30% AMI	LH	3	1	1	790	$412	$84	$328	$22	$0.44	$350	**$1,050**	**$984**	$328	$0.42	$0	$635	$307
50% AMI	LH	15	1	1	790	$686	$84	$602	($222)	$0.48	$380	**$5,700**	**$5,700**	$380	$0.48	($222)	$635	$255
50% AMI	LH	2	1	1	800	$686	$84	$602	($222)	$0.48	$380	**$760**	**$760**	$380	$0.48	($222)	$635	$255
50% AMI	LH	7	2	1	992	$825	$111	$714	($264)	$0.45	$450	**$3,150**	**$3,150**	$450	$0.45	($264)	$750	$300
80% AMI	HH	2	2	1	992	$912	$111	$801	($326)	$0.48	$475	**$950**	**$950**	$475	$0.48	($326)	$750	$275
TOTAL:	**TOTAL:**	**29**			**24,748**							**$11,610**	**$11,544**					
AVG:	**AVG:**				**853**				**($214)**	**$0.47**	**$400**			**$398**	**$0.47**	**($216)**	**$671**	**($273)**
ANNUAL:	**ANNUAL:**											**$139,320**	**$138,528**					

PROFORMA ANALYSIS & DEVELOPMENT COSTS

Luling Senior Housing, Phase II, Luling, HOME #10502

INCOME	Total Net Rentable Sq Ft:		TDHCA	APPLICANT		
POTENTIAL GROSS RENT			$138,528	$139,320		
Secondary Income	Per Unit Per Month:	$5.00	0	0	$0.00	Per Unit Per Month
Other Support Income:					$0.00	Per Unit Per Month
Other Support Income:					$0.00	Per Unit Per Month
POTENTIAL GROSS INCOME			$138,528	$139,320		
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(10,390)	(6,972)	-5.00%	of Potential Gross Income
Employee or Other Non-Rental Units or Concessions			0			
EFFECTIVE GROSS INCOME			$128,138	$132,348		

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.74%	$209	0.25	$6,072	$11,300	$0.46	$390	8.54%
Management		5.00%	$221	0.26	6,407	6,550	0.26	226	4.95%
Payroll & Payroll Tax		13.27%	$586	0.69	17,000	17,000	0.69	586	12.84%
Repairs & Maintenance		5.36%	$237	0.28	6,870	12,600	0.51	434	9.52%
Utilities		1.78%	$79	0.09	2,277	3,500	0.14	121	2.64%
Water, Sewer, & Trash		11.23%	$496	0.58	14,393	10,800	0.44	372	8.16%
Property Insurance		7.14%	$315	0.37	9,143	9,000	0.36	310	6.80%
Property Tax	2.1244	4.20%	$186	0.22	5,386	4,086	0.17	141	3.09%
Reserve for Replacements		5.66%	$250	0.29	7,250	7,250	0.29	250	5.48%
TDHCA Compliance Fees		0.00%	$0	0.00	0	0	0.00	0	0.00%
Other: Supp. Serv. & Cable		2.50%	$110	0.13	3,200	3,200	0.13	110	2.42%
TOTAL EXPENSES		60.87%	$2,690	$3.15	$77,998	$85,286	$3.45	$2,941	64.44%
NET OPERATING INC		39.13%	$1,729	$2.03	$50,141	$47,062	$1.90	$1,623	35.56%

DEBT SERVICE	TDHCA	APPLICANT	
TDHCA HOME (Repayable)	$33,000	$33,000	
TDHCA HOME (Forgivable)	$0	$0	
Luling Economic Development	$4,218	$4,218	($0.14)
Appraised Value of Donated Land	0		
City of Luling Donated Fees	0		
TOTAL DEBT SERVICE	37,218	37,218	
NET CASH FLOW	$12,923	$9,844	
AGGREGATE DEBT COVERAGE RATIO	1.35	1.26	
RECOMMENDED DEBT COVERAGE RATIO	1.20		

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)		3.10%	$2,798	$3.28	$81,150	$81,150	$3.28	$2,798	2.99%
Off-Sites		0.00%	$0	$0.00	0	0	0.00	0	0.00%
Sitework		9.97%	$8,993	$10.54	260,800	260,800	10.54	8,993	9.60%
Direct Construction		55.14%	$49,721	$58.26	1,441,913	1,543,902	62.38	53,238	56.83%
Contingency	3.52%	2.29%	$2,069	$2.42	60,000	60,000	2.42	2,069	2.21%
Contractor's Fees	14.00%	9.12%	$8,220	$9.63	238,380	244,327	9.87	8,425	8.99%
Indirect Construction		6.77%	$6,103	$7.15	177,000	177,000	7.15	6,103	6.52%
Ineligible Costs		0.00%	$0	$0.00	0	0	0.00	0	0.00%
Developer's Fees	14.56%	12.24%	$11,034	$12.93	320,000	320,000	12.93	11,034	11.78%
Interim Financing		0.75%	$672	$0.79	19,500	19,500	0.79	672	0.72%
Reserves		0.63%	$565	$0.66	16,393	10,000	0.40	345	0.37%
TOTAL COST		100.00%	$90,177.11	$105.67	$2,615,136	$2,716,679	$109.77	$93,679	100.00%
Construction Cost Recap		*76.52%*	***$69,003***	***$80.86***	***$2,001,093***	***$2,109,029***	***$85.22***	***$72,725***	*77.63%*

SOURCES OF FUNDS						RECOMMENDED	
TDHCA HOME (Repayable)	50.48%	$45,517	$53.34	$1,320,000	$1,320,000	$1,320,000	Developer Fee Available
TDHCA HOME (Forgivable)	45.07%	$40,639	$47.62	1,178,529	1,178,529	1,178,529	$0
Luling Economic Development	2.22%	$2,000	$2.34	58,005	58,005	58,005	
Appraised Value of Donated Land	3.10%	$2,798	$3.28	81,150	81,150	81,150	
City of Luling Donated Fees	3.02%	$2,724	$3.19	78,995	78,995	78,995	
HTC Syndication Proceeds	0.00%	$0	$0.00	0		0	% of Dev. Fee Deferred
Deferred Developer Fees	0.00%	$0	$0.00	0		0	#DIV/0!
Additional (Excess) Funds Req'd	-3.88%	($3,501)	($4.10)	(101,543)	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$2,615,136	$2,716,679	$2,716,679	$144,661

Luling Senior Housing, Phase II, Luling, HOME #10502

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Townhouse Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$67.50	$1,670,565
Adjustments				
Exterior Wall Finish	2.00%		$1.35	$33,411
Elderly	5.00%		3.38	83,528
9-Ft. Ceilings	0.00%		0.00	0
Roofing			0.00	0
Subfloor			(1.95)	(48,259)
Floor Cover			3.20	79,194
Breezeways	$23.05	0	0.00	0
Balconies	$20.78	4,580	3.85	95,172
Plumbing Fixtures	$1,015	(58)	(2.38)	(58,870)
Rough-ins	$445	0	0.00	0
Built-In Appliances	$2,525	29	2.96	73,225
Exterior Stairs	$1,900	0	0.00	0
Enclosed Corridors	$57.58		0.00	0
Other:			0.00	0
Carports	$9.70	0	0.00	0
Heating/Cooling			1.85	45,784
Garages	$30.00	0	0.00	0
Comm &/or Aux Bldgs	$81.95	1,400	4.64	114,730
Other: fire sprinkler		24,748	0.00	0
SUBTOTAL			84.39	2,088,481
Current Cost Multiplier	0.99		(0.84)	(20,885)
Local Multiplier	0.86		(11.81)	(292,387)
TOTAL DIRECT CONSTRUCTION COSTS			$71.73	$1,775,209
Plans, specs, survy, bld prmt	3.90%		($2.80)	($69,233)
Interim Construction Interest	3.38%		(2.42)	(59,913)
Contractor's OH & Profit	11.50%		(8.25)	(204,149)
NET DIRECT CONSTRUCTION COSTS			$58.26	$1,441,913

PROPOSED PAYMENT COMPUTATION

TDHCA HOME (Repay	$1,320,000	Amort	480
Int Rate	0.00%	DCR	1.52
TDHCA HOME (Forgiv	$1,178,529	Amort	0
Int Rate	0.00%	Subtotal DCR	1.52
Luling Economic Dev	$58,005	Amort	240
Int Rate	4.00%	Aggregate DCR	1.35
Appraised Value of D	$0	Amort	
Int Rate		Subtotal DCR	1.35
City of Luling Donate	$0	Amort	
Int Rate		Aggregate DCR	1.35

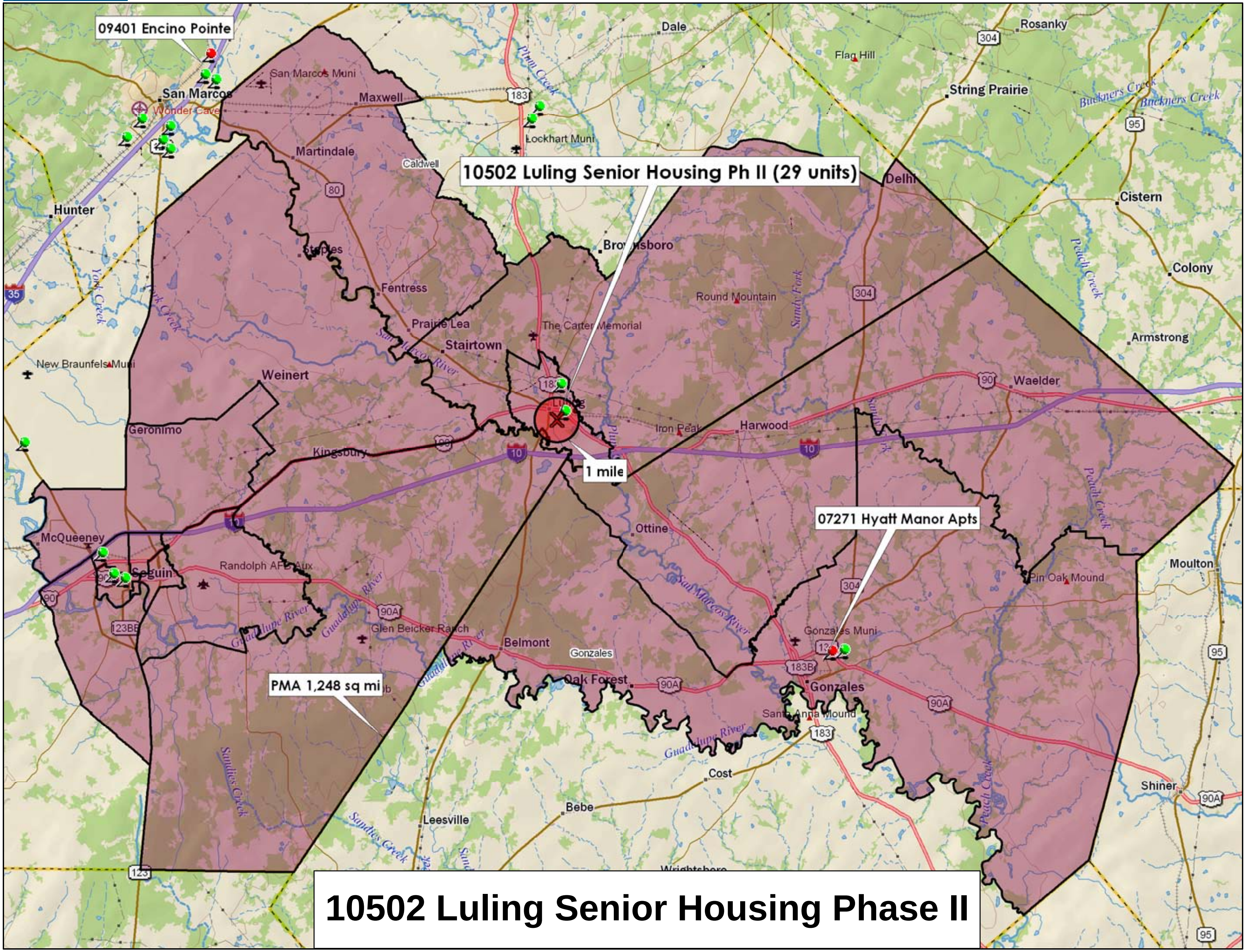
RECOMMENDED FINANCING STRUCTURE:

TDHCA HOME (Repayable)	$37,714
TDHCA HOME (Forgivable)	0
Luling Economic Development	4,218
Appraised Value of Donated Land	0
City of Luling Donated Fees	0
TOTAL DEBT SERVICE	**$41,932**

TDHCA HOME (Repay	$1,320,000	Amort	420
Int Rate	0.00%	DCR	1.33
TDHCA HOME (Forgiv	$1,178,529	Amort	0
Int Rate	0.00%	Subtotal DCR	1.33
Luling Economic Dev	$58,005	Amort	240
Int Rate	4.00%	Aggregate DCR	1.20
Appraised Value of D	$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.20
City of Luling Donate	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.20

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$138,528	$141,299	$144,125	$147,007	$149,947	$165,554	$182,785	$201,809	$246,004
Secondary Income	0	0	0	0	0	0	0	0	0
Other Support Income:	0	0	0	0	0	0	0	0	0
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	138,528	141,299	144,125	147,007	149,947	165,554	182,785	201,809	246,004
Vacancy & Collection Loss	(10,390)	(10,597)	(10,809)	(11,026)	(11,246)	(12,417)	(13,709)	(15,136)	(18,450)
Employee or Other Non-Rental U	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$128,138	$130,701	$133,315	$135,981	$138,701	$153,137	$169,076	$186,673	$227,554
EXPENSES at 3.00%									
General & Administrative	$6,072	$6,254	$6,441	$6,635	$6,834	$7,922	$9,184	$10,646	$14,308
Management	6,407	6,535	6,666	6,799	6,935	7,657	8,454	9,334	11,378
Payroll & Payroll Tax	17,000	17,510	18,035	18,576	19,134	22,181	25,714	29,810	40,062
Repairs & Maintenance	6,870	7,076	7,289	7,507	7,733	8,964	10,392	12,047	16,190
Utilities	2,277	2,345	2,415	2,488	2,562	2,970	3,443	3,992	5,365
Water, Sewer & Trash	14,393	14,825	15,270	15,728	16,200	18,780	21,771	25,239	33,919
Insurance	9,143	9,417	9,700	9,991	10,290	11,929	13,829	16,032	21,546
Property Tax	5,386	5,548	5,714	5,886	6,062	7,028	8,147	9,445	12,693
Reserve for Replacements	7,250	7,468	7,692	7,922	8,160	9,460	10,966	12,713	17,085
TDHCA Compliance Fee	0	0	0	0	0	0	0	0	0
Other	3,200	3,296	3,395	3,497	3,602	4,175	4,840	5,611	7,541
TOTAL EXPENSES	$77,998	$80,273	$82,616	$85,028	$87,511	$101,066	$116,741	$134,868	$180,086
NET OPERATING INCOME	$50,141	$50,428	$50,699	$50,953	$51,190	$52,071	$52,335	$51,805	$47,468
DEBT SERVICE									
First Lien Financing	$37,714	$37,714	$37,714	$37,714	$37,714	$37,714	$37,714	$37,714	$37,714
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	4,218	4,218	4,218	4,218	4,218	4,218	4,218	4,218	4,218
Other Financing	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$8,209	$8,495	$8,767	$9,021	$9,258	$10,139	$10,403	$9,873	$5,536
DEBT COVERAGE RATIO	1.20	1.20	1.21	1.22	1.22	1.24	1.25	1.24	1.13



10502 Luling Senior Housing Phase II

Data use subject to license.

TN
MN (4.6°E)

Scale 1 : 375,000
1" = 5.92 mi
Data Zoom 9-1

Real Estate Analysis Division
Underwriting Report

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

REPORT DATE: 06/17/10 PROGRAM: HOME FILE NUMBER: **10503**

DEVELOPMENT

Angelina Development

Location: Lots 6, 10, 11, 12, 13, 19, & 23 within the Myrna Addition No. 4 in the City of Lufkin
Lots 13, 15, 16, 18 within the Copper Creek Subdivision in the City of Hudson Region: 5

City: Lufkin & Hudson County: Angelina Zip: 75902 ☐ QCT ☐ DDA

Key Attributes: General, Non-profit/CHDO, Rural, New Construction, Single Family

ALLOCATION

	REQUEST			RECOMMENDATION		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
HOME Activity Funds	$962,899	0.00%	40/40	**$962,899**	**0.00%**	**40/40**
HOME CHDO Operating Expenses	$50,000			**$50,000**		

CONDITIONS

1. Receipt, review, and acceptance by closing of satisfactory documentation reporting release of all liens currently held on the individual lots.
2. Receipt, review, and acceptance by closing of evidence from the appraisal district of eligibility for a property tax exemption.
3. Receipt, review, and acceptance, by closing of evidence from the Deep East Texas Council of Governments (DETCOG) confirming that DETCOG has jurisdiction over the proposed developments as it relates to the use of DETCOG's published utility allowances.
4. Should the terms or amounts of the proposed debt or equity change, the transaction should be reevaluated and an adjustment to the credit amount may be warranted.

SALIENT ISSUES

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	Low HOME	1
50% of AMI	Low HOME	2
60% of AMI	High HOME	8

STRENGTHS/MITIGATING FACTORS

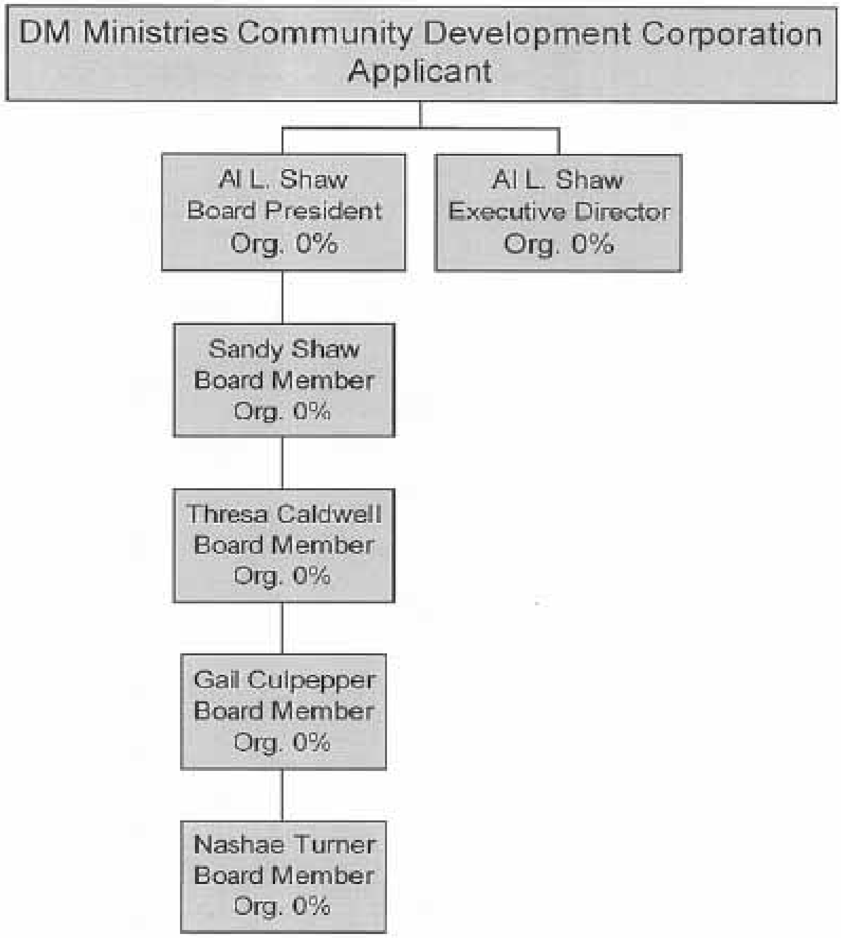
- The Development Team has placed in service 15 single family homes in the surrounding area.
- Overall occupancy in Angelina County is reported to be at 99%.
- The inclusive capture rate, factoring in all proposed comparable units in the PMA, is 22%, well below the limit of 75% for rural developments.
- Proposed rents are on average 21% below market rents.

WEAKNESSES/RISKS

- The Applicant lacks experience with TDHCA funded programs and compliance activities.

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



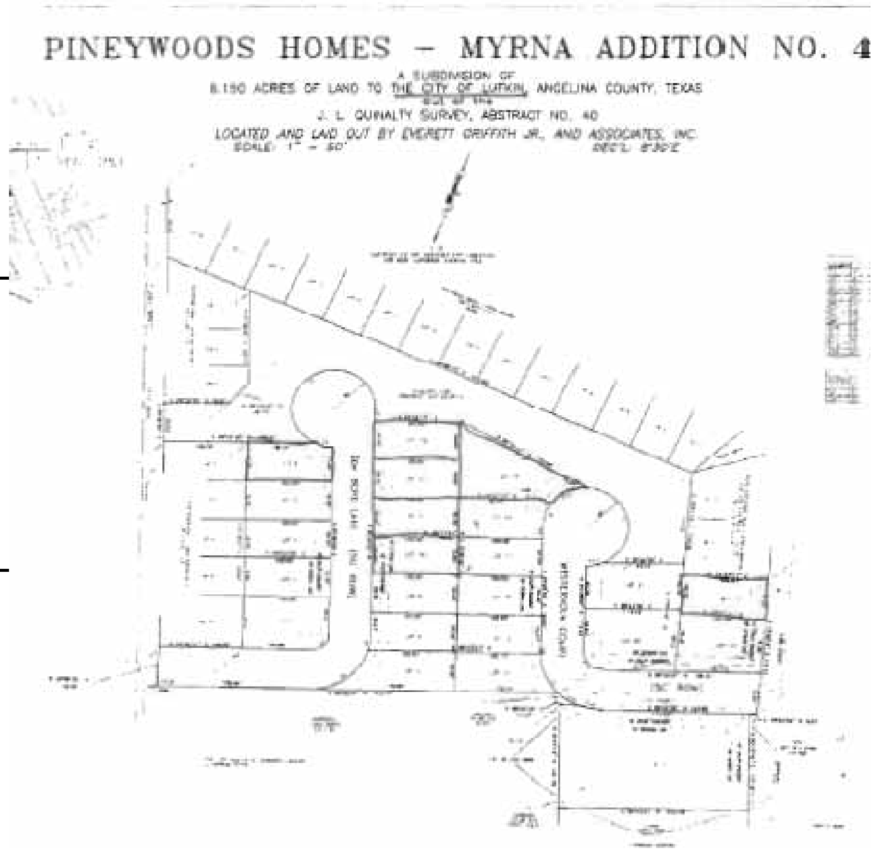
CONTACT

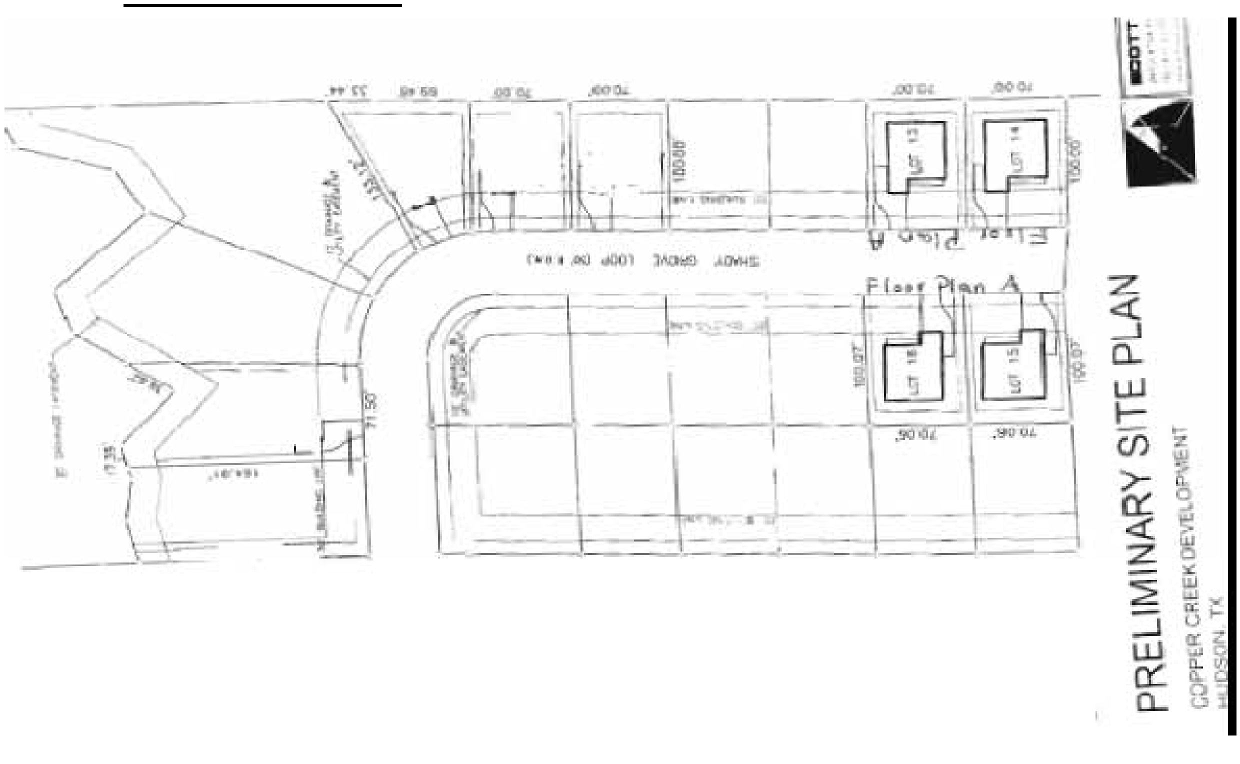
Contact:	Doug Dowler	Phone:	(936) 637-7607	Fax:	(936) 637-7640
Email:	ddowler@pineywoodshometeam.com				

IDENTITIES of INTEREST

- The Applicant, Developer, property manager, and supportive services provider are related entities. These are common relationships for HOME-funded developments.

PROPOSED SITE
SITE PLAN





Comments:

The current site addresses are 121,116, 118, 120, 122 Don Boyd, 119 Westerholm and 306 Ward in Myrna Addition and Lots 13, 14, 15, and 18 in Copper Creek Subdivision in Angelina County, Lufkin, TX. The proposed project will be the new construction of 11 single-family homes known as Angelina Development. The vacant lots are presently owned by Pineywoods HOME Team Affordable Housing, Inc.

BUILDING CONFIGURATION

Floor Plan	A	B								Total Buildings
Floors/Stories	1	1								
Number	9	2								**11**

BR/BA		SF	Units										Total Units	Total SF
3	2	1,161	0	1									2	2,322
3	2	1,161	1	0									9	10,449
Units per Building			1	1									**11**	**12,771**

SITE ISSUES

Total Size: ±1.4 acres — Scattered site? ☑ Yes ☐ No

Flood Zone: Zone X — Within 100-yr floodplain? ☐ Yes ☑ No

Zoning: Single-Family — Needs to be re-zoned? ☐ Yes ☑ No ☐ N/A

Comments:

The subject development incorporates new construction of 11 single family residences; 4 of which will be constructed within the Copper Creek Subdivision of Hudson, TX and the remaining 7 homes will be built within the Myrna Addition of Lufkin, TX. The City of Hudson has no zoning ordinances. The proposed sites are currently zoned for single-family development within Lufkin.

TDHCA SITE INSPECTION

Inspector: TDHCA Manufactured Housing Staff — Date: 5/27/2010

Overall Assessment - Myrna Addition:

☐ Excellent ☑ Acceptable ☐ Questionable ☐ Poor ☐ Unacceptable

Surrounding Uses:

North: Peavy Primary School, Wooded Land — East: Residential, Businesses

South: Wooded Land, Homes, Ranch Land — West: Businesses, Residential

Comments:

None

Overall Assessment - Copper Creek Subdivision:

☐ Excellent ☑ Acceptable ☐ Questionable ☐ Poor ☐ Unacceptable

Surrounding Uses:

North: Peavy Primary School, Wooded Land — East: Residential, Businesses

South: Wooded Land, Dingle Family/Ranch Land — West: Business, Residential

Comments:

None

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Hydrex Environmental, Inc. — Date: 11/3/2009

Recognized Environmental Concerns (RECs) and Other Concerns:

- Properly dispose of trash, miscellaneous debris, and clear vegetation on several of the lots.

Comments:

Both sites were inspected on 11/3/2009 and the ESA provider did not describe any significant REC's other than the proper removal and disposal of miscellaneous debris, trash, and vegetation.

MARKET ANALYSIS

Provider: Mark Temple — Date: 10/23/2009

Contact: Mark Temple — Phone: (210) 463-9499

Number of Revisions: none — Date of Last Applicant Revision: N / A

Primary Market Area (PMA): 866 sq. miles 17 mile equivalent radius

The Primary Market Area is defined as being all of Angelina County.

ELIGIBLE HOUSEHOLDS BY INCOME								
Angelina County Income Limits								
HH size	30% of AMI		40% of AMI		50% / Low HOME		60% / High HOME	
	min	max	min	max	min	max	min	max
1	---	---	---	---	---	---	---	---
2	---	---	---	---	---	---	---	---
3	$13,200	$13,300	---	---	$22,011	$22,250	---	---
4	$13,200	$14,800	---	---	$22,011	$24,700	$27,429	$29,640
5	$13,200	$16,000	---	---	$22,011	$26,700	$27,429	$32,040
6	---	---	---	---	---	---	---	---

AFFORDABLE HOUSING INVENTORY in PRIMARY MARKET AREA					
File #	Development	Type	Target Population	Comp Units	Total Units
Proposed, Under Construction, and Unstabilized Comparable Developments					
10283	Lufkin Pioneer Crossing	new	family	48	80
10279	Hudson Green	new	family	56	80
10241	Timberland Trails	new	family	40	80
Other Affordable Developments in PMA since 2006					
10271	Hudson Manor	new	senior	n/a	80
09228	Lufkin Pioneer Crossing for Seniors	new	senior	n/a	80
08201	First Huntington Arms	rehab	family	n/a	40
Stabilized Affordable Developments in PMA (pre-2006)					
	Total Properties (pre-2006)	5		Total Units	274

Proposed, Under Construction, and Unstabilized Comparable Supply:

There are three proposed developments in the PMA that will compete with the subject. Two- and three-bedroom units at these properties are considered comparable as they will target the same households sizes.

OVERALL DEMAND ANALYSIS		
	Market Analyst	**Underwriter**
Total Households in the Primary Market Area	30,262	30,262
Demand from Turnover	1,514	719
Demand from Growth	32	-2
TOTAL DEMAND	**1,546**	**718**
Subject Affordable Units	11	11
Unstabilized Comparable Units	0	144
RELEVANT SUPPLY	**11**	**155**
INCLUSIVE CAPTURE RATE	**0.7%**	**22%**

Demand Analysis:

The unit mix contemplated in the market study is incorrect as it does not include any units with rent and income restricted to 30% of AMI. The Market Analyst assumed that the income limit for the Low HOME units is equivalent to 50% of AMI; and that the income limit for the High HOME units is equivalent to 80% of AMI. And the Market Analyst greatly overstates demand by including all household sizes, although only households with 3-5 persons will be eligible for the subject's three-bedroom units.

The Market Analyst determined demand for 1,514 units due to household turnover (based on a 65.7% IREM regional turnover rate and including all household sizes), and demand for 32 units due to household growth; this results in an inclusive capture rate less than 1% for the subject 11 units. The Market Analyst did not consider the other proposed developments in the PMA.

The underwriting analysis includes households eligible for the one unit restricted at 30% of AMI. The application narrative states that "The target population is 50% to 60% of Area Median Family Income"; therefore, the underwriting analysis assumes the income limit for the High HOME units is equal to 60% of AMI.

The Underwriter determined demand for 719 units due to household turnover (based on a 47% turnover rate from the US census, and including 3-5 person renter households), and demand for -2 units due to a projected decline in eligible households; this results in an inclusive capture rate of 22% for the subject 11 units and the 144 proposed comparable units in the PMA.

The maximum Inclusive Capture Rate for rural developments targeting family households is 75%; the analysis indicates sufficient demand to support the proposed development.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE								
	Market Analyst				Underwriter			
Unit Type	Demand	Subject Units	Comp Units	Unit Capture Rate	Demand	Subject Units	Comp Units	Unit Capture Rate
3 BR/30%	--	--	--	--	43	1	2	7%
3 BR/50%/Low HOME	507	2	0	0.4%	93	2	13	16%
3 BR/60%/High HOME	1241	9	0	0.7%	78	8	21	37%

Primary Market Occupancy Rates:

The market study presents data on five market rate multifamily properties and two HTC properties in the PMA, with a combined total of 894 units and overall occupancy of 99.6%.

Absorption Projections:

"According to the Lufkin/Angelina County Chamber of Commerce and Claritas, Inc. present absorption trends of apartment projects located in the Hudson Market Area range from 3 to 5 units per month. The strength of this immediate market area is further supported by the continued and projected indicators of increasing occupancy levels and rental rates. Based upon current
positive multi-family indicators and present absorption levels of 3 to 5 units per month, it is estimated that a 95+ percent occupancy level can be achieved in a 2 to 3 month time frame." (p. IX-5)

Market Impact:

"The City of Lufkin, the City of Hudson and the Lufkin/Angelina County Chamber of Commerce confirmed the tremendous need for affordable housing in the Cities of Lufkin and Hudson. All three organizations stood ready to assist sponsors with potential projects that met this objective." (p. IX-6)

Comments:

The market study provides sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income:	Number of Revisions:	4	Date of Last Applicant Revision:	6/16/2010

The Applicant's projected rents are based on 2009 HOME rent limits, with one unit restricted to the 30% HTC rent limit per the requirements of the NOFA, less utility allowances maintained by the Deep East Texas Council of Governments (DETCOG) as of January 2009. The Underwriter utilized 2009 rents, but used the most recent utility allowances from DETCOG, resulting in slightly higher utility allowances. Of note, DETCOG is a regional housing authority; as of the date of this report, the Department has not received evidence that DETCOG has jurisdiction over the proposed development. Therefore, this report is conditioned on receipt, review, and acceptance, by closing of evidence from the Deep East Texas Council of Governments (DETCOG) confirming that DETCOG has jurisdiction over the proposed developments as it relates to the use of DETCOG's published utility allowances. Tenants will be responsible for all utilities.

The Applicant's projections of secondary income ($15/unit/month) and vacancy and collection losses (-7.5%) are within current underwriting guidelines. The Applicant's effective gross income is within 5% of the Underwriter's estimates.

Expense:	Number of Revisions:	2	Date of Last Applicant Revision:	6/14/2010

The Applicant's total annual operating expense projection of $3,838/unit/year is within 5% of the Underwriter's projection of $3,713/unit/year as derived from TDHCA and IREM database figures. The Applicant's expenses include several line-items which deviate significantly from the Underwriter's estimates. These expenses include: repairs and maintenance ($1,259 or 19% lower); water, sewer, trash ($322 or 100% lower); and property insurance ($2,042 or 19% higher).

The tenants are required to pay all utilities, including water, sewer, and trash expenses. Although the Applicant included an expense for utilities as a result of vacancies and make-readies, the Applicant did not include an expense estimate for water, sewer, and trash. The Underwriter, however, has included an expense estimate to account for any water, sewer, and trash expense resulting from vacancies and make-readies. Regarding insurance, the Applicant provided a comparable property insurance quote covering 20 single family homes (SFR) within their development portfolio to support their estimate; the Underwriter's insurance estimate is based on a pro rata estimate based on 11 SFRs. Of note, the Underwriter relied on the Applicant's expense for general and administrative expenses, due to the Applicant's explanation that there will be no leasing office associated with this development, and that existing office space and equipment will be used to operate the development. Additionally, the Applicant has not included an expense for property tax due to the expectation of the continuance of a property tax exemption. The report is conditioned on receipt, review, and acceptance by closing of evidence of eligibility for a property tax exemption.

Conclusion:

The Applicant's estimate of total expenses is within 5% of the Underwriter's estimates; therefore, the Applicant's year one pro forma will be used to determine the development's debt capacity and debt coverage ratio (DCR). Based on the proposed permanent financing structure the calculated DCR of 1.16 falls within the Department's guidelines.

Feasibility:

The underwriting 30-year pro forma utilizes a 2% annual growth factor for income and a 3% 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 1.15 and continued positive cash flow. Therefore, the development can be characterized as feasible.

ACQUISITION INFORMATION

APPRAISED VALUE

Provider:	Paver & Associates		Date:	11/3/2009
Number of Revisions:	None	Date of Last Applicant Revision:	N/A	

Land Only: 1.521 acres	$103,000	As of:	10/23/2009
Existing Buildings: (as-is)	$0	As of:	10/23/2009
Total Development: (as-is)	$103,000	As of:	10/23/2009

Comments:

The Appraisal Report states the following values and assumptions:

- Market Value considered "as complete - market rent" as of 11/2010 is $1,010,000.
- Market Value considered "as complete and stabilized - market rent" as of 9/2010 is $1,050,000.
- Market Value considered "as complete - restricted rent" as of 9/2010 is $875,000.
- Market Value considered "as complete and stabilized - restricted rent" as of 11/2010 is $900,000.

ASSESSED VALUE

Land Only: 1.521 acres	$52,174	Tax Year:	2009
Existing Buildings:	$0	Valuation by:	Angelina CAD
Total Assessed Value:	$52,174	Tax Rate:	2.1346

Comments:

Angelina CAD reports total site acreage of 1.521 including all lots to be purchases by the Applicant. The Applicant's purchase contract identifies ±1.4 of land which is reduced from the CAD assessment based on easements and right of ways within the separate subdivisions.

EVIDENCE of PROPERTY CONTROL

Type: Unimproved Property Contract Acreage: ±1.4

Contract Expiration: 12/1/2010 Valid Through Board Date? ☑ Yes ☐ No

Acquisition Cost: $65,000 Other:

Seller: Pineywoods HOME Team Affordable Housing, Inc. Related to Development Team? ☐ Yes ☑ No

TITLE

Comments:

There are several liens on title for the various lots involved in this transaction; however, the Applicant reports that all liens will be settled through the purchase transaction and that all lots will be free and clear of any previous liens to Pineywoods Home Team Affordable Housing. This report is conditioned on receipt, review, and acceptance, by closing, of evidence that all existing liens have been released.

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: 3 Date of Last Applicant Revision: 6/14/2010

Acquisition Value:

The Applicant's claimed acquisition cost of $44,538 per acre (or $6,160 per unit) is based on the terms described within the purchase contract. The Underwriter has assumed the purchase price to be reasonable as this is an arm's length transaction. The Applicant provided a statement of certification that this is not an identity of interest transaction.

Site Work Cost:

The Applicant's claimed site work costs of $2,720 per unit are within current underwriting guidelines; therefore, no further third-party substantiation is required at this time.

Direct Construction Cost:

The Applicant's direct construction cost estimate is $218K lower than the Underwriter's *Marshall & Swift* derived estimate. The Applicant submitted two competing construction bids which the Underwriter evaluated as an alternative to the M&S cost estimates. The Underwriter's cost estimate is based on an average of the two bids provided by the Applicant. The Applicant's direct construction cost estimate is within $30K of the average of the competing construction bids evaluated by the Underwriter.

Conclusion:

The Applicant’s total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant’s development cost schedule will be used to determine the development’s need for permanent funds.

PROPOSED FINANCING STRUCTURE

SOURCES & USES Number of Revisions: None Date of Last Applicant Revision: N/A

Source: TDHCA HOME Type: **Interim to Permanent Financing**

Principal: $962,899 Interest Rate: 0.0% ☑ Fixed Amort/Term: 480 months

Comments:

The HOME loan will be structured as repayable debt.

Source: Texas State Affordable Housing Corporation Type: **Interim to Permanent Financing**

Principal: $106,989 Interest Rate: 5.75% ☑ Fixed Amort/Term: 240 months

Comments:

The principal balance is not to exceed $107,000 fully amortized over the 20 year term at 5.75%.

Amount: $0 Type: **Deferred Developer Fees**

CONCLUSIONS

Recommended Financing Structure:

The Applicant's pro forma is used to determine the development's debt service capacity and need for funds. The Underwriter recommends a total HOME award of $962,899 structures as a repayable loan at 0.0% interest and 40-year amortization. This recommended financing structure yields a DCR of 1.16 which adheres to the Department's guidelines.

The Underwriter’s recommended financing structure indicates the need for no additional permanent funds. Developer fees of $125,655 are available to fill any gaps in financing, and the deferral of such fees is limited by cumulative 15-year cash flow projected to be $116,412.

The HOME award amount is below the 221(d)(3) limit for this project.

Underwriter:	*Colton Sanders*	Date:	June 17, 2010
Manager of Real Estate Analysis:	*Audrey Martin*	Date:	June 17, 2010
Director of Real Estate Analysis:	*Brent Stewart*	Date:	June 17, 2010

UNIT MIX/RENT SCHEDULE

Angelina Development, Lufkin & Hudson, HOME #10503

LOCATION DATA	
CITY:	Lufkin & Hudson
COUNTY:	Angelina
SUB-MARKET:	
PROGRAM REGION:	5
RURAL RENT USED:	No
IREM REGION:	NA

UNIT DISTRIBUTION		
# Beds	# Units	% Total
Eff		
1		
2		
3	11	100.0%
4		
TOTAL	11	100.0%

Other Unit Desgination						
PROGRAMS:		HOME				
Rent Limit	Eff	1	2	3	4	Total Units
LH	$432	$463	$556	$642	$716	3
HH	$492	$561	$627	$800	$837	8
MISC	#N/A	#N/A	#N/A	#N/A	#N/A	

OTHER ASSUMPTIONS	
DEVELOPMENT ACTIVITY:	New
REVENUE GROWTH:	2.00%
EXPENSE GROWTH:	3.00%
HIGH COST ADJUSTMENT:	
APPLICABLE FRACTION:	100.00%
APP % - ACQUISITION:	
APP % - CONSTRUCTION:	

UNIT MIX / MONTHLY RENT SCHEDULE

UNIT DESCRIPTION						PROGRAM RENT LIMITS			APPLICANT RENTS				TDHCA RENTS				OTHER UNIT DESIGNATION	MARKET RENTS	
Type	Other Designation	# Units	# Beds	# Baths	NRA	Gross Rent	Tenant Paid Utilities (Verified)	Max Net Program Rent	Delta to Max Program	Rent per NRA	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent per NRA	Delta to Max Program	HOME	Market Rent	TDHCA Savings to Market
HH	60% AMI	2	3	2	1,157	$800	$96	$704	$7	$0.61	$711	**$1,422**	**$1,409**	$704	$0.61	$0	$800	$805	$101
HH	60% AMI	6	3	2	1,161	$800	$96	$704	$7	$0.61	$711	**$4,266**	**$4,226**	$704	$0.61	$0	$800	$805	$101
LH	50% AMI	2	3	2	1,161	$642	$96	$546	$7	$0.48	$553	**$1,106**	**$1,093**	$546	$0.47	$0	$642	$805	$259
LH / HTC 30%	30% AMI	1	3	2	1,161	$385	$96	$289	$7	$0.25	$296	**$296**	**$289**	$289	$0.25	$0	$385	$805	$516
TOTAL:		**11**			**12,763**							**$7,090**	**$7,016**						
AVG:					**1,160**				**$7**	**$0.56**	**$645**			**$638**	**$0.55**	**$0**	**$734**	**$805**	**($167)**
ANNUAL:												**$85,080**	**$84,193**						

PROFORMA ANALYSIS & DEVELOPMENT COSTS

Angelina Development, Lufkin & Hudson, HOME #10503

INCOME	Total Net Rentable Sq Ft:		TDHCA	APPLICANT		
POTENTIAL GROSS RENT		$7,016	$84,193	$85,080		
Secondary Income	Per Unit Per Month:	$15.00	1,980	1,980	$15.00	Per Unit Per Month
Other Support Income:				0	$0.00	Per Unit Per Month
Other Support Income:				0	$0.00	Per Unit Per Month
POTENTIAL GROSS INCOME			$86,173	$87,060		
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(6,463)	(6,528)	-7.50%	of Potential Gross Income
Employee or Other Non-Rental Units or Concessions			0	0		
EFFECTIVE GROSS INCOME			$79,710	$80,532		

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		1.82%	$132	0.11	$1,450	$1,450	$0.11	$132	1.80%
Management		5.00%	$362	0.31	3,985	4,027	0.32	366	5.00%
Payroll & Payroll Tax		17.08%	$1,238	1.07	13,618	14,560	1.14	1,324	18.08%
Repairs & Maintenance		8.32%	$603	0.52	6,634	5,375	0.42	489	6.67%
Utilities		1.18%	$86	0.07	942	900	0.07	82	1.12%
Water, Sewer, & Trash		0.44%	$32	0.03	354	0	0.00	0	0.00%
Property Insurance		13.32%	$965	0.83	10,619	12,661	0.99	1,151	15.72%
Property Tax	2.1346	0.00%	$0	0.00	0	0	0.00	0	0.00%
Reserve for Replacements		3.45%	$250	0.22	2,750	2,750	0.22	250	3.41%
TDHCA Compliance Fees		0.00%	$0	0.00	0	0	0.00	0	0.00%
Other: TSAHFC Monitoring Fee		0.62%	$45	0.04	495	495	0.04	45	0.61%
TOTAL EXPENSES		51.24%	$3,713	$3.20	$40,846	$42,218	$3.31	$3,838	52.42%
NET OPERATING INC		48.76%	$3,533	$3.05	$38,864	$38,314	$3.00	$3,483	47.58%

DEBT SERVICE	TDHCA	APPLICANT
TDHCA HOME	$24,072	$24,072
TSAHC	$9,014	$9,014
Additional Financing	$0	$0
Additional Financing	0	0
Additional Financing	0	0
TOTAL DEBT SERVICE	33,086	33,086
NET CASH FLOW	$5,778	$5,228
AGGREGATE DEBT COVERAGE RATIO	1.17	1.16
RECOMMENDED DEBT COVERAGE RATIO		1.16

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)		6.19%	$6,160	$5.31	$67,760	$67,760	$5.31	$6,160	6.33%
Off-Sites		0.00%	$0	$0.00	0	0	0.00	0	0.00%
Sitework		2.73%	$2,720	$2.34	29,915	29,915	2.34	2,720	2.80%
Direct Construction		60.49%	$60,180	$51.87	661,985	632,012	49.52	57,456	59.07%
Contingency	4.78%	3.02%	$3,009	$2.59	33,095	33,095	2.59	3,009	3.09%
Contractor's Fees	13.39%	8.47%	$8,425	$7.26	92,671	92,671	7.26	8,425	8.66%
Indirect Construction		3.40%	$3,387	$2.92	37,260	37,260	2.92	3,387	3.48%
Ineligible Costs		0.00%	$0	$0.00	0	0	0.00	0	0.00%
Developer's Fees	14.48%	11.48%	$11,423	$9.85	125,655	125,655	9.85	11,423	11.74%
Interim Financing		1.16%	$1,159	$1.00	12,750	12,750	1.00	1,159	1.19%
Reserves		3.05%	$3,032	$2.61	33,351	38,770	3.04	3,525	3.62%
TOTAL COST		100.00%	$99,494.74	$85.75	$1,094,442	$1,069,888	$83.83	$97,263	100.00%
Construction Cost Recap		74.71%	**$74,333**	**$64.07**	**$817,666**	**$787,693**	**$61.72**	**$71,608**	73.62%

SOURCES OF FUNDS						RECOMMENDED	
TDHCA HOME	87.98%	$87,536	$75.44	$962,899	$962,899	$962,899	Developer Fee Available
TSAHC	9.78%	$9,726	$8.38	106,989	106,989	106,989	$125,655
HTC Syndication Proceeds	0.00%	$0	$0.00	0	0	0	% of Dev. Fee Deferred
Deferred Developer Fees	0.00%	$0	$0.00	0	0	0	0%
Additional (Excess) Funds Req'd	2.24%	$2,232	$1.92	24,554	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$1,094,442	$1,069,888	$1,069,888	$116,412

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Single Family Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$ 81.54	$1,040,713
Adjustments				
Exterior Wall Finish	5.60%		$4.57	$58,280
Elderly	0.00%		0.00	0
9-Ft. Ceilings	0.00%		0.00	0
Roofing			0.00	0
Subfloor			(1.44)	(18,379)
Floor Cover			2.33	29,738
Breezeways	$23.05	0	0.00	0
Porches	$20.78	744	1.21	15,460
Plumbing Fixtures	$1,160	0	0.00	0
Rough-ins	$465	0	0.00	0
Built-In Appliances	$2,700	11	2.33	29,700
Exterior Stairs	$1,900	0	0.00	0
Enclosed Corridors	$71.62	0	0.00	0
Other:		0	0.00	0
Other:			0.00	0
Carports	$9.70	4,080	3.10	39,576
Heating/Cooling			0.60	7,658
Garages	$30.00	0	0.00	0
Comm &/or Aux Bldgs	$0.00	0	0.00	0
Other: fire sprinkler	$2.25	0	0.00	0
SUBTOTAL			94.24	1,202,747
Current Cost Multiplier	0.99		(0.94)	(12,027)
Local Multiplier	0.88		(11.31)	(144,330)
TOTAL DIRECT CONSTRUCTION COSTS			$81.99	$1,046,390
Plans, specs, survy, bld prm	3.90%		($3.20)	($40,809)
Interim Construction Interest	3.38%		(2.77)	(35,316)
Contractor's OH & Profit	11.50%		(9.43)	(120,335)
NET DIRECT CONSTRUCTION COSTS			$66.59	$849,930
				$77,266

PROPOSED PAYMENT COMPUTATION

TDHCA HOME	$962,899	Amort	480
Int Rate	0.00%	DCR	1.61
TSAHC	$106,989	Amort	240
Int Rate	5.75%	Aggregate DCR	1.17
Additional Financin	$0	Amort	
Int Rate		Subtotal DCR	1.17
Additional Financin	$0	Amort	
Int Rate		Subtotal DCR	1.17
Additional Financin	$0	Amort	
Int Rate		Aggregate DCR	1.17

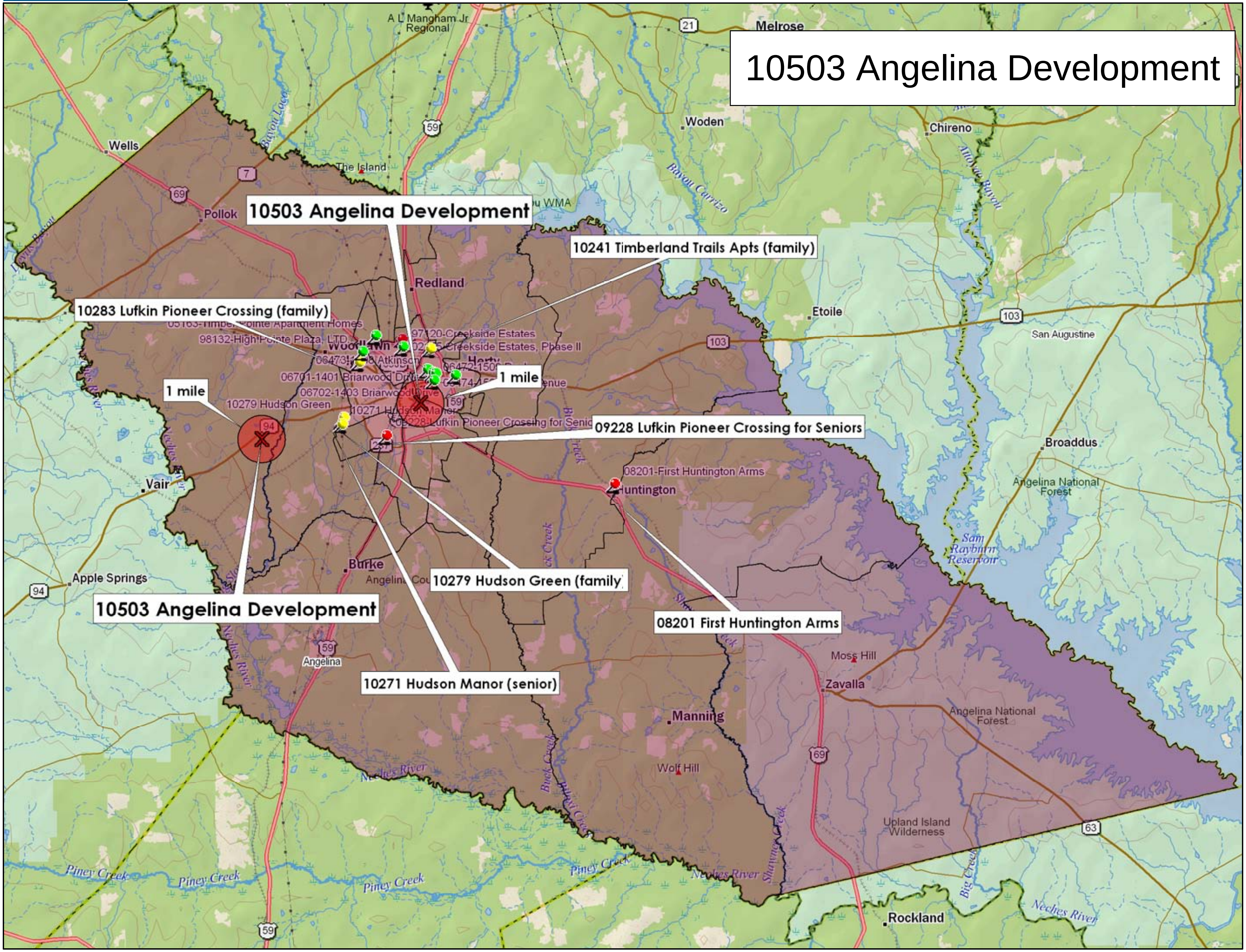
RECOMMENDED FINANCING STRUCTURE APPLICANT'S NOI:

TDHCA HOME	$24,072
TSAHC	9,014
Additional Financing	0
Additional Financing	0
Additional Financing	0
TOTAL DEBT SERVICE	**$33,086**

TDHCA HOME	$962,899	Amort	480
Int Rate	0.00%	DCR	1.59
TSAHC	$106,989	Amort	240
Int Rate	5.75%	Aggregate DCR	1.16

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$85,080	$86,782	$88,517	$90,288	$92,093	$101,678	$112,261	$123,945	$151,089
Secondary Income	1,980	2,020	2,060	2,101	2,143	2,366	2,613	2,884	3,516
Other Support Income:	0	0	0	0	0	0	0	0	0
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	87,060	88,801	90,577	92,389	94,237	104,045	114,874	126,830	154,605
Vacancy & Collection Loss	(6,528)	(6,660)	(6,793)	(6,929)	(7,068)	(7,803)	(8,616)	(9,512)	(11,595)
Employee or Other Non-Rental U	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$80,532	$82,141	$83,784	$85,460	$87,169	$96,241	$106,258	$117,318	$143,010
EXPENSES at 3.00%									
General & Administrative	$1,450	$1,494	$1,538	$1,584	$1,632	$1,892	$2,193	$2,543	$3,417
Management	4,027	4107.004501	4,189	4,273	4,358	4,812	5,313	5,866	7,150
Payroll & Payroll Tax	14,560	14,997	15,447	15,910	16,387	18,997	22,023	25,531	34,312
Repairs & Maintenance	5,375	5,536	5,702	5,873	6,050	7,013	8,130	9,425	12,667
Utilities	900	927	955	983	1,013	1,174	1,361	1,578	2,121
Water, Sewer & Trash	0	0	0	0	0	0	0	0	0
Insurance	12,661	13,041	13,432	13,835	14,250	16,520	19,151	22,201	29,836
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	2,750	2,833	2,917	3,005	3,095	3,588	4,160	4,822	6,481
TDHCA Compliance Fee	0	0	0	0	0	0	0	0	0
Other	495	510	525	541	557	646	749	868	1,166
TOTAL EXPENSES	$42,218	$43,444	$44,706	$46,005	$47,343	$54,643	$63,080	$72,834	$97,150
NET OPERATING INCOME	$38,314	$38,697	$39,078	$39,454	$39,826	$41,599	$43,178	$44,484	$45,860
DEBT SERVICE									
First Lien Financing	$24,072	$24,072	$24,072	$24,072	$24,072	$24,072	$24,072	$24,072	$24,072
Second Lien	9,014	9,014	9,014	9,014	9,014	9,014	9,014	9,014	9,014
Other Financing	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$5,228	$5,611	$5,992	$6,368	$6,740	$8,512	$10,092	$11,397	$12,773
DEBT COVERAGE RATIO	1.16	1.17	1.18	1.19	1.20	1.26	1.31	1.34	1.39



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COMMUNITY AFFAIRS DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve the two additional Emergency Shelter Grant Program (ESGP) activity awards.

> **RESOLVED,** that the Compassion Ministries of Waco and Twin City Mission, Inc., are awarded $21,300 and $34,293, respectively, for Emergency Shelter Grant Program (ESGP) activities.

Background

At the May 12, 2010, Board meeting the Governing Board adopted a resolution to assign Compassion Ministries of Waco and Twin City Mission “first priority” for funding if additional funds became available. Although the agencies were scored correctly in the initial posting, they were erroneously ranked, indicating that they were recommended for funding. The Department has identified $55,593 in previous year ESGP funds that can be utilized to fund these two agencies.

Compassion Ministries of Waco initially requested $30,000 and proposes to utilize ESGP funds to partially pay for the salaries of the Executive Director and a Family Child Therapist. It will also utilize funds to assist with maintenance and operations of their transitional housing facility, Hope House.

Twin City Mission initially requested $100,000 and proposes to utilize ESGP funding to partially pay the salaries for the Program Director, Controller, Accountant and CEO. Additionally, TCM proposes to pay the salary of one case manager as well as operational costs for their homeless shelter and domestic violence shelter.

COMMUNITY AFFAIRS DIVISION
SECTION 8 PROGRAM

BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve the Section 8 2011 Annual Public Housing Agency (PHA) Plan, prepared in compliance with 42 U.S.C.1437(c-1) (a) and (b).

RESOLVED, that the Department's 2011 Annual Public Housing Agency Plan is hereby approved in the form presented to this meeting, and

FURTHER RESOLVED, that staff is directed to publish such plan for public comment for forty-five (45) days and hold a public hearing on such plan, and

FURTHER RESOLVED, that if there are not material public comments requiring reconsideration of the plan, staff is authorized and directed to file the plan with the U. S. Department of Housing and Urban Development and

FURTHER RESOLVED, that if there are material public comments, staff is directed to bring the plan, with such comments and any recommended revisions, back to this Board for reconsideration.

Background

Section 511 of the Quality Housing and Work Responsibility Act of 1998 created the requirement for submission of public housing agency plans. The PHA Plan is a guide to public housing agency (PHA) policies, programs, operations, and strategies for meeting local housing needs and goals. The Annual Plan, which is prepared and submitted to HUD every year, provides information about program operations and services for the upcoming fiscal year. The 2011 Annual Plan indicates an increase of Project Access vouchers from 60 to 100; 20 of the new additional vouchers will not be restricted to households under the age of 62, as are the other Project Access Vouchers. The rule governing Project Access is being simultaneously revised to address the age consideration.

To ensure public participation, the Department will appoint a Resident Advisory Board, which will consist of all tenants with active Section 8 contracts, to review and comment on the proposed 2011 Annual Plan. The Plan will also be available for review at the Department's Administration Office on weekdays between 8:00 am and 4:30 pm; the Local Operator offices; and the Department's website at: www.tdhca.state.tx.us.

Upon board approval the Department will publish a notice forty-five days prior to scheduling a public hearing to receive further public comments. If there are no comments, the plan will be submitted to HUD. If there are comments, the plan will be resubmitted back to the Board for final approval.

PHA 5-Year and Annual Plan	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires 4/30/2011

<table>
<tr><td>1.0</td><td colspan="6">PHA Information
PHA Name: ______Texas Department of Housing and Community Affairs___________________ PHA Code: _TX901_
PHA Type: ☐ Small ☐ High Performing ☐ Standard ☒ HCV (Section 8)
PHA Fiscal Year Beginning: (MM/YYYY): __01/2011______</td></tr>
<tr><td>2.0</td><td colspan="6">Inventory (based on ACC units at time of FY beginning in 1.0 above)
Number of PH units: ___N/A_____ Number of HCV units: _1540______</td></tr>
<tr><td>3.0</td><td colspan="6">Submission Type
☐ 5-Year and Annual Plan ☒ Annual Plan Only ☐ 5-Year Plan Only</td></tr>
<tr><td>4.0</td><td colspan="6">PHA Consortia ☐ PHA Consortia: (Check box if submitting a joint Plan and complete table below.) N/A</td></tr>
<tr><td rowspan="5"></td><td rowspan="2">Participating PHAs</td><td rowspan="2">PHA Code</td><td rowspan="2">Program(s) Included in the Consortia</td><td rowspan="2">Programs Not in the Consortia</td><td colspan="2">No. of Units in Each Program</td></tr>
<tr><td>PH</td><td>HCV</td></tr>
<tr><td>PHA 1:</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>PHA 2:</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>PHA 3:</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>5.0</td><td colspan="6">5-Year Plan. Complete items 5.1 and 5.2 only at 5-Year Plan update. N/A</td></tr>
<tr><td>5.1</td><td colspan="6">Mission. State the PHA's Mission for serving the needs of low-income, very low-income, and extremely low income families in the PHA's jurisdiction for the next five years: N/A</td></tr>
<tr><td>5.2</td><td colspan="6">Goals and Objectives. Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low-income and very low-income, and extremely low-income families for the next five years. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. N/A</td></tr>
<tr><td>6.0</td><td colspan="6">PHA Plan Update

(a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission: N/A
(b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.
Main administrative office
TDHCA Website</td></tr>
<tr><td>7.0</td><td colspan="6">Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers. Include statements related to these programs as applicable.
N/A</td></tr>
<tr><td>8.0</td><td colspan="6">Capital Improvements. Please complete Parts 8.1 through 8.3, as applicable. N/A</td></tr>
<tr><td>8.1</td><td colspan="6">Capital Fund Program Annual Statement/Performance and Evaluation Report. As part of the PHA 5-Year and Annual Plan, annually complete and submit the Capital Fund Program Annual Statement/Performance and Evaluation Report, form HUD-50075.1, for each current and open CFP grant and CFFP financing. N/A</td></tr>
<tr><td>8.2</td><td colspan="6">Capital Fund Program Five-Year Action Plan. As part of the submission of the Annual Plan, PHAs must complete and submit the Capital Fund Program Five-Year Action Plan, form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan. N/A</td></tr>
<tr><td>8.3</td><td colspan="6">Capital Fund Financing Program (CFFP).
☐ Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements. N/A</td></tr>
</table>

9.0	**Housing Needs**. Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location

Housing Need Analysis – Section 8
May 2010

When analyzing local housing markets and developing strategies for meeting housing problems, HUD suggests the consideration of several factors. These factors include how much a household spends on housing costs, the physical condition of the housing and whether or not the household is overcrowded.

An excess cost burden is identified when a household pays more than 30 percent of its gross income for housing costs. When so much is spent on housing, other basic household needs may suffer.

The measure of physical inadequacy is the number of units lacking complete kitchen and/or plumbing facilities. While this is not a complete measure of physical inadequacy, the lack of plumbing and/or kitchen facilities can serve as a strong indication of one type of housing inadequacy.

Overcrowded housing conditions occur when a residence accommodates more than one person per each room in the dwelling. Overcrowding may indicate a general lack of affordable housing in a community where households have been forced to share space, either because other housing units are not available or because the units available are too expensive.

The following table reveals the number of low-income households with housing need in the TDHCA Section 8 service area. The figures are adjusted to 2008 levels based on population growth estimates.

	Number
Population	300,928
Number of Individuals in Poverty	40,876
Number of Cost Burdened Households	9,122
Number of Overcrowded Households	3,631
Number of Substandard Housing Units	587

Source: CHAS data, Census data, TDHCA

The TDHCA waiting list consists of 607 applications. This waiting list figure is a composite of several statewide jurisdictional waiting lists.

9.1	**Strategy for Addressing Housing Needs**. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.** **N/A**

10.0	**Additional Information**. Describe the following, as well as any additional information HUD has requested. (a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. **The Department will continue to strive for maximum utilization of Section 8 vouchers in areas served by the state program.** • **Administrative processes have been updated to ensure landlord and tenant payments are processed and paid in a timely manner.** • **Throughout the state jurisdiction payment standards have been established to enable families to rent decent and affordable housing.** • **A Notice of Disaster Preference has been established to allow the Department to provide housing choice vouchers to individuals and families in our program area that are impacted by a disaster, which will include, but not be limited to, communities with a disaster declaration or documented extenuating circumstances such as imminent threat to health and safety.** • **TDHCA utilizes 60 Project Access Housing Choice Vouchers to assist low-income non-elderly persons with disabilities in transitioning from institutions into the community by providing access to affordable housing. The allocation will be increased to 100 beginning Calendar Year 2011. Twenty of these vouchers will be allowed to serve low-income elderly persons with disabilities in transition from institutions.** **The Department is taking, and will continue to take, the necessary steps required to develop and implement procedures that will demonstrate our determination to ensure compliance with Section 8 program requirements. TDHCA will continue exploring ways to make additional safe, sanitary and decent housing available in some of the smaller areas which do not have adequate housing stock. The Department will also continue to work closely with the State's local PHAs to address the affordable housing needs of the citizens of Texas.** (b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification" • **Changes to rent or admissions policies or organization of the waiting list;** • **Addition of new activities not presently in the plan;** **TDHCA will submit a revised plan that has met full public process requirements. The amendment or modification may not be implemented until approved by HUD.**
11.0	**Required Submission for HUD Field Office Review**. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. **Note:** Faxed copies of these documents will not be accepted by the Field Office. (a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations* (which includes all certifications relating to Civil Rights) (b) Form HUD-50070, *Certification for a Drug-Free Workplace* (PHAs receiving CFP grants only) (c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* (PHAs receiving CFP grants only) (d) Form SF-LLL, *Disclosure of Lobbying Activities* (PHAs receiving CFP grants only) (e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* (PHAs receiving CFP grants only) (f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. (g) Challenged Elements (h) Form HUD-50075.1, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (PHAs receiving CFP grants only) (i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* (PHAs receiving CFP grants only)

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, as amended, which introduced 5-Year and Annual PHA Plans. The 5-Year and Annual PHA plans provide 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 is to be used by all PHA types for submission of the 5-Year and Annual Plans to HUD. Public reporting burden for this information collection is estimated to average 12.68 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 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. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

Instructions form HUD-50075

Applicability. This form is to be used by all Public Housing Agencies (PHAs) with Fiscal Year beginning April 1, 2008 for the submission of their 5-Year and Annual Plan in accordance with 24 CFR Part 903. The previous version may be used only through April 30, 2008.

1.0 PHA Information
Include the full PHA name, PHA code, PHA type, and PHA Fiscal Year Beginning (MM/YYYY).

2.0 Inventory
Under each program, enter the number of Annual Contributions Contract (ACC) Public Housing (PH) and Section 8 units (HCV).

3.0 Submission Type
Indicate whether this submission is for an Annual and Five Year Plan, Annual Plan only, or 5-Year Plan only.

4.0 PHA Consortia
Check box if submitting a Joint PHA Plan and complete the table.

5.0 Five-Year Plan
Identify the PHA's Mission, Goals and/or Objectives (24 CFR 903.6). Complete only at 5-Year update.

5.1 Mission. A statement of the mission of the public housing agency for serving the needs of low-income, very low-income, and extremely low-income families in the jurisdiction of the PHA during the years covered under the plan**.**

5.2 Goals and Objectives. Identify quantifiable goals and objectives that will enable the PHA to serve the needs of low income, very low-income, and extremely low-income families.

6.0 PHA Plan Update. In addition to the items captured in the Plan template, PHAs must have the elements listed below readily available to the public. Additionally, a PHA must:

(a) Identify specifically which plan elements have been revised since the PHA's prior plan submission.

(b) Identify where the 5-Year and Annual Plan may be obtained by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central off ice of the PHA. PHAs are strongly encouraged to post complete PHA Plans on its official website. PHAs are also encouraged to provide each resident council a copy of its 5-Year and Annual Plan.

PHA Plan Elements. (24 CFR 903.7)

1. **Eligibility, Selection and Admissions Policies, including Deconcentration and Wait List Procedures.** Describe the PHA's policies that govern resident or tenant eligibility, selection and admission including admission preferences for both public housing and HCV and unit assignment policies for public housing; and procedures for maintaining waiting lists for admission to public housing and address any site-based waiting lists.

2. **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA's anticipated resources, such as PHA Operating, Capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources.

3. **Rent Determination.** A statement of the policies of the PHA governing rents charged for public housing and HCV dwelling units.

4. **Operation and Management.** A statement of the rules, standards, and policies of the PHA governing maintenance management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including cockroaches), and management of the PHA and programs of the PHA.

5. **Grievance Procedures.** A description of the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants.

6. **Designated Housing for Elderly and Disabled Families.** With respect to public housing projects owned, assisted, or operated by the PHA, describe any projects (or portions thereof), in the upcoming fiscal year, that the PHA has designated or will apply for designation for occupancy by elderly and disabled families. The description shall include the following information: **1**) development name and number; **2**) designation type; **3**) application status; **4**) date the designation was approved, submitted, or planned for submission, and; **5**) the number of units affected.

7. **Community Service and Self-Sufficiency.** A description of: (**1)** Any programs relating to services and amenities provided or offered to assisted families; (**2)** Any policies or programs of the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs under Section 3 and FSS; **(3)** How the PHA will comply with the requirements of community service and treatment of income changes resulting from welfare program requirements. **(Note: applies to only public housing).**

8. **Safety and Crime Prevention.** For public housing only, describe the PHA's plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must include: (i) A description of the need for measures to ensure the safety of public housing residents; (ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and (iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities.

9. **Pets.** A statement describing the PHAs policies and requirements pertaining to the ownership of pets in public housing.

10. **Civil Rights Certification.** A PHA will be considered in compliance with the Civil Rights and AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction.

11. **Fiscal Year Audit.** The results of the most recent fiscal year audit for the PHA.

12. **Asset Management.** A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

13. **Violence Against Women Act (VAWA).** A description of: **1)** Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; **2)** Any activities, services, or programs provided or offered by a PHA that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and **3)** Any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

7.0 Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers

(a) Hope VI or Mixed Finance Modernization or Development. **1)** A description of any housing (including project number (if known) and unit count) for which the PHA will apply for HOPE VI or Mixed Finance Modernization or Development; and **2)** A timetable for the submission of applications or proposals. The application and approval process for Hope VI, Mixed Finance Modernization or Development, is a separate process. See guidance on HUD's website at:
http://www.hud.gov/offices/pih/programs/ph/hope6/index.cfm

(b) Demolition and/or Disposition. With respect to public housing projects owned by the PHA and subject to ACCs under the Act: **(1)** A description of any housing (including project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition; and **(2)** A timetable for the demolition or disposition. The application and approval process for demolition and/or disposition is a separate process. See guidance on HUD's website at:
http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm
Note: This statement must be submitted to the extent **that approved and/or pending** demolition and/or disposition has changed.

(c) Conversion of Public Housing. With respect to public housing owned by a PHA: **1)** A description of any building or buildings (including project number and unit count) that the PHA is required to convert to tenant-based assistance or that the public housing agency plans to voluntarily convert; **2)** An analysis of the projects or buildings required to be converted; and **3)** A statement of the amount of assistance received under this chapter to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at:
http://www.hud.gov/offices/pih/centers/sac/conversion.cfm

(d) Homeownership. A description of any homeownership (including project number and unit count) administered by the agency or for which the PHA has applied or will apply for approval.

(e) Project-based Vouchers. If the PHA wishes to use the project-based voucher program, a statement of the projected number of project-based units and general locations and how project basing would be consistent with its PHA Plan.

8.0 Capital Improvements. This section provides information on a PHA's Capital Fund Program. With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects must be completed along with the required forms. Items identified in 8.1 through 8.3, must be signed where directed and transmitted electronically along with the PHA's Annual Plan submission.

8.1 Capital Fund Program Annual Statement/Performance and Evaluation Report. PHAs must complete the *Capital Fund Program Annual Statement/Performance and Evaluation Report* (form HUD-50075.1), for each Capital Fund Program (CFP) to be undertaken with the current year's CFP funds or with CFFP proceeds. Additionally, the form shall be used for the following purposes:

(a) To submit the initial budget for a new grant or CFFP;

(b) To report on the Performance and Evaluation Report progress on any open grants previously funded or CFFP; and

(c) To record a budget revision on a previously approved open grant or CFFP, e.g., additions or deletions of work items, modification of budgeted amounts that have been undertaken since the submission of the last Annual Plan. The Capital Fund Program Annual Statement/Performance and Evaluation Report must be submitted annually.

Additionally, PHAs shall complete the Performance and Evaluation Report section (see footnote 2) of the *Capital Fund Program Annual Statement/Performance and Evaluation* (form HUD-50075.1), at the following times:

1. At the end of the program year; until the program is completed or all funds are expended;

2. When revisions to the Annual Statement are made, which do not require prior HUD approval, (e.g., expenditures for emergency work, revisions resulting from the PHAs application of fungibility); and

3. Upon completion or termination of the activities funded in a specific capital fund program year.

8.2 Capital Fund Program Five-Year Action Plan

PHAs must submit the *Capital Fund Program Five-Year Action Plan* (form HUD-50075.2) for the entire PHA portfolio for the first year of participation in the CFP and annual update thereafter to eliminate the previous year and to add a new fifth year (rolling basis) so that the form always covers the present five-year period beginning with the current year.

8.3 Capital Fund Financing Program (CFFP). Separate, written HUD approval is required if the PHA proposes to pledge any portion of its CFP/RHF funds to repay debt incurred to finance capital improvements. The PHA must identify in its Annual and 5-year capital plans the amount of the annual payments required to service the debt. The PHA must also submit an annual statement detailing the use of the CFFP proceeds. See guidance on HUD's website at: http://www.hud.gov/offices/pih/programs/ph/capfund/cffp.cfm

9.0 Housing Needs. Provide a statement of the housing needs of families residing in the jurisdiction served by the PHA and the means by which the PHA intends, to the maximum extent practicable, to address those needs. **(Note:** Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).

9.1 Strategy for Addressing Housing Needs. Provide a description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. **(Note:** Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).

10.0 Additional Information. Describe the following, as well as any additional information requested by HUD:

(a) **Progress in Meeting Mission and Goals. P**HAs must include (i) a statement of the PHAs progress in meeting the mission and goals described in the 5-Year Plan; (ii) the basic criteria the PHA will use for determining a significant amendment from its 5-year Plan; and a significant amendment or modification to its 5-Year Plan and Annual Plan**. (Note: Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan).**

(b) **Significant Amendment and Substantial Deviation/Modification.** PHA must provide the definition of "significant amendment" and "substantial deviation/modification". **(Note: Standard and Troubled PHAs complete annually; Small and High Performers complete only for Annual Plan submitted with the 5-Year Plan.)**

(c) PHAs must include or reference any applicable memorandum of agreement with HUD or any plan to improve performance. **(Note: Standard and Troubled PHAs complete annually).**

11.0 Required Submission for HUD Field Office Review. In order to be a complete package, PHAs must submit items (a) through (g), with signature by mail or electronically with scanned signatures. Items (h) and (i) shall be submitted electronically as an attachment to the PHA Plan.

(a) Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations*

(b) **F**orm HUD-50070, *Certification for a Drug-Free Workplace* **(PHAs receiving CFP grants only)**

(c) Form HUD-50071, *Certification of Payments to Influence Federal Transactions* **(PHAs receiving CFP grants only)**

(d) Form SF-LLL, *Disclosure of Lobbying Activities* **(PHAs receiving CFP grants only)**

(e) Form SF-LLL-A, *Disclosure of Lobbying Activities Continuation Sheet* **(PHAs receiving CFP grants only)**

(f) Resident Advisory Board (RAB) comments.

(g) Challenged Elements. Include any element(s) of the PHA Plan that is challenged.

(h) Form HUD-50075.1**, *Capital Fund Program Annual Statement/Performance and Evaluation Report* (Must be attached electronically for PHAs receiving CFP grants only).** See instructions in 8.1.

(i) Form HUD-50075.2, *Capital Fund Program Five-Year Action Plan* **(Must be attached electronically for PHAs receiving CFP grants only).** See instructions in 8.2.

COMMUNITY AFFAIRS DIVISION
SECTION 8 PROGRAM

BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Adopt the Texas Department of Housing and Community Affairs Housing Choice Voucher Program Administrative Plan.

> **RESOLVED**, that Texas Department of Housing and Community Affairs Housing Choice Voucher Administrative Plan is hereby adopted in the form presented to this meeting.

Background

The Texas Department of Housing and Community Affairs is required to submit the Texas Department of Housing and Community Affairs Housing Choice Voucher Program Administrative Plan, which serves as the operating procedures for the Department's Section 8 Program, to the regional U.S. Department of Housing and Urban Development (HUD) office in order to be eligible to submit an application in response to a Notice of Funding Availability (NOFA) released by HUD for rental assistance for non-elderly persons with disabilities. The HUD NOFA requires adoption of the Administrative Plan by the TDHCA Board of Directors prior to submittal to HUD. The NOFA is due to HUD on July 7, 2010. HUD has not required that the Administrative Plan be adopted by the Board of Directors for normal Section 8 program operations prior to the release of this NOFA; however, the Department has always had an Administrative Plan in various forms that guides the administration of the program in accordance with Federal and State statute. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Public Housing Authority (PHA) agency plan.

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with all HUD-approved applications for program funding. Common for many small housing authorities, this administrative plan was developed by Nan McKay and Associates, Inc., a nationally recognized firm that provides such services for housing authorities. Minor revisions have been made as needed to tailor the plan to Texas and Department considerations.

The PHA Administrative Plan includes PHA policies on these subjects:

- Selection and admission of applicants from the PHA waiting list.
- Organization and structure of the public housing authority, including employee code of conduct.
- Occupancy policies, including definition of a family and standards for denying admission or terminating assistance based on criminal activity.
- Fair housing and equal opportunity policies.
- Hearing procedures for participants.
- Subsidy standards, including processes for establishing and revising voucher payment standards.
- Procedural guidelines and performance standards for conducting required housing quality standards inspections.

Attachment A

Texas Department of Housing and Community Affairs Housing Choice Voucher Program Administrative Plan

TDHCA

Housing Choice Voucher Program

Administrative Plan

Draft for Board: June 28, 2010

Chapter 1
OVERVIEW OF THE PROGRAM AND PLAN

Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY

Chapter 3
ELIGIBILITY

Chapter 4
APPLICATIONS, WAITING LIST AND TENANT SELECTION

Chapter 5
BRIEFINGS AND VOUCHER ISSUANCE

Chapter 6
INCOME AND SUBSIDY DETERMINATIONS
[24 CFR Part 5, Subparts E and F; 24 CFR 982]

Chapter 7
VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

Chapter 8
HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS
[24 CFR 982 Subpart I and 24 CFR 982.507]

Chapter 9
GENERAL LEASING POLICIES

Chapter 10
MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Chapter 11
REEXAMINATIONS

Chapter 12
TERMINATION OF ASSISTANCE AND TENANCY

Chapter 13
OWNERS

Chapter 14
PROGRAM INTEGRITY

Chapter 15
SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

CHAPTER 16
PROGRAM ADMINISTRATION

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The PHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE PHA

A. STATEMENT OF POLICIES AND OBJECTIVES

The Section 8 Housing Choice Voucher Program was created by the Housing and Community Development Act of 1974 and amended by the Housing and Community Development Act of 1981, the Housing and Urban–Rural Recovery Act of 1983, the Technical Amendments Act of 1984, the Housing and Community Development Act of 1987, the National Affordable Housing Act of 1990, and the Housing and Community Development Act of 1992.

Through the issuance of three “conforming” rules in 1994, 1995, and 1998, the United States Department of Housing and Urban Development **(hereinafter referred to as HUD)** combined the Rental Certificate and Rental Voucher Programs to the extent permitted by statute. In October 1998, Congress passed long-awaited housing reform legislation, which includes a full merger of the Certificate and Voucher Programs (Quality Housing and Work Responsibility Act of 1998).

Administration of the housing programs and the functions and responsibilities of Texas Department of Housing and Community Affairs **(hereinafter referred to as TDHCA or Department)** staff shall be in compliance with the Personnel Policies and Procedures of the Department, the Equal Opportunity Plan and the Section 8 Administrative Plan Operations/Procedures Manual. All Federal, State and local housing laws will be followed and the Department will comply with Federal and State Fair Housing regulations.

OBJECTIVES

The overall plan for the Section 8 Housing Choice Voucher (HCV) Program is designed to achieve five major objectives:

1. Promote the overall goal of decent, safe and sanitary housing by using the Section 8 Program to house eligible families in private rental housing, therefore, increasing the housing stock for very low-income families;
2. Improve the state's housing stock by requiring participating landlords to meet Section 8 housing quality standards for their rental property;
3. Facilitate the efficient management of the program and compliance with federal regulations by establishing policies for the efficient and effective management of the Section 8 Program and staff;
4. Comply in letter and spirit with Title VI of the Civil Rights Act of 1964, and all other applicable federal laws and regulations to insure that occupancy in assisted housing is administered without regard to race, color, religion, sex, handicap, familial status and national origin; and
5. Allow the Department to utilize existing housing stock and allow a family that qualifies for Section 8 HCV assistance and lives in substandard housing to remain, if the owner brings the house up to HQS and the Section 8 participant decides to remain in that unit, in order to comply with the Housing and Community Development Act of 1974 that reflects Congress's intent that, where possible, the nation's existing housing stock should be preserved.

B. ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **Texas Department of Housing and Community Affairs (hereinafter referred to as TDHCA or Department)** for the jurisdiction of **State of Texas**.

Effective September 1, 1991, the Texas Department of Housing and Community Affairs (TDHCA) was created by the 72nd Legislature by merging two state agencies. These were the Texas Department of Community Affairs (TDCA) established in 1971 by the 62nd session of the State Legislature and the Texas Housing Agency (THA) established in 1979, and the Community Development Block Grant Program was transferred from the Texas Department of Commerce.

In 1978, the former TDCA conducted a survey to identify localities that would be interested in participating in a rural Section 8 existing program. From among the respondents to this survey, 18 cities, 6 counties, 2 housing authorities and 1 community action agency signed Local Operator contracts with the department and the first Housing Assistance Payment Program contract was executed in September, 1979.

The Department is responsible for the operation of the Section 8 Housing Choice Voucher Program. The program is referenced as the Statewide Housing Assistance Payments Program (SHAPP).

1. Organizational Set Up

The SHAPP is headed by the Executive Director and the Director of Community Affairs who reports to the Deputy Executive Director of the Department and is responsible for administration of the program and supervision of the staff.

The SHAPP has a Manager, one Section 8 Coordinator, one Sr. Regional Coordinator, one Regional Coordinator/Trainer, three Regional Coordinators, and one Financial Services Facilitator. Many outreach activities, initial inspections and proposed SHAPP contracts are prepared by the Local HAP Operators which contract to administer the program in specific localities.

C. TDHCA MISSION

The Statewide Assistance Payments Program (Section 8) provides rental assistance for safe, decent and sanitary housing on behalf of low-Income families and individuals, including the elderly and persons with disabilities.

D. TDHCA PROGRAMS

The following programs are included under this administrative plan:

THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

E. TDHCA LOCAL OPERATOR/REPRESENTATIVE'S

The Local Operator (LO) is a separate agency with which the Department contracts to assist with administration of the HCV Program on a local level. The LO representative works as an agent of the said agency to administer the Section 8 HCV program locally in the cities and/or areas covered under the Department's HCV Program. The primary responsibilities of the Local Operator representatives are to:

1. Receive and review applications for participation in the program;
2. Encourage owners to make their units available for lease by Section 8 participants;
3. Verify family income, employment requirements and other factors relating to eligibility and the amount of assistance;
4. Issue Housing Choice Vouchers and brief selected eligible families for participation in the program in a manner prescribed by the Department;
5. Inspect units to determine that they meet or exceed Section 8 housing quality standards;
6. Notify owners and families of property inspection determinations; and
7. Perform annual and periodic re-examinations of income, family composition and re-determination of rent.

F. TDHCA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the Department is committed to providing excellent service to HCV program participants – families and owners – in the community. The Department's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the Department's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the Department's support systems and commitment to our employees and their development.

The Department will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

G. TDHCA's CODE OF CONDUCT

1. Ethics Policy

The Texas Department of Housing and Community Affairs (TDHCA) promulgated the following ethics policy, pursuant to Section 572.051(c) of the Texas Government Code. The following ethics policy for TDHCA's Public Housing Authority includes all parts of the ethics policy that relate to the PHA program. All TDHCA employees sign an acknowledgement of receipt form that acknowledges that they have received and reviewed the Code of Conduct. Additionally, all officers and agents of TDHCA are informed of the TDHCA ethics policy.

This ethics policy prescribes standards of conduct for all Department employees. This ethics policy does not supersede any applicable federal or Texas law or administrative rule. All Department employees must familiarize themselves with this ethics policy. All Department employees must abide by all applicable federal and Texas laws, administrative rules, and Department conduct policies, including this ethics policy. A Department employee who violates any provision of the Department's ethics and conduct policies is subject to termination of their state employment or another employment-related sanction. A Department employee who violates any applicable federal or Texas law or rule may be subject to civil or criminal penalties in addition to any employment-related sanction.

2. Standards of Conduct

A Department employee shall not:

- accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties, or that the employee knows or should know is being offered with the intent to influence the employee's official conduct; intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another;
- disclose confidential information, information that is excepted from public disclosure under the Texas Public Information Act (Texas Government Code Ann. Chapter 552), or information that has been ordered sealed by a court, that was acquired by reason of the employee's official position, or accept other employment, including self-employment, or engage in a business, charity, nonprofit organization, or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information, information that is excepted from public disclosure under the Texas Public Information Act, or information that has been ordered sealed by a court, that was acquired by reason of the employee's official position;
- accept other employment, including self-employment, or compensation or engage in a business, charity, nonprofit organization, or professional activity that could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's official duties;
- make personal investments, or have a personal or financial interest, that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest;
- utilize state time, property, facilities, or equipment for any purpose other than official state business, unless such use is reasonable and incidental and does not result in any direct cost to the State or Department, interfere with the employee's official duties, or interfere with Department functions (Please refer to SOP 1264- 02 "Use of the Internet, Email, and Network Resources," for the Department's more detailed acceptable use policies for the internet, email, and other network resources.);
- utilize his or her official position, or state issued items, such as a badge, indicating such position for financial gain, obtaining privileges, or avoiding consequences of illegal acts;
- knowingly make misleading statements, either oral or written, or provide false information, in the course of official state business; or
- engage in any political activity while on state time or utilize state resources for any political activity.

A Department employee shall:

- perform his or her official duties in a lawful, professional, and ethical manner befitting the State and Department; and
- report any conduct or activity that the employee believes to be in violation of this ethics policy to the Department's Ethics Advisor.

3. Special Ethical Issues Related to Internal Auditors

- Auditors and audit organizations must maintain independence so that their opinions, findings, conclusions, judgments, and recommendations will be impartial and viewed as impartial by objective third parties with knowledge of the relevant information. Auditors should avoid situations that could lead objective third parties with knowledge of the relevant information to conclude that the auditors are not able to maintain independence and thus are not capable of exercising objective and impartial judgment on all issues associated with conducting the audit and reporting on the work.
- Auditors participating on an audit assignment must be free from personal impairments to independence. Personal impairments of auditors result from relationships or beliefs that might cause auditors to limit the extent of the inquiry, limit disclosure, or weaken or slant audit findings in any way. Individual auditors should notify the appropriate officials within their audit organizations if they have any personal impairment to independence. Examples of personal impairments of individual auditors include, but are not limited to, the following:
    - seeking employment during the conduct of the audit with an audited organization.

4. Political Influence

The Appropriations Act prohibits the use of state funds, regardless of their source or character, for influencing the outcome of any election, or the passage or defeat of any legislative measure. Employees who wish to participate in political activities may do so and may support the issues and candidates of their choice. Such participation, however, is prohibited during office hours or while employees are representing the Department in an official capacity. Except as expressly prohibited, a state employee has the full rights of freedom of association and political participation guaranteed by the state and federal constitution. Federal and state law restricts state employees from certain political activities. Prohibited political activities include the following:

- An employee may not use his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- An employee may not directly or indirectly coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose;
- An employee of the Department may not be a paid lobbyist for any individual, firm, association, or corporation;
- An employee may not use a state owned or leased automobile in connection with any political campaign;
- An employee may not use official authority or influence or permit the use of a program administered by the State to interfere with or affect the result of an election or nomination of a candidate, or to achieve any other political purpose; and
- An employee may not be a candidate for a public office in a partisan election if his or her principal job duties are in connection with an activity financed either in whole or in part with federal funds pursuant to the restrictions imposed by the Hatch Act. The Department

will not pay the membership dues of any employee to any organization whose sole function is to lobby.

5. Nepotism

The Executive Director may not employ any relative of his/hers within the second degree by affinity (marriage) or within the third degree by consanguinity (blood). The Department may employ relatives of other employees as long as the person hiring the employee is not related to the employee within the above mentioned degree.

- **The Department will not employ relatives to work in the same section or division of the Department.** The Department discourages the employment of relatives where the employment might reasonably present a conflict due to the relationship. In no case will an individual be employed in a position over which a member of his/her family has supervisory authority, controls the compensation, work assignments, working conditions, or hours of work of any person related to that individual within the third degree of consanguinity or the second degree of affinity. The Department will not authorize or approve the transfer or promotion of an employee in any division, or between divisions that would result in a family member having supervisory authority over another family member, either directly or indirectly.
- **The Department will transfer, if practical, or terminate employees when the marriage of employees results in a violation of this policy.**
- All employment decisions will fully comply with state law concerning nepotism, Texas
- Government Code, Chapter 573. Employees should contact the Legal Services Division if there is a question as to the degree of relationship covered by state law. Each employee is required to immediately inform his/her supervisor and the Director of Human Resources of any change in marital or other family relationship that might create a violation of this policy.
- **Each employee is also responsible for immediately notifying the Director of Human Resources of a relative who is an applicant for a job with the Department.** Supervisors will keep the Executive Director and the Director of Human Resources informed regarding any potential violations of the policy.

6. Outside Employment and Community Service

The Department wants employees to have the maximum freedom possible to engage in outside employment, business activities, or serve on community boards of directors on his/her own time. The activity must not create, or appear to create, a conflict of interest.

The activity cannot duplicate any Department responsibility of the employee as evidenced in his/her scope of work, and the activity cannot interfere with an employee's ability to perform his/her official duty, nor bring discredit upon the Department.

Prior to engagement in any outside employment, consultation, or service the employee must complete an Outside Employment Form. Each management level will indicate approval or denial of the request and forward the request to the Ethics Advisor for review. The Executive Director will make a final decision. **The original form should be forwarded to Human Resources to be retained in the employee's personnel file**.

An employee whose employment is involved in a competitive program of the

Department must immediately disclose the acceptance of another job in the same field. The disclosure must be made to either the employee's supervisor, Division Director or to the Executive Director. The Executive Director must be notified in all cases. Failure to make the required disclosure may result in the employee's immediate termination from the Department.

7. Use of State Property

The appropriation of state property for personal use is grounds for termination of employment. In addition, state property must be handled with care and used properly and effectively. **No Department employee has a right or expectation of privacy in the use of any furniture, equipment, or space owned or leased by the Department.** (Also refer to SOP 1200.02 Property Accounting and Control located on the Department's intranet.)

a. Electronic Mail: As with state-occupied facilities, Department documents and records, including electronic communication systems, i.e., e-mail and voice mail are the property of the Department (Also refer to SOP 1264.02 Use of the

Internet, Email, and Network Resources located on the Department intranet). The Department reserves the right to access any and all e-mail communications from and to employees that come through work equipment regardless of the source of the e-mail. Employees are subject to disciplinary action for inappropriate, unprofessional, or offensive e-mail messages. With the exception of documents intended for public dissemination, Department records may not be released to members of the public without prior written authorization of the Division Director. This policy is to ensure that confidential information is not inadvertently released to the public. **Public information requests must be entered into the public information tracking system and should be routed to the Housing Resource Center**.

b. Consumable Supplies: The supervisor or Division Director should assign one member of his/her staff to coordinate the purchase of supplies for the division/section. All requests for supplies should be submitted through the purchase request system.

c. Mail and Postage: Employees may not use the state mail system to mail any type of personal mail. This includes mailing personal mail through other courier services used by the Department such as United Postal S.

d. Printing/Photocopying, Fax Machines, and Computers: The use of any reproduction equipment, fax equipment, or computer equipment of the Department is limited to official state business. Personal printing, photocopying, faxing, or the use of a Department computer is not permitted and will result in the imposition of disciplinary action. Only authorized programs may be installed on a Department computer and only appropriate wallpaper used. All employees are required to sign a Computer Security Statement.

e. Furniture and Equipment: Every item of furniture and equipment in the

Department must be accounted for periodically. To aid in this process, each employee will sign an inventory list on an annual basis. Furniture or equipment shall not be relocated without notifying the Department's Property Manager.

f. Credit Cards: Employees are authorized to use the credit card issued to them through the Department ***only*** when they are on official travel status for the Department. Employees **may not** use the credit card issued to them through the Department for non-business charges. Employees who do so are subject to disciplinary action up to and including termination of employment**.** Employees are also responsible for making timely payments for charges made on their state issued credit card.

8. Texas Whistle-Blower Act

The Department will not suspend or terminate the employment of, or otherwise discriminate against, or take other adverse personnel action against, an employee who reports a violation of the law to the appropriate law enforcement authority, if the employee report is made in good faith.

9. Sexual Harassment

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, Division Director, an agent of the employer, a supervisor or Division Director in another area, a co-worker, or a nonemployee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be unwelcome. Severe and real penalties may be imposed on individual supervisors as well as the Department for discriminatory actions. Supervisors may be held personally liable for sexual harassment and the Department may not legally be allowed to reimburse the supervisors for damages.

A. Policy

The Department will not tolerate sexual harassment of any employee by another employee and will also not tolerate sexual harassment by Department employees of any individual with whom the Department conducts business. It is the policy of the Department that:

- All employees shall be provided with a work environment free from sexual harassment;
- All employees will receive a copy of the sexual harassment policy;
- All employees will be required to attend periodic prevention of sexual harassment training to comply with Texas Labor Code; Sec.21.010;
- Documentation of training will be kept in the employee's personnel file;
- Every complaint of sexual harassment shall be thoroughly investigated;
- Each supervisor and Division Director shall make every effort to ensure that no sexual harassment occurs within his/her area of authority;
- Appropriate disciplinary action shall be applied to persons who violate this policy, up to and including termination from employment; and
- The Department will not retaliate nor will it allow retaliation for a report made in good faith.
- The Department recognizes the sensitive nature of complaints concerning sexual harassment; therefore, information disclosed in connection with a complaint of sexual harassment shall, to the greatest extent possible, remain confidential. The Director of Human Resources shall monitor and coordinate the implementation of this policy.

Sexual harassment shall include, but not be limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is not welcome and personally offensive where:

- Submission to such conduct is either an expressed or implied term or condition of employment;
- Submission to or rejection of such conduct is used as a basis for an employment decision affecting the harassed employee; or
- The conduct has the purpose or effect of substantially interfering with an affected person's work performance or creating an intimidating, hostile, or offensive environment.

B. How to Report a Complaint

An employee who believes that he/she has been the subject of discrimination, including harassment and sexual harassment, is responsible for immediately reporting the incident to his/her immediate supervisor, Division Director, Director of Human Resources, the Department's Ethics Advisor, or the Deputy Executive Director or Executive Director either verbally or in writing. If the Director of Human Resources has not been notified of the complaint then the supervisor, Division Director, or Ethics Advisor shall immediately inform the Director of Human Resources of the allegation.

IMPORTANT: Failure to exercise the complaint procedure could result in any future sexual harassment claims being dismissed.

C. Complaint Investigation Procedure

Reports or complaints shall be addressed and resolved as promptly as practicable after the report or complaint is made.

When a complaint is received the Director of Human Resources and/or designee will promptly investigate all allegations of sexual harassment, discrimination, and any other complaint in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

The investigation will include interviews with the person filing the complaint and with witnesses. An interview will also be conducted with the alleged person the complaint was filed against. The investigation process should be completed within 15 to 30 days. The Director of Human Resources will prepare a confidential memorandum to the appropriate supervisor, Division Director, Legal Services, and the Executive Director with a summary of the investigation and will provide a recommended action based on the results of the investigation. The Executive Director will determine whether to approve or deny the recommended action within 10 days from receipt of the recommended action. At the conclusion of the investigation process, the Director of Human Resources will conduct an exit meeting with the complainant to give the complainant an overview of the results to the extent appropriate. All documents related to the investigation will be maintained in the Human Resources Office. If the allegation is not resolved to the satisfaction of the employee through the complaint process, the employee may file a grievance in accordance with the established Department Grievance Procedure (Refer to Section 4.0 Grievance Policy). It is the employee's responsibility to notify his/her supervisor, Division Director, Director of Human Resources, or Ethics Advisor, as appropriate, of any recurrence of the conduct giving rise to the allegation.

D. Disciplinary Action

Immediate and appropriate corrective action will be taken, if prohibited conduct occurred based on the written findings. Such action may range from counseling to termination of employment, and may include such other forms of disciplinary action as deemed appropriate under the circumstances. Retention of EEO and sexual harassment documents will be in accordance with the Department’s State Record Retention Schedule.

Retaliation

- TDHCA prohibits retaliation of any form against any employee for making a complaint about any discriminatory conduct or sexual harassment. An employer or employee commits an unlawful employment practice if the employer or employee retaliates or discriminates against a person who:
    - opposes a discriminatory practice,
    - makes or files a complaint alleging employment discrimination
    - testifies, assists or participates in any manner in an investigation, proceeding or hearing.
- Retaliatory conduct is prohibited and any employee who retaliates against another employee\who opposes alleged employment discrimination violates the Department’s policy and maybe subject to disciplinary action up to and including termination. An employee who believes that he/she has been the subject of retaliation/discrimination is responsible for immediately reporting the incident to his/her supervisor, Division Director, Director of Human Resources or to the Department’s Ethics Advisor.

10. TDHCA Public Housing Authority Conflict of Interest Policy

A. Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter: (1) Any present or former member or officer of the PHA (except a participant commissioner); (2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs; (3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or (4) Any member of the Congress of the United States.

B. Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.

C. The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

D. TDHCA prohibits the solicitation or acceptance of gifts or gratuitites in excess of a nominal value by an officer or employee of the PHA or any contractor, subcontractor, or agent of the PHA.

E. All Department employees must abide by all applicable federal and Texas laws, administrative rules, and Department conduct policies, including this ethics policy. A Department employee who violates any provision of the Department's ethics and conduct policies is subject to termination of their state employment or another employment-related sanction. A Department employee who violates any applicable federal or Texas law or rule may be subject to civil or criminal penalties in addition to any employment-related sanction.

F. All TDHCA employees sign an acknowledgement of receipt form that acknowledges that they have received and reviewed the Code of Conduct. Additionally, all officers and agents of TDHCA are informed of the TDHCA ethics policy.

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the audience in understanding the program.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality ("housing quality standards") and was within certain HUD-established rent limitations ("fair market rents"), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family's adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as "conforming" rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded choices in the operation of the program which are included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, the PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The PHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

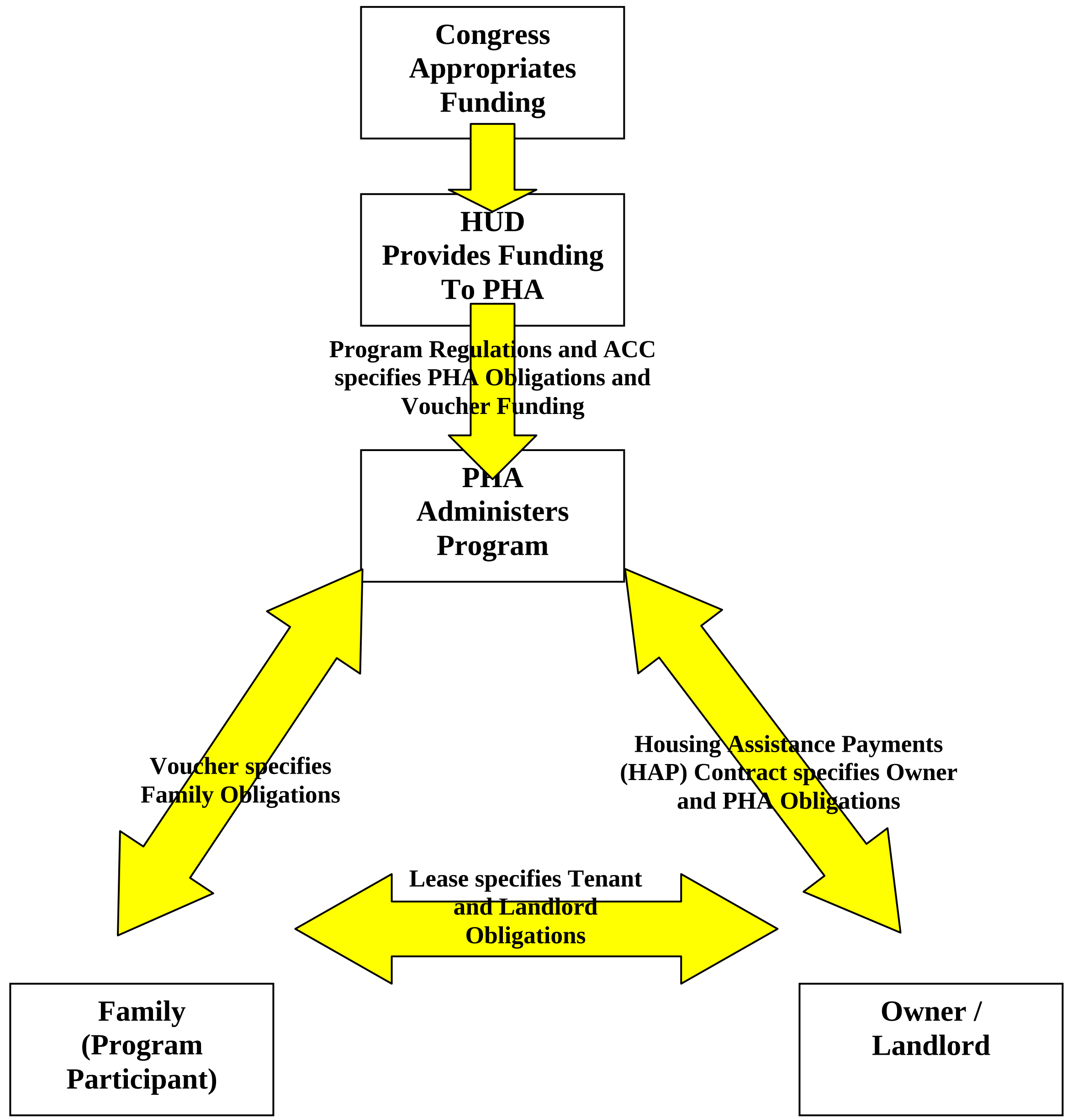
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD. The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the following page illustrates key aspects of these relationships.

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does the PHA do?

The PHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state and local laws.

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Cooperate in attending all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or termination the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

PART III. THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the administrative plan. The PHA administrative plan must cover PHA policies on these subjects:

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);

- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

New Approach to Policy Development

HUD has developed an approach to monitoring and policy development that requires PHAs to establish policy for those purposes.

A primary focus of HUD's Rental Integrity Monitoring (RIM) program was consistency – consistency in how PHAs conduct their business and in how HUD monitors PHA activities. HUD expects that all staff will be consistent in the procedures they follow and the calculations they make and that their actions will be consistent with the PHA's administrative plan.

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The PHA's administrative plan is the foundation of those policies and procedures. HUD's new directions require, more than ever, that PHAs make policy choices to provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

The Plan is organized to provide information to users in particular areas of operation.

1-III.D. UPDATING AND REVISING THE PLAN

The Department will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the board of commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

> **TDHCA Policy**
>
> The Department will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, PHA operations, or when needed, to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHAs housing choice voucher (HCV) operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

> <u>Part I: Nondiscrimination</u>. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.
>
> <u>Part II: Policies Related to Persons with Disabilities</u>. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.
>
> <u>Part III: Prohibition of Discrimination Against Limited English Proficiency Persons</u>. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD and DOJ's Notice of Guidance, published December 19, 2003 in the *Federal Register.*

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

TDHCA Policy

The Fair Housing Policy of the Department is to comply fully with all federal, state, and local non-discrimination laws and in accordance with the rules and regulations governing fair housing and equal opportunity in housing and employment, and with the Americans with Disabilities Act.

Specifically, the Department will not discriminate, on the basis of race, color, religion, sex, handicap, familial status, or national origin, deny any family or individual the opportunity to apply for or receive assistance under HUD's Section 8 programs, within the requirements and regulations of HUD and other regulatory authorities. To further its commitment to full compliance with applicable civil rights laws, the Department will provide access to information to Section 8 participants regarding "discrimination". Also, this subject will be discussed during the briefing session and any complaints will be documented and made part of the applicant/participant file.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes")

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

TDHCA Policy

The Department will not discriminate on the basis of marital status or sexual orientation.

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

TDHCA Policy

In order to affirmatively further fair housing, the Department must comply with the following:

1) The Department or its Local Operator (LO) representative shall provide all voucher recipients the HUD Fair Housing Guide that outlines the Fair Housing Act, protection available to persons with disabilities, and how to file a complaint.

2) All of the Housing Choice Voucher Field Offices display in English and in Spanish Equal Housing Opportunity Posters. Posters describe fair housing law and how to file a complaint.

3) The Department or its Local Operator (LO) representative shall provide all applicants and voucher recipients information on how to file a fair housing complaint, including the provision of the toll-free number for the Fair Housing Complaint Hotline: 1-800-669-9777. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-887-8339.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by a Local Operator or an owner, the family should advise the Department. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

TDHCA Policy

For families and/or individuals who report apparent discrimination in obtaining assisted housing, the Department or its Local Operator (LO) representative shall assist them by providing the family/individual with a HUD Housing Discrimination Complaint Form, HUD-903. The individual can complete this form and report apparent discrimination to the Fort Worth HUD Office of Fair Housing and Equal Opportunity.

PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

> **TDHCA Policy**
>
> For those applicants or participants who require a type of accommodation, there will be at statement regarding requests for accommodations on the intake application, reexamination documents, and on various notices of adverse action by the Department. The statement will read:
>
> > "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the Local Operator representative in your area."
>
> A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When needed, the PHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification

process and any other meetings with TDHCA staff

- Displaying posters and other housing information in locations throughout the Local Operator's offices in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

TDHCA Policy

The Department will encourage the family to make its request in writing for a reasonable accommodation. However, the Department or LO representative will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. Information about requesting a reasonable accommodation will be included in the HCV client briefing packet.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the PHA's programs and services.

If a person's disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The PHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

TDHCA Policy

After a request for an accommodation is presented, the LO representative will respond, in writing, within 10 business days.

If the LO representative denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the Department's operations), the LO representative will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the LO representative believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the LO representative will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

> **TDHCA Policy**
>
> To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available via the Relay Texas service. Either a TTY user or a person using a standard phone may initiate a call through Relay Texas by dialing the relay number 711.
>
> Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

TDHCA Policy

The Department will analyze the various kinds of contacts it has with the public to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, the Department will encourage the use of qualified community volunteers to provide bilingual assistance to LEP persons.

LEP persons may use at their own expense, an interpreter of their own choosing.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

TDHCA Policy

In order to comply with written-translation obligations, the Department will take the following steps:

The Department will provide written Spanish versions of all materials in the pre-application and tenant briefing packet.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's Housing Choice Voucher program and services.

TDHCA Policy

The Department will include Spanish translations for the pre-application and tenant briefing packet. If the LEP requires materials to be translated in any language other than English and Spanish, they may provide at their own expense, a translator to assist them. The Department LO representative will also make reasonable efforts to provide translation assistance through community resources, if available.

Part IV: TDHCA Policy - Affirmatively Furthering Fair Housing

2-IV.A. Overview

The Texas Department of Housing and Community Affairs (the Department) has completed the following required analysis of the Housing Choice Voucher program, required by the U.S. Department of Housing and Urban Development, according to 24 CFR Section 903.7 (o):

- Examined our Housing Choice Voucher program and proposed programs;
- Identified any impediments to fair housing choice within those programs;
- Addressed those impediments in a reasonable fashion in view of the resources available;
- Worked with local jurisdictions to implement any of the jursidiction's initiatives to affirmatively further fair housing that require the PHA involvement; and
- Maintained records reflecting these analysis and actions.

The Department does not currently find any impediments to fair housing choice in the Housing Choice Voucher program. The last fair housing analysis of the Housing Choice Voucher program took place during the Department's 2003 Analysis of Impediments. Offering Housing Choice Vouchers are one of the most responsive actions that TDHCA, as a Public Housing Authority, can take to offer meaningful housing choice and, thereby, overcome impediments to housing choice. The fair housing analysis of the Section 8 program will be updated during the next Analysis of Impediements to Fair Housing Choice to be conducted by the Department in 2010.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY NDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

Chapter 3

ELIGIBILITY

INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for family members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

> Part I: Definitions of Family and Household Members. This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.
>
> Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.
>
> Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13]

The terms *family* and *household* have different meanings in the HCV program.

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* is defined by HUD as a single person or a group of persons, a family with a child or children, two or more elderly or disabled persons living together, and one or more elderly or disabled persons, with one or more live-in aides. The PHA has the discretion to determine if any other group of persons qualifies as a family.

> **TDHCA Policy**
>
> The term "family" as used in this policy means either a single person or a group of persons:
>
> 1. Sharing a residence whose income and resources are available to meet the family's needs and who are either related by blood, marriage, or operation of law (such as guardianship, adoption, etc.) or who show evidence of a stable family relationship. Evidence of "stable family relationship" may include any of the following: birth certificates of the children, joint tax return, prior lease held jointly, joint bank accounts, insurance policies or equivalent documentation as determined. This includes a household with or without children (the temporary absence of a child from the home due to placement in foster care should be considered a member of the family). By definition, a family must contain a competent adult of at least 18 years of age to enter into a contract and capable of functioning as the head of household;

Household

Household is a broader term that includes additional people who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up [24 CFR 982.315]

The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

TDHCA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open. If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement between the original family members, the Department will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

TDHCA Policy

The Department will transfer the voucher to the person(s) of legal age (18 years or older), remaining in the subsidized unit after the person(s) who signed the voucher has/have left the premises, other than by eviction. The transfer of assistance is not automatic, but conditional based on whether the remaining person qualifies for assistance on their own merit. In most cases an individual must have received housing subsidy under the program to which he/she claims head of household status for one year before becoming eligible for Section 8 HCV subsidy as a remaining family member. The Department will address each request for a transfer of assistance for remaining family members on a case by case basis. In addition, this person must complete forms necessary for HCV assistance within ten calendar days from the departure of the leaseholder and may remain in the unit for a reasonable time (not more than 60 calendar days from the date individual requests head of household status) pending the verification and hearing process. This person must, upon satisfactory completion of the verification process, execute all required HCV subsidy documents and cure any monetary obligations in order to maintain assistance. Any person who claims him/herself as a remaining member shall, in the event that the Department declares him/her ineligible for remaining member status, be entitled to an informal hearing. The informal hearing process is described in Chapter 16, Section III.C.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities, particularly in regard to lease obligations, alone or in conjunction with a co-head or spouse.

TDHCA Policy

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

TDHCA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

TDHCA Policy

Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age <u>or</u> a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. An unborn child shall not be considered a dependent. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

<u>TDHCA Policy</u>

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Department will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603, HVC GB p. 5-29 and 5.880]

A full-time student (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. Verification will be supplied by the attended educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; final Rule

<u>TDHCA Policy</u>

No assistance shall be provided under Section 8 of the United States Housing Act of 1937 to any individual who is (1)enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965; (2) Is under 24 years of age; (3) Is not a veteran; (4) Is unmarried; (5) Does not have a dependent child; and (6) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937.

For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937, any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965, shall be considered income to that individual, except for a person over the of 23 with dependent children.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is at least sixty-two years of age, or disabled or handicapped and may include two or more elderly, disabled or handicapped persons living together, or one or more such persons living with a live-in aide who is determined to be essential to his or her care and well being. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

A person with disabilities has a physical or mental impairment which:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes his/her ability to live independently; and
3. Is of such a nature that such disability could be improved by more suitable housing conditions.

   A person who is under a disability as defined in Section 223 of the Social Security Act (42 USC 423) or in Section 102 (7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6001(7)), or is handicapped as defined below:

4. Section 223 of the Social Security Act defines disability as:
   a. "…inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; or
   b. "…in the case of any individual who has attained the age of fifty-five (55) and is blind (within the meaning of "blindness" as defined in Section 416(I)1 of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."
5. Section 102(5) of the Development Disabilities Services and Facilities Construction Amendments of 1970 defines disability as:

   > "A disability attributable to mental retardation, cerebral palsy, epilepsy or another neurological condition of an individual found by the Secretary (of Health and Human Resources) to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual."

6. No individual shall be considered to be a person with a disability for purposes of eligibility for low income housing solely on the basis of any drug or alcohol dependency.

As discussed in Chapter 2, the PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent.

> **TDHCA Policy**
>
> The length of stay for guests is usually defined by the landlord and indicated in their lease. For the Department HCV program purposes, a guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12 month period. If any individual remains in the unit for more than 30 consecutive days, the head of household must report in writing the additional person(s) and request approval from the owner/manager and the Department to add the family member to the lease.
>
> Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.
>
> A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

3.I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, p. 13].

> **<u>TDHCA Policy</u>**
>
> A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.
>
> A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.
>
> The Department will consider whether the addition of a new occupant will require the issuance of a new voucher.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

Definitions of Temporarily and Permanently Absent

TDHCA Policy

Generally, an individual who is, or is expected to be, absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Families participating in the program may be absent for a period of 14 calendar days without notifying the Local Operator (LO) representative. If the family anticipates being absent for more than 14 consecutive calendar days, the head of household must request written permission from the LO representative prior to leaving the assisted unit. The written request must be submitted 30 calendar days in advance of the anticipated absence. The LO representative may approve absences in excess of 14 consecutive calendar days for vacation, hospitalization or other good cause. The LO representative will respond in within 10 calendar days of the receipt of the written request.

Note – If an emergency situation exists, such as hospitalization, the head of household must notify the LO representative as soon as possible. Verbal request for determination may only be made in emergency situations. The LO representative will respond verbally and follow-up its verbal determination in writing within 10 calendar days of the verbal request.

Absent Students

TDHCA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Department indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

TDHCA Policy

If a child has been placed in foster care, the Department will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

<u>TDHCA Policy</u>

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

<u>TDHCA Policy</u>

The Department will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

<u>TDHCA Policy</u>

The family must request Department approval for the return of any adult family members that the Department has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member (see Section 3-I.C.) of a tenant family.

TDHCA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The Department will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

> The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
>
> The person commits drug-related criminal activity or violent criminal activity; or
>
> The person currently owes rent or other amounts to the Department or to another PHA in connection with the Section 8 HCV program or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the housing choice voucher program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

TDHCA Policy

The Department will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the Department.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

TDHCA Policy

Families of federally declared disasters who are Section 8 voucher holders or public housing residents in another jurisdiction will receive preference over other waiting list placeholders for admission to the voucher program. Once that need is met, the Department may begin serving other disaster victims who are non-participants.

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

An applicant will not be offered Section 8 assistance under the following circumstance - If the applicant's annual family income exceeds the income limits established by HUD and published in the Federal Register, the applicant will be declared ineligible.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or non-citizens that have eligible immigration status. At least one family member must be a citizen, national, or non-citizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible non-citizens. For citizens, nationals and eligible non-citizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Non-citizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

> **<u>TDHCA Policy</u>**
>
> In addition to signing a citizenship declaration, family members who declare citizenship or national status may be required to provide any of the following additional documentation upon the Department's request:
>
> a. United States passport;
>
> b. Resident Alien card;
>
> c. Registration card;
>
> d. Social Security card; and
>
> e. Other appropriate documentation.

Eligible Non-citizens

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible non-citizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

TDHCA Policy

Persons claiming eligible immigration status must provide all of the following evidence:

- The signed declaration of eligible immigration status;
- One of the INS documents specified in the rule, such as:
  - Immigrant status under Sections 101(a)(15) or 101(a)(20) of the INA;
  - Permanent residence under Section 249 of INA;
  - Refugee, asylum, or conditional entry status under Sections 207, 208 or 203 if of the INA;
  - Parole status under Section 212 (d)(5) of the INA;
  - Threat to life or freedom under Section 243(h) of the INA; and
  - Amnesty under Section 245A of the INA.
- A signed verification consent form describing transmission and use of the information obtained.

The Department must conduct primary verification of eligible immigration status through the INS automated system, Systematic Alien Verification for Entitlements (SAVE).

If the INS SAVE system does not confirm eligible immigration status, the Department must request that a manual search be conducted of INS records. The Department must request the secondary verification (manual search) by INS within ten calendar days of receipt of the initial failed verification. INS will issue a decision within 30 days of its receipt of the request for a secondary verification. If the secondary verification fails to confirm eligible immigration status, the Department shall notify the family of the right of appeal to INS. If INS is unable to issue a decision within 30 days, the INS will inform the family and the Department of the reasons for the delay. When the Department receives a copy of the INS decision (and the decision does not confirm the declaration of eligible immigration status), the Department will notify the family of its right to request an informal hearing. The informal hearing process will be detailed in Chapter 16.

1. Assistance to an applicant may not be delayed, denied, or terminated, if:
   a. The primary and secondary verification of any immigration documents that were

submitted in a timely manner has not been completed;

b. The family member of whom required evidence has not been submitted has moved;

c. The family member who is determined not to be in an eligible immigration status following INS verification has moved;

d. The INS appeals process has not been concluded;

e. For a tenant, the Department hearing process has not be concluded;

f. Assistance is prorated; and/or

g. Assistance for a mixed family is continued.

2. Assistance to an applicant shall be denied and a tenant's assistance shall be terminated upon the occurrence of any of the following:

   a. Evidence of citizenship (i.e., the declaration) is not submitted in a timely manner;

   b. Evidence of citizenship and eligible immigration status is submitted in a timely manner, but INS primary and secondary verification does not verify eligibility immigration status;

   c. The family does not pursue INS appeal or LO information hearing rights; and/or

   d. INS appeal and informal hearing rights are pursued, but the final appeal or hearing decision is decided against the family member.

3. Notice must be given to the family and shall advise:

   a. That financial assistance or housing will be denied or terminated, and provide a brief explanation of the reasons;

   b. That they may be eligible for proration of assistance;

   c. In the case of a tenant, the criteria and procedures for obtaining relief for mixed families and other families; and

   d. Any future appeal rights have been exercised.

Note: An applicant family without any citizens or members with eligible immigration status is not eligible for assistance.

Ineligible Non-citizens

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

> **<u>TDHCA Policy</u>**
>
> The Department will not provide assistance to a family before the verification of at least one family member.
>
> When the Department determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.
>
> The notice will explain the reasons for the denial of assistance, that the family may be eligible for pro-ration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the PHA. The informal hearing with the Department may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.
>
> Informal hearing procedures are contained in Chapter 16.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the assisted family the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

> **<u>TDHCA Policy</u>**

The Department will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

For every family member age 6 or older the family must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a family member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member who is at least six years of age is added to the family, the new member's SSN documentation must be submitted at the family's next interim or regular reexamination, whichever comes first. If any member of the family who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

TDHCA Policy

A consent form must be completed when ever a new adult joins an HCV household. Whenever a current household member turns 18 years of age, they will not be required to sign a consent form until the family's annual appointment unless they are earning income, which would require them to report their income within 30 days of turning 18.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the following eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying or withdrawing a voucher,
- Not approving a request for tenancy or refusing to enter into a HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b)]

HUD rules prohibit denial of assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  TDHCA Policy

  The Department will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the Department is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Department, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

  TDHCA Policy

  Currently engaged in is defined as any use of illegal drugs during the previous six months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  TDHCA Policy

  The Department will consider all credible evidence, including but not limited to, any record of convictions, arrests or evictions of household members related to the use of illegal drugs or the abuse of alcohol. The Department may waive admission/denial if:

  - the person demonstrates to the Department's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;
  - has successfully completed a supervised drug or alcohol rehabilitation program; or
  - has otherwise been rehabilitated successfully, is participating in a supervised drug or alcohol rehabilitation program.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

> **TDHCA Policy**
>
> If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied assistance.
>
> *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
>
> *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
>
> Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
>
> Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the Department (including a Department employee or Local Operator).
>
> *Immediate vicinity* means within a three-block radius of the premises.
>
> Evidence of such criminal activity includes, but is not limited to:
>
> > Conviction for drug-related or violent criminal activity within the past 5 years.
> >
> > Any arrests for drug-related or violent criminal activity within the past 5 years.
> >
> > Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.
>
> In making its decision to deny assistance, the Department will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the Department may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing:

TDHCA Policy

The Department **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program or the Welfare to Work voucher program.

The Department **will** deny assistance to an applicant family if:

The family does not provide information that the Department or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the Department.

Any family member has been evicted from federally-assisted housing in the last five years.

Any PHA has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the Department or an owner, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

The family has failed to meet the eligibility criteria described in Section II of this chapter.

The family has failed to provide information required within the time frame specified (the applicable dates are contained in the letters from the LO representative or the Department) in the application process.

The family has refused to sign or submit required consent forms that are provided by the LO representative for the purpose of verifying employment and income information.

The family has violated any family obligation listed on the Housing Choice Voucher.

A family member has engaged in or threatened violent or abusive behavior toward Department personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny assistance, the Department will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

Time Frames for Denial

As a general rule, applicants may be denied admission to the Section 8 program for the following time frames, which shall begin on the date of application, unless otherwise provided for herein below:

1. Denied admission for one year for violation of voucher and illegal use, or possession for personal use, of a controlled substance or abuse of alcohol.
2. Denied admission for three (3) years for the following:

   Persons evicted from Public Housing, Indian Housing, Section 8 program, or Section 23 programs because of drug-related criminal activity are ineligible for admission for a three-year period beginning on the date of such eviction.

   The Department can waive this requirement if the person demonstrates to the Department's satisfaction successful completion of a rehabilitation program approved by the Department, or the circumstances leading to the eviction no longer exist.
3. Denied admission for five (5) years for the following:
   a. Fraud – giving false information on the application, failure to report changes in household composition or income is considered fraud;
   b. An arrest or conviction record that indicates that the applicant may be a threat and/or negative influence on other residents. The five years shall begin on the date of the last reported act, completion of sentence and/or probation period;
   c. *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug
4. Denied admission for ten (10) years for a conviction of drug trafficking;
5. Denied admission for life to any household that includes any individual who is subject to a lifetime registration requirement under a state sex offender registration program; or
6. Denied admission for life to any applicant who has been convicted of manufacturing or producing methamphetamine (commonly referred to as "speed") on the premises of the assisted housing. Premises is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

> **<u>TDHCA Policy</u>**
>
> The Department LO representative will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

> **<u>TDHCA Policy</u>**
>
> The Department's LO representative will inform owners of their responsibility to screen prospective tenants, and may provide, upon request in writing by owner, the family's current address and the name and address of the landlord at the family's current and prior addresses as indicated in the Department's records.

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

TDHCA Policy

The Department will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 982.552(c)(2)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).

TDHCA Policy

The Department will consider the following factors when making its decision:

The seriousness of the case, especially with respect to how it would affect other residents;

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure;

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future; and

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The Department will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

HUD permits PHAs to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

> **TDHCA Policy**
>
> As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.
>
> After admission to the program, the family must present evidence of the former family member's current address upon Department request.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

> **TDHCA Policy**
>
> If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the Department will determine whether the behavior is related to the disability. If so, upon the family's request, the Department will determine whether alternative measures are appropriate as a reasonable accommodation. The Department will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

Eligible for Assistance

If the family is eligible for assistance, the Department will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the Department determines that a family is not eligible for the program for any reason, the family must be notified promptly in writing. The notice must describe (1) the reasons for which assistance has been denied (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record [24 CFR 982.553(d)].

Notice requirements related to denying assistance to non-citizens are contained in Section 3-II.B.

> **TDHCA Policy**
>
> The family will be notified of a decision to deny assistance in writing within 10 business days of the determination. The denial letter will allow the applicant ten (10) calendar days to request an informal review (in writing) with the Department. See Chapter 16, for informal review policies and procedures.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:

  A severe, chronic disability of a person 5 years of age or older which:

  - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - Is manifested before the person attains age twenty-two;
  - Is likely to continue indefinitely;
  - Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*
  - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the PHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the PHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA.

TDHCA Policy

Due to the demand for housing throughout the State of Texas, the Department takes applications on an "open enrollment" basis, depending on the length of the waiting list. Preliminary applications (pre-apps) are taken by the Local Operator (LO) representative and forwarded to their assigned Regional Coordinator (RC) to compile a waiting list. The LO representative with no waiting list or a very short waiting list may opt to skip the pre-application and use only the full application. The application process will be undertaken in two phases: preliminary information will be taken from applicants. Then, when the family comes to the top of the waiting list and the LO representative is ready to issue a Voucher, the family will complete the full application. The family will also be required to complete a Personal Declaration Form.

1. Applications will be accepted at the LO representative's office during the times and on the days according to information posted throughout the community. At some LO representative locations, applications will be taken during normal business hours. Applications are dated in accordance to the date and time the applicant completed the application. The LO representative maintains a designated telephone number where interested persons can receive specific directions on how and when to apply.
2. Individuals who have a physical impairment which would prevent them from making an application in person may call the LO representative to make special arrangements to complete their application. A Telecommunications Device for the Deaf (TDD) is available for the deaf.
3. Any family requesting an application for Section 8 HCV rental assistance will be given the opportunity to apply as long as the waiting list is open and the LO representative is accepting applications.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

Ineligible for Placement on the Waiting List

> **<u>TDHCA Policy</u>**
>
> If the LO representative and RC can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the Department will send written notification of the ineligibility determination with in 10 business days of receiving the complete application from the LO representative at the Department headquarters. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

> **<u>TDHCA Policy</u>**
>
> The Department will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete application.
>
> Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.
>
> Applicants will be placed on the waiting list according to the date and time their preliminary application is received by the Department.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

The PHA's HCV waiting list must be organized in such a manner to allow the PHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size (number of bedrooms for which family qualifies under occupancy guidelines);
- Date and time of application;
- Qualification for any local preference, if applicable;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

> **<u>TDHCA Policy</u>**
>
> The Department will maintain a single waiting list for the HCV program for each area served.
>
> The Department LO representative is only responsible for collecting pre-applications for the waiting list. Once a pre-application is received by the LO representative, they will forward it to Department headquarters for processing.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

> **<u>TDHCA Policy</u>**
>
> The Department only operates a Section 8 HCV program, so all qualified applicants will only have the option of receiving HCV assistance.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

A PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

TDHCA Policy

If the LO representative is taking applications, they may suspend the taking of applications, with the Department approval, if the waiting list is such that additional applicants would not be able to be housed within the next 12 month period.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

TDHCA Policy

The Department will announce the reopening of the waiting list as least 10 business days prior to the date applications will first be accepted.

The Department will give public notice by publishing the relevant information regarding the availability and nature of housing assistance for eligible families in suitable media outlets including, but not limited to, newspapers of general circulation, minority media, and other suitable media outlets.

To reach persons who cannot read the newspapers, the LO representative will distribute fact sheets to community based organizations providing assistance to the target group.

4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to serve a specified percentage of extremely low income families (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

TDHCA Policy

The Department will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. APPLICATION PERIOD

TDHCA Policy

The application taking and closing date may be determined administratively at the same time that the Department determines to do open enrollment. The open enrollment period shall be long enough to allow enough applicants as required by the projected turnover and the number of Section 8 Housing Choice Vouchers allocated to apply.

4-II.F. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

TDHCA Policy

While the family is on the waiting list, the family must immediately inform the Department of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

4-II.G. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

<u>TDHCA Policy</u>

To insure that the Department's waiting list reflects the most current applicant information the waiting list will be updated and purged every twelve (12) months.

To update the waiting list, the Department will send an update request via mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the LO representative has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the Department no later than 10 business days from the date of the Department letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 10 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the Community Affairs Director may reinstate the family if s/he determines the lack of response was due to Department error, or to circumstances beyond the family's control.

Removal from the Waiting List

TDHCA Policy

The Department will remove an applicant's name from the waiting list for the following:

1. Applicants who do not respond to the Department's request for information or updates; or
2. Applicants who refuse the Department's offer of tenant-based assistance.
3. If the Department determines that the family is no longer eligible for assistance (see Chapter 3).

If a family is removed from the waiting list because they have failed to respond to the Department's request for more information/updates or the Department has determined that they are no longer eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family that they have ten (10) calendar days from the date of the written correspondence to request an informal review of the Department's decision (see Chapter 16) [24 CFR 982.201(f)].

The correspondence will indicate that their name will be removed from the waiting list if they fail to respond within the time frame specified. The applicant may reapply if the waiting list is open. If the waiting list is closed, the applicant will have to wait to reapply. The Department will place a public notice in the local newspaper on where and when families may apply for the program.

The Department's system of removing applicants' names from the waiting list WILL NOT violate the rights of a disabled person(s). If an applicant's failure to respond to a request from a LO representative for information or updates was caused by the applicant's disability, the LO representative will provide reasonable accommodations and give the applicant an opportunity to respond. An example of a reasonable accommodation would be to allow an applicant to be reinstated on the waiting list based on the original date and time of their application, if the applicant indicates that they did not respond due to a disability. If the disability is not apparent, the LO representative may request the applicant to have a doctor submit a written statement indicating that the applicant did not respond due to their disability.

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

> **<u>TDHCA Policy</u>**
>
> If HUD awards the Department program funding that is targeted for families living in specified units:
>
> a. The Department must use the assistance for the families living in these units;
> b. The Department may admit a family that is not on the LO representative waiting list, or without considering the family's waiting list position. The Department must maintain records showing that the family was admitted with HUD-targeted assistance;
> c. For housing covered by the Low-Income Housing Preservation and Resident Home Ownership Act of 1990 (41 USC 4101 et seq.);
> d. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
> e. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

TDHCA Policy

The Department will not establish any preferences.

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

TDHCA Policy

The Department will monitor progress in meeting the ELI requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

Order of Selection

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

TDHCA Policy

1. When a Housing Choice Voucher is available, the Department will select the family at the top of the waiting list. The order of admission from the waiting list **MAY NOT** be based on family size, or on the family unit size for which the family qualifies for under the occupancy guidelines. If the Department does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, the **Department MAY NOT skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.**
2. However, the provisions of the Income Targeting/Deconcentration Rule, contained within this policy, shall supercede the selection of applicants based on date and time, and allow the LO representative to skip families on the waiting list to accomplish this goal.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family.

TDHCA Policy

The Department will notify the family by mail when it is selected from the waiting list. The notice will inform the family of the following:

The LO Representative contact information (name, phone number and address) in order to set up the initial interview;

Who is required to attend the interview;

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation; and

Other documents and information that should be brought to the interview.

If a notification letter is returned to the Department with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination though a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability.

TDHCA Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the Department LO representative. For this reason all family members who are 18 or over or **strongly** encouraged to attend the interview.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the Department will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided with in the required time frame (plus any extensions) to the LO representative, the family will be sent a notice of denial (See Chapter 3) for housing assistance.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Where an advocate, interpreter or other third party is used to assist the family, the family and the LO representative will execute a certification attesting to the role and assistance of the third-party.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the LO representative may provide translation services in accordance with the Department's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the LO representative in advance of the interview to schedule a new appointment. If a family does not attend a scheduled interview, the LO representative will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without LO representative approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

TDHCA Policy

If the Department determines that the family is ineligible, the Department will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The Department will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on the PHA's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

> Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.
>
> Part II: Subsidy Standards and Voucher Issuance. This part discusses the PHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require the PHA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5-I.B. BRIEFING [24 CFR 982.301]

The PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

TDHCA Policy

Briefings will be conducted in group and individual meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the Local Operator (LO) representative may approve another adult family member such as the co-head to attend the briefing.

Families that attend group briefings and still need individual assistance will receive further guidance/instruction from the LO representative.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the PHA may provide translation services in accordance with the PHA's LEP plan (See Chapter 2).

Notification and Attendance

TDHCA Policy

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any alternate address provided on the initial application.

Failure to attend a scheduled briefing (without notice to the LO representative) will result in the family's application being placed in the inactive file and the family may be required to reapply for assistance. Applicants who provide prior notice of an inability to attend a briefing will be scheduled for the next briefing. The LO representative will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without Department approval, will be denied assistance (see Chapter 3) and will be removed from the waiting list.

Failure of an applicant, without good cause, to participate in a scheduled briefing shall result in withdrawal of his/her application. The applicant will be notified of such withdrawal and determination of ineligibility and of his/her right to an informal review (see Chapter 16).

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

Briefing Packet [24 CFR 982.301(b)]

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, and the PHA's policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- What the family should consider in deciding whether to lease a unit, including:

  - The condition of the unit,
  - Whether the rent is reasonable,
  - The cost of any tenant-paid utilities and whether the unit is energy-efficient, and
  - The location of the unit, including proximity to public transportation (if applicable), centers of employment, schools and shopping.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.

- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

If the PHA is located in a metropolitan FMR area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)].

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7].

TDHCA Policy

The Department will provide the following additional materials in the briefing packet:

- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Are You A Victim of Housing Discrimination? (HUD-903.1)* that explains the types of actions a family must avoid and the penalties for program abuse.

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

TDHCA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the LO representative of a change, notifying the LO representative of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the Department, the notice must be in writing.

Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

TDHCA Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

If the cost to repair damages beyond normal wear and tear exceeds the security deposit amount paid by the HCV participant, the owner must notify the Department and provide proper documentation of costs.

Once the Department reviews the documentation and determines that excessive damages have occurred, the Department may decide to not allow the HCV participant to move until damages are paid. The Department may also terminate the HCV participant's assistance, or try to facilitate a repayment agreement between the owner and HCV participant.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

TDHCA Policy

The Department will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

TDHCA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Department at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

TDHCA Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The Department will determine eligibility of the new member in accordance with the policies in Chapter 3.

Once an applicant becomes a participant in Department's tenant-based program, the head of household must request permission in writing to add another person to the program prior to them moving into the unit. The Department must also be notified in writing of the birth, adoption or court-awarded custody of a child. The Department will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.

- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

    TDHCA Policy

    Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

    TDHCA Policy

    See Chapter 3, Section I.L for Absent Family Members Policy.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the PHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

TDHCA Policy

The Department will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 5) will be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

The Department will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	Persons in Household (Minimum – Maximum)
0 Bedroom	1
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6
4 Bedrooms	4-8
5 Bedrooms	6-10

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

TDHCA Policy

The Department will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

Any request for an exception to the subsidy standards must be made in writing to the LO representative. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. Once the request is received and reviewed for proper documentation by the LO representative, they will forward the request on to the Department Regional Coordinator (RC) for approval.

The Department will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA's housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

TDHCA Policy

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10]. If the PHA determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

TDHCA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval (RTA) and proposed lease within the 60-day period unless the Department grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

TDHCA Policy

A family may request an extension of the Voucher time period. All requests for extensions should be received prior to the expiration date of the Voucher. Extensions are permissible at the discretion of the Department primarily for the following reasons:

Extenuating circumstances such as hospitalization or a family emergency for an extended period of time that has affected the family's ability to find a unit within the initial 60-day time period. The LO representative will verify the extenuating circumstances prior to the Department granting an extension;

The family has evidence that they have made a consistent effort to locate a unit and request support services from the LO representative, throughout the initial 60-day period with regard to their inability to locate a unit;

The family has turned in a RTA prior to the expiration of the 60-day time period, but the unit has not passed HQS;

Time Period for Extensions: The LO representative may grant one or more extensions, with Department approval, not to exceed a total of 60 days. The initial term plus any extensions **MAY NOT exceed 120 calendar days** for the beginning of the initial term; and/or

Extensions for Disabled Persons: The LO representative **must** grant an extension of up to 120 days for persons who are disabled.

Suspensions of Voucher Term [24 CFR 982.303(c)]

At its discretion, a PHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time the PHA approves or denies the request [24 CFR 982.4]. The PHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

TDHCA Policy

When a RTA and proposed lease is received by the Department, the term of the voucher will not be suspended while the Department processes the request.

Expiration of Voucher Term

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

TDHCA Policy

If an applicant family’s voucher term or extension expires before the Department has approved a RTA, the Department will place the family back on the waiting list with a new application date without requiring the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the Department will notify the family in writing that the voucher term has expired and that the family will be placed back on the waiting list with a new application date.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

- <u>Part I: Annual Income</u>. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.
- <u>Part II: Adjusted Income</u>. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.
- <u>Part III: Calculating Family Share and PHA Subsidy</u>. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Which are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

<u>TDHCA Policy</u>

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

<u>TDHCA Policy</u>

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Department indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

<u>TDHCA Policy</u>

If a child has been placed in foster care, the Department will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head

<u>TDHCA Policy</u>

An employed head, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

TDHCA Policy

The Department will request verification from a responsible medical professional and will use this determination in making a decision. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualify as an elderly person or a person with disabilities.

Joint Custody of Dependents

TDHCA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Department will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

<u>TDHCA Policy</u>

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the Department will take the following actions.

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the Department will extend the caretaker's status as an eligible visitor.

(3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

TDHCA Policy

When the Department cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Department will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the Department to show why the historic pattern does not represent the family’s anticipated income.

Known Changes in Income

If the Department verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the Department would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the Department will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the Department’s policy in Chapter 11 does not require interim reexaminations for other types of changes.

Using Enterprise Income Verification (EIV) to Project Income

HUD strongly recommends the use of enterprise income verification (EIV). EIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [VG, p. 7].

HUD allows PHAs to use EIV information in conjunction with family-provided documents to anticipate income [EIV].

TDHCA Policy

Department procedures for anticipating annual income will include the use of EIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the Department interview date.

The Department will follow "HUD Guidelines for Projecting Annual Income When Enterprise Income Verification (EIV) Data Is Available" in handling differences between EIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of $200 or more per month.

No Substantial Difference. If EIV information for a particular income source differs from the information provided by a family by less than $200 per month, the Department will follow these guidelines:

If the EIV figure is less than the family's figure, the Department will use the family's information.

If the EIV figure is more than the family's figure, the Department will use the EIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the Department will use the family-provided information.

Substantial Difference. If EIV information for a particular income source differs from the information provided by a family by $200 or more per month, the Department will follow these guidelines:

The Department will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When the Department cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the Department will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The Department will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The Department will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

> **TDHCA Policy**
>
> For persons who regularly receive bonuses or commissions, the Department will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the Department will use the prior year amounts. In either case the family may provide, and the Department will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the Department will count only the amount estimated by the employer.

Some Types of Military Pay. All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]. Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed. Such income is not counted.

Children's Earnings. Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students. Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide. Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs. Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend. Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs. Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

TDHCA Policy

The Department defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

The Department defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the Department will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the Department's interim reporting requirements.

HUD-Funded Training Programs. Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

TDHCA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance. The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

TDHCA Policy

The Department defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion. During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

TDHCA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In. During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation. The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

TDHCA Policy

During the 48-month eligibility period, the Department will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

> **TDHCA Policy**
>
> To determine business expenses that may be deducted from gross income, the Department will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

> **TDHCA Policy**
>
> *Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

> **TDHCA Policy**
>
> *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the Department will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

> **<u>TDHCA Policy</u>**
>
> Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the Department will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

> **<u>TDHCA Policy</u>**
>
> If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-4 provides the regulatory definition of *net family assets* as well as a chart from the *HCV Guidebook* that summarizes asset inclusions and exclusions. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

> **<u>TDHCA Policy</u>**
>
> Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the Department to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3)]

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

> **<u>TDHCA Policy</u>**
>
> If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Department will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.
>
> If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the Department will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Department will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HVC Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

> **<u>TDHCA Policy</u>**
>
> The Department will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.
>
> When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).
>
> Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

<u>TDHCA Policy</u>

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

<u>TDHCA Policy</u>

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The Department may verify the value of the assets disposed of if other information available to the Department does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

<u>TDHCA Policy</u>

In determining the value of a checking account, the Department will use the average monthly balance for the last six months.

In determining the value of a savings account, the Department will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the Department will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

<u>TDHCA Policy</u>

In determining the market value of an investment account, the Department will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Department will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

TDHCA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the Department determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

> **<u>TDHCA Policy</u>**
>
> In determining the value of personal property held as an investment, the Department will use the family's estimate of the value. However, the Department also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

> **<u>TDHCA Policy</u>**
>
> Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

TDHCA Policy

When a delayed-start payment is received, the family must report the change within 10 business days to the Department LO representative. The Department will then asses the family situation and determine whether to adjust the family share and Department subsidy. If the determination requires the family to make retroactive payments for the period the payment was intended to cover, the family may (1) pay in full any amount due or (2) request to enter into a repayment agreement with the Department.

See Chapter 11 for information about a family's obligation to report lump-sum receipts between annual reexaminations.

See Chapter 16 for policies related to repayment agreements.

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  TDHCA Policy

  The Department will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency inform the PHA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

> **TDHCA Policy**
>
> The Department will count court-awarded amounts for alimony and child support unless the Department verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].
>
> Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

> **TDHCA Policy**
>
> Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.
>
> Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the Department. For contributions that may vary from month to month (e.g., utility payments), the Department will include an average amount based upon past history.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:

  a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

  b. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

  c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

  d. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

  e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

  f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)

  g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

h. The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

i. Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)

j. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

l. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

m. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

p. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

q. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

s. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income: (1) $480 for each dependent; (2) $400 for any elderly family or disabled family; (3) The sum of the following, to the extent the sum exceeds three percent of annual income: (i) Unreimbursed medical expenses of any elderly family or disabled family; (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

<u>TDHCA Policy</u>

Generally, the Department will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), the Department will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the Department will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The Department may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

<u>TDHCA Policy</u>

Those necessary medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. Medical expenses, in excess of three percent (3%) of annual income, are deductible from income by elderly and disabled households only.

Families That Qualify for Both Medical and Disability Assistance Expenses

<u>TDHCA Policy</u>

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Department will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

TDHCA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the Department will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Department determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

> **<u>TDHCA Policy</u>**
>
> Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

> **<u>TDHCA Policy</u>**
>
> Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.
>
> Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.
>
> If the care attendant also provides other services to the family, the Department will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

TDHCA Policy

The Department determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Department will request that the family collect information from organizations that provide services and support to persons with disabilities. Once the family collects and submits the information, the Department will consider the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

TDHCA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Department will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

TDHCA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the Department will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

TDHCA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the Department.

Furthering Education

TDHCA Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

TDHCA Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

> **TDHCA Policy**
>
> When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the Department generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

TDHCA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family’s unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the Department will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

TDHCA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the Department will use the schedule of child care costs from the local welfare agency. Families may present, and the Department will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

TDHCA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

TDHCA Policy

The minimum rent for all Department localities is $25.00

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 CFR 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

> **<u>TDHCA Policy</u>**
>
> The Department will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

   TDHCA Policy

   A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

   For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2. The family would be evicted because it is unable to pay the minimum rent.

   TDHCA Policy

   For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

3. Family income has decreased because of changed family circumstances, including the loss of employment.

4. A death has occurred in the family.

   TDHCA Policy

   In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

5. The family has experienced other circumstances determined by the PHA.

   TDHCA Policy

   The Department has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $35 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $35 Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

<u>TDHCA Policy</u>

To qualify for a hardship exemption, a family must submit a request for a hardship exemption form to the Department prior to the rent becoming delinquent and before the lease is terminated by the Department.

The Department will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

<u>TDHCA Policy</u>

The Department will require the family to repay the suspended amount within 30 calendar days of the Department's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

TDHCA Policy

The Department will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

If a resident requests a hardship exemption (prior to the rent being delinquent) under this section, and the Department reasonably determines the hardship to be of a temporary nature, exemption shall not be granted during a ninety day period beginning upon the making of the request for the exemption. A resident may not be evicted during the ninety-day period for non-payment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the Department shall retroactively exempt the resident from the applicability of the minimum rent requirement for such ninety day period. This paragraph does not prohibit the HA from taking eviction action for other violations of the lease.)

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

TDHCA Policy

The hardship period ends when any of the following circumstances apply:

1. At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
2. For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
3. For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, the PHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

Step 2: The PHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family within the basic range.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using PHA subsidy standards. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

> **TDHCA Policy**
>
> The Department must review its utility allowance schedule annually, and must revise its allowances at other times when there has been a change of 10 percent or more in the utility rates or fuel costs since the last revision of the schedule.
>
> Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

***(a)** Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

***(b)** Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

[1] Text of 45 CFR 260.31 follows.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services’ Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.

(a) *Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) *Definitions.* The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) *Disallowance of increase in annual income—*

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:

- Enterprise Income Verification (EIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

TDHCA Policy

Photocopies are an acceptable means of verification as long as they appear to be authentic and there is not sign of tampering with the information. If the Department has any reason to believe the documents are not authentic, the Department will request for all original documents. Any documents used for verification generally must be dated within 60 calendar days for new contracts and 120 days for renewal contracts of the date they are provided to the Department. The documents must not be damaged, altered or in any way illegible.

The Department will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the Department would accept the most recent report.

Print-outs from web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to the Department and must be signed in the presence of a Department Local Operator (LO) representative.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.C. ENTERPRISE INCOME VERIFICATION (EIV)

Enterprise income verification (EIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. EIV will be used to the extent that these systems are available to the PHA.

The PHA must restrict access to and safeguard EIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

Definition of Substantial Difference

EIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the EIV information. In "HUD Guidelines for Projecting Annual Income When EIV Data is Available" [HUD website, April 2004], HUD recommends using $200 per month as the threshold for a substantial difference. The PHA will therefore use $200 per month as the threshold for a substantial difference.

See Chapter 6 for the PHA's policy on the use of EIV to project annual income and for the PHA's threshold for substantial difference.

When No Substantial Difference Exists

If EIV information does not differ substantially from family information, the EIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the EIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the PHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

TDHCA Policy

The Department will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion. Below is the order of acceptability for third party verification:

The Department may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. At no time can the family hand deliver any third party verification to a Department representative, it must come directly from the source to the Department representative.

Once the Department has secured a family's authorization for the release of information, the Department will send a written request for verification to each required source and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the Department will request third-party oral verification.

The Department will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, Department staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the Department will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the Department will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the Department will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

> **TDHCA Policy**
>
> The Department will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than $500 annually ***and*** the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

> **<u>TDHCA Policy</u>**
>
> The Department also will determine that third-party verification is necessary when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the pertinent information.
>
> If the family cannot provide original documents, the Department will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If the PHA has determined that third-party verification is not available or not required, the PHA will use documents provided by the family as verification.

The PHA may also review documents when necessary to help clarify information provided by third parties. In such cases the PHA will document in the file how the PHA arrived at a final conclusion about the income or expense to include in its calculations.

> **<u>TDHCA Policy</u>**
>
> The tenant file will include documentation of records reviewed by the Department LO representative/Regional Coordinator (RC) which support the family’s statements. If possible, original copies (not photocopies) of supporting documents should be reviewed, though the Department LO representative/RC should photocopy the document (unless prohibited by law) and place it in the tenant’s file. The Department LO representative/RC reviewing the document(s) should prepare a summary of the information, sign and date. The summary should include the rationale for using document review as verification and again, if possible, follow up with the third party to obtain written verification later.

7-I.F. SELF-CERTIFICATION

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

TDHCA Policy

The Department may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Department and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a Department representative or notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

TDHCA Policy

Verification of Legal Identity for Adults	**Verification of Legal Identity for Children**
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

The Department will require families to furnish verification of legal identity for each household member. A birth certificate is the preferred document for verification of legal identity.

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the Department's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the Department and be signed in the presence of a Department representative or notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

TDHCA Policy

If an applicant/tenant cannot provide his/her Social Security Card (SSC), at the Department's discretion, he/she may be required to provide one or more of the following alternative documents if that document contains his/her SSN:

Driver's license.

Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union.

Earning statements or payroll stubs.

Benefit award letters from government agencies; retirement benefit letters; unemployment benefit letters; life insurance policies.

Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records).

Bank Statements.

IRS Form 1099, or W-2 Form.

Medicaid Cards.

Verification of Social Security benefits with the Social Security Administration.

If the family reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The PHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

TDHCA Policy

The Department will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the Department will grant an additional 60 calendar days to provide documentation.

Applicants may not become participants until the documentation is provided and verified. The applicant will retain their position on the waiting list during this period. The applicant will be given a reasonable time, subject to the circumstances, to furnish the documentation before losing their place on the waiting list and the time may be extended, if such circumstances require an extension. The decision will be made by the Department and documented, in writing, and placed in the applicant's file.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

TDHCA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Department will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

TDHCA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

TDHCA Policy

Certification by the head of household is normally sufficient verification. If the Department has reasonable doubts about a marital relationship, the Department will require the family to document the marriage.

A marriage certificate may be required to verify the validity of the marriage if the Department believes or receives information indicating that an individual's declaration may not be accurate.
If a marriage certificate in not available, the following information is acceptable:

Driver's license that displays the same address and last names;

Federal tax forms that indicate that the family filed taxes as a married couple during the last tax reporting period;

Other acceptable forms of documentation of marriage would include any document that has been issued by a federal state, city or county government and indicates that the individuals are living as a married couple. Couples that are considered married under common law can provide the same information as listed above to document that they are living together as a married couple

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

<u>TDHCA Policy</u>

Certification by the head of household is normally sufficient verification. If the Department has reasonable doubts about a separation or divorce, the Department may require at least one of the verifications listed below:
A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

A notarized statement from current landlord (not family) verifying that the current landlord knows that the applicant and spouse have not lived together for the last six (6) months or more;

Income tax statements from both husband and wife indicating both filed income taxes separately the last year and that they filed from different addresses;

Written statement from lawyer that applicant has filed suit for divorce because of physical abuse;

Written statement from an abuse shelter, law enforcement agencies, and/or social services agencies that applicant needs housing due to physical abuse; or

Food stamp verification, if no other documentation is available.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

<u>TDHCA Policy</u>

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

<u>TDHCA Policy</u>

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

<u>TDHCA Policy</u>

The Department requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or co-head, or

The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at **<u>www.os.dhhs.gov</u>**.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

The PHA will attempt to obtain information about disability benefits through the HUD EIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD EIV System or TASS is not available, the PHA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

Family Members Not Receiving SSA Disability Benefits

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

TDHCA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the Department receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant.

> **<u>TDHCA Policy</u>**
>
> The Department offers no preferences; therefore no verification of preferences is required.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

TDHCA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to provide a signed estimate of tips received for the prior year and tips anticipated to be received in the coming year. Tips will also be verified via the employer identification form sent directly from the Department to the employer.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

TDHCA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

TDHCA Policy

To verify the SS/SSI benefits of participants, the Department will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the Department will attempt to use third party verification to obtain current SSA benefits. If third party verification is not available the Department will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the Department will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from **www.ssa.gov**. Once the participant has received the benefit verification letter they will be required to provide it to the Department.

7-III.D. ALIMONY OR CHILD SUPPORT

<u>TDHCA Policy</u>

The way the Department will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments. The Department requests for the family to certify whether they are receiving or not receiving child support at the time of family admission or renewal.

> If the family declares that it ***receives regular payments***, verification will be sought in the following order.
>
> > If payments are made through a state or local entity, the Department will request a record of payments through the Office of the Attorney General.
> >
> > Third-party verification from the person paying the support
> >
> > Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
> >
> > Copy of the latest check and/or payment stubs
> >
> > Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
>
> If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:
>
> > A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
> >
> > If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts
>
> Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

<u>TDHCA Policy</u>

The Department will verify the value of assets disposed of only if:

The Department does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

<u>TDHCA Policy</u>

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the Department will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

TDHCA Policy

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the Department will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the Department will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the Department will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

TDHCA Policy

The Department will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the Department will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

<u>TDHCA Policy</u>

If the family has reported zero income, the Department LO representative will have the family sign a verification form to verify that no income is being provided. In addition, the Department will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

Families will be required to report any changes in their income status within thirty (30) calendar days of the occurrence of employment and/or if any other type of income is received.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

TDHCA Policy

The Department will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the Department will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Department will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

> **TDHCA Policy**
>
> The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

> **TDHCA Policy**
>
> When anticipated costs are related to on-going payment of medical bills incurred in past years, the Department will verify:
>
> The anticipated repayment schedule
>
> The amounts paid in the past, and
>
> Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

<u>TDHCA Policy</u>

The Department will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

<u>TDHCA Policy</u>

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

> **TDHCA Policy**
>
> The Department will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).
>
> If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

> **TDHCA Policy**
>
> An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.
>
> The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

> **<u>TDHCA Policy</u>**
>
> The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.
>
> The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

<u>TDHCA Policy</u>

Information to be Gathered

The Department will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the Department will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Department will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the Department any reports provided to the other agency.

In the event third-party verification is not available, the Department will provide the family with a form on which the family member must record job search efforts. The Department will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The Department will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The Department will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

> **<u>TDHCA Policy</u>**
>
> The Department will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).
>
> The Department will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).
>
> The Department will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

> **<u>TDHCA Policy</u>**
>
> The actual costs the family incurs will be compared with the Department's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. To establish the reasonableness of child care costs, the Department will use the schedule of child care costs from the local welfare agency.
>
> If the family presents a justification for costs that exceed typical costs in the area, the Department will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE NOTICE (PIH 2004-01, pp. 11-14)

Upfront (UIV)	**Highest (Highly Recommended, highest level of third party verification)**
Written 3rd Party	**High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)**
Oral 3rd Party	**Medium (Mandatory if written third party verification is not available)**
Document Review	**Medium-Low (Use on provisional basis)**
Tenant Declaration	**Low (Use as a last resort)**

Income Type	**Upfront**	**Written Third Party**	**Oral Third Party**	**Document Review**	**Tenant Declaration**
	(LEVEL 5)	**(LEVEL 4)**	**(LEVEL 3)**	**(LEVEL 2)**	**(LEVEL 1)**
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information. The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.
Effective Date of Employment: The PHA should always confirm start and termination dates of employment.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	**(LEVEL 4)**	**(LEVEL 3)**	**(LEVEL 2)**	**(LEVEL 1)**
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. **Note:** The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. **(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)**	The PHA may accept an original SSA Notice from the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. **Note:** The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. **Note: The PHA must document in the tenant file, the reason third party verification was not available.**
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	**Note:** The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. **Notarized statement should include a perjury penalty statement.**

Note: The PHA must not pass verification costs along to the participant.

Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)

EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires PHAs to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

> Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.
>
> Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.
>
> Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8.I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

> **<u>TDHCA Policy</u>**
>
> The Department has not established a policy for negotiations of a restoration agreement.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the PHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The PHA must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

> **<u>TDHCA Policy</u>**
>
> The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

TDHCA Policy

As permitted by HUD, the Department has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens are required and must be in good condition.

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

A keyed dead bolt locking device and door viewer will be required on any exterior door of the dwelling.

8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

TDHCA Policy

The following are considered life threatening conditions:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LPgas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

If an owner fails to correct life threatening conditions as required by the Department, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by the Department, the Department may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the PHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- ***Initial Inspections*****.** The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- ***Annual Inspections*****.** HUD requires the PHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- ***Special Inspections.*** A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- ***Quality Control Inspections.*** HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of Local Operator/Representative-owned Units

<u>TDHCA Policy</u>

When a Department Local Operator (LO)/Representative owns property in which a Department HCV tenant resides or will reside, a qualified inspector not affiliated with the LO/Representative must perform the required HQS inspection. An LO/Representative-owned unit is defined as a unit that is owned by the Local Operator (or a separate agency that also employees the LO representative) that administers the HCV assistance to a family. If the Department utilizes a non-affiliated inspector to conduct the HQS inspection, they must communicate the results of each inspection to the family and the Department.

Inspection Costs

<u>TDHCA Policy</u>

In the case of inspections of LO/Representative-owned units, the Department may use administrative fees to compensate the non-affiliated inspector for inspections performed. Neither the Department nor the non-affiliated inspector may charge the family or the owner of the unit any fee for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

> **<u>TDHCA Policy</u>**
>
> Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. For Initial Inspections, the LO representative is required to complete the inspection within 15 days after receiving the Request for Tenancy Approval (RTA) form the applicant. In the case of a life threatening emergency, the Department will give as much notice as possible, given the nature of the emergency.

Attendance at inspections by owner and family.

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

> **<u>TDHCA Policy</u>**
>
> When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.
>
> At initial inspection of a vacant unit, the Department will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

TDHCA Policy

The Department will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the RTA.

Inspection Results and Reinspections

TDHCA Policy

If any HQS violations are identified, the owner will be notified, in writing of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the Department for good cause. The Department or the LO representative will reinspect the unit within 7 business days of the date the owner notifies the Department that the required corrections have been made.

If the time period for correcting the deficiencies (or any Department-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the Department will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The Department may agree to conduct a second reinspection, for good cause, at the written request of the family and owner.

Following a failed reinspection, the family may submit a new RTA for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

> **<u>TDHCA Policy</u>**
>
> The Department will not conduct the initial inspection until all utilities are connected and operational. The HAP contract will not be executed until the utilities are connected and all other HQS requirements are fulfilled.

Appliances

> **<u>TDHCA Policy</u>**
>
> If the family is responsible for supplying the stove and/or refrigerator, the Department will require the stove and refrigerator to be placed in the unit prior to the HQS inspection.

8.II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

> **TDHCA Policy**
>
> If an adult family member cannot be present on the scheduled date, the family should request that the LO representative reschedule the inspection. The LO representative and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. The LO representative may schedule an inspection more than 5 business days after the original date for good cause.
>
> If the family misses the first scheduled appointment without requesting a new inspection date, the LO representative will automatically schedule a second inspection. If the family misses two scheduled inspections without LO representative approval, the Department will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB p. 10-30]

The PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

> **TDHCA Policy**
>
> During a special inspection, the Department generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs. This type of inspection may be also necessary when a federal official visits Department headquarters to perform a compliance review of the Department.
>
> If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the Department may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b), HCV GB p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8-II.F. MOVE-OUT INSPECTIONS

<u>TDHCA Policy</u>

These inspections are performed after the tenant moves out of the unit at the owner's request. The owner and/or the owner's representative will be required to attend the move-out inspection. If the tenant plans to remain in the unit and the HAP contract is going to be canceled, the inspection can be performed with the tenant in place. Move-out inspections substantiate possible damage claim/violation of family obligations. If an owner requests a move-out inspection to substantiate a damage claim/violation of family obligation, the inspection must be completed prior to the work being done that will correct the damage. The owner must request an inspection within 5 business days of the move-out. If the LO representative cannot schedule the inspection prior to re-rental of the unit, the LO representative may give the owner permission to submit a damage claim/violation of family obligation with pictures of the unit, to substantiate the damage. The Department may use this evidence to terminate the continuing assistance to the participant because of a family violation.

8.II.G. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

<u>TDHCA Policy</u>

When life threatening conditions are identified, the Department/LO representative will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within **24 hours** of the Department's notice.

When failures that are not life threatening are identified, the Department will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than **30 days** will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any Department-approved extension), the owner's HAP will be abated in accordance with Department policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any Department-approved extension, if applicable) the family's assistance will be terminated in accordance with Department policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

TDHCA Policy

Extensions will be granted in cases where the Department has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Reinspections

TDHCA Policy

Reinspections are performed by LO representative staff for the purpose of verifying that deficiencies noted in the previous inspection have been corrected and meet HQS standards by the end of the corrective period, or any Department approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the Department will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with Department policies. If the Department LO representative is unable to gain entry to the unit in order to conduct the scheduled reinspection, the Department will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8.II.H. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.2(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

> **TDHCA Policy**
>
> The Department will make all HAP abatements effective the first of the month following the expiration of the Department specified correction period (including any extension).
>
> The Department will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

> **TDHCA Policy**
>
> The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies the Department before the termination date of the HAP contract, the Department may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.
>
> Reasonable notice of HAP contract termination by the Department is 30 days.

8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family’s assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

Local Operator/Representative-owned Units

When a Department LO/Representative owns property in which a Department HCV tenant resides or will reside, a qualified inspector not affiliated with the LO/Representative must determine rent reasonableness in accordance with program requirements, and assist the family in negotiating the contract rent when the family requests assistance. If the Department utilizes a non-affiliated inspector to conduct the rent reasonableness, they must communicate the results of their determination to the family and the Department. An LO/Representative-owned unit is defined as a unit that is owned by the Local Operator (or a separate agency that also employees the LO representative) that administers the HCV assistance to a family.

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

> **<u>TDHCA Policy</u>**
>
> After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. The request must be received 60 days prior to the tenant's renewal date. For rent increase requests after initial lease-up, the Department may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the Department will consider unit size and length of tenancy in the other units.
>
> The Department will determine whether the requested increase is reasonable after a rent reasonable study has been completed by the LO representative and forwarded to Department headquarters for approval. It most cases the owner will be notified of the determination within 30 days.
>
> **Example of the impact of this policy.**
>
> An owner is asking $500 for a unit and 3 other units of the same size that have turned over this year are renting for $500 but 4 units that have been occupied by the same tenants for many years have rents ranging from $450 to $480. It would be reasonable for the Department to assume that the market for units becoming available now is $500.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

> **<u>TDHCA Policy</u>**
>
> In addition to the instances described above, the Department will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the Department determines that the initial rent reasonableness determination was in error or (2) the Department determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

TDHCA Policy

The Department LO representative will collect and maintain data on market rents in the Department's jurisdiction on an annual basis. The information will be gathered utilizing the Data Collection Form for Unassisted Rental Units provided by the Department. To gather information about unassisted units the LO representative will utilize sources that include newspapers, tax appraisal districts, rental publications from supermarkets, realtors, management agents, market surveys, inquiries of owners and other available sources. The data will be maintained in the LO representative's office for reference. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents are Determined

TDHCA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The LO representative will compare at least three comparable units in the private unassisted market to the contract property utilizing the data collection form. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the Department may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The Department will notify the owner of the rent the Department can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The Department will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the Department's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Heath/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.

(8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval (RTA) to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- <u>For families initially leasing a unit only</u>: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

TDHCA Policy

The Department will not screen applicants for family behavior or suitability for tenancy.

The Department will not provide additional screening information to the owner.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

> **<u>TDHCA Policy</u>**
>
> The RTA must be signed by both the family and the owner.
>
> The owner may submit the RTA on behalf of the family.
>
> Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.
>
> The family may not submit, and the Department will not process, more than one (1) RTA at a time.
>
> When the family submits the RTA the Department will review the RTA for completeness.
>
>> If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the Department will notify the family and the owner of the deficiencies.
>>
>> Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. The Department will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the Department will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, the Department will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The Department will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the Department will attempt to communicate with the owner and family by phone, fax, or email. The Department will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may <u>not</u> assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

PHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

> **<u>TDHCA Policy</u>**
>
> The Department does not have any PHA-owned units.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

> **TDHCA Policy**
>
> The Department does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner, and;
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

> **TDHCA Policy**
>
> The Department will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

> **TDHCA Policy**
>
> The Department will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

TDHCA Policy

The Department permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

> **TDHCA Policy**
>
> If the dwelling lease is incomplete or incorrect, the Department will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The Department will not accept missing and corrected information over the phone
>
> Because the initial leasing process is time-sensitive, the Department will attempt to communicate with the owner and family by phone, fax, or email. The Department will use mail when the parties can’t be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

> **TDHCA Policy**
>
> The Department will not review the owner’s lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval (RTA), with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

TDHCA Policy

When a family finds a unit, and the owner is willing to lease the unit under the program, the family may request the LO representative to approve the lease and unit.

(NOTE – Property owners cannot participate in the program if they are disapproved by the Department)

If the LO representative determines that a unit which an eligible family wishes to lease meets HQS and the proposed lease is approved, the LO representative shall notify the owner and the family of its determination of lease approval.

After receiving notification from the LO representative, the owner and LO representative shall schedule a meeting and execute and sign the contract. After the contract is executed, the owner and family shall execute and sign the lease and provide a copy to the LO representative.

The Department shall retain the following in its files:

The RTA form;

The approved lease;

Inspection report;

LO representative certification of the current rent being charged for comparable units in the private unassisted market, taking into account the location, size, type, quality, amenities, facilities and management and maintenance service of such unit. This certification will be maintained for three years to comply with HUD regulations and HUD inspection; and

Executed contract.

If the Department determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The Department will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the Department will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. SUSPENSION OF SEARCH TIME

TDHCA Policy

Upon receipt of the Request for Lease approval form from the family, the Department will stop the clock on ("Suspend") the voucher term. The suspension time will equal the number of days it takes the Department to approve or deny the request for lease approval. The suspension of time is also called "tolling".

Tolling Example	
Voucher Issued: May 1 Expiration Date: June 29	Family Submits RTA: May 15 PHA Denies Unit: May 24
Tolling Time: 9 Days (May 16-24) New Voucher Expiration Date: July 8 (June 29 + 9 days)	

9-I.H. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the PHA may not pay any housing assistance payment to the owner.

> **TDHCA Policy**
>
> The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the Department. The Department will ensure that both the owner and the assisted family receive copies of the dwelling lease.
>
> The owner and the Department will execute the HAP contract. The Department will not execute the HAP contract until the owner has submitted IRS form W-9. The Department will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease, and;
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new RTA along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

TDHCA Policy

Contract rents may be adjusted by the Department on an annual basis and for special

adjustments as provided below:

Annual Adjustment – Upon request from the owner to the LO/Department representative, and tenant, an annual adjustment may be made if the contract unit is in decent, safe and sanitary condition and the owner is otherwise in compliance with the terms of the lease and the HAP contract. Rent reasonableness will be conducted by the LO representative.

Special Adjustment – Subject to HUD approval, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the owner clearly demonstrates that such general increases have caused increases in the owner's operating costs which are not adequately compensated for by the annual adjustment provided for in (1) above in this section. The owner shall submit financial statements to the LO representative which clearly support the increase.

Contract rents will not be adjusted by the Department on an annual basis for the following reasons:

Increase in the volume of Section 8 HCV paperwork

Protection against damages likely to be caused by Section 8 or lower income families

In cases where the Department disapproves an owner's request for a contract rent increase, the Department will notify the owner and the family in writing and will state the reason for not approving the increase. Should an owner insist on the increase requested, the Department will notify the family and the owner that assistance will be terminated. The family will be offered a new voucher to relocate.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

> Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.
>
> Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD regulations list five conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

  TDHCA Policy

  If the family and the owner mutually agree to terminate the lease for the family' unit, both parties must complete and submit the Mutual Decision to Terminate the Lease form to the Department Local Operator (LO) representative.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The PHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)].

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

> **TDHCA Policy**
>
> The Department will deny a family permission to move on grounds that the Department does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the Department; (b) the Department can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the Department can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the Department's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The PHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

> **TDHCA Policy**
>
> If the Department has grounds for denying or terminating a family's assistance, the Department will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period.

> **<u>TDHCA Policy</u>**
>
> The Department will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the Department's jurisdiction or outside it under portability.
>
> The Department will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the Department's jurisdiction. This also means that most families will not be given permission to move until their Annual Reexamination appointment.
>
> The Department will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control. For a family to be able to move under one of the above reasons, the family must provide the Department with proper documentation to support the need to move (e.g., inspection report, police report, employment offer letter, official school documentation, etc.).
>
> In addition, the Department will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

Approval

TDHCA Policy

Upon receipt of a family's notification that it wishes to move, the Department will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. If the family is requesting to move at any time other than their annual renewal appointment, the Department Regional Coordinator (RC)/LO representative will notify the family of the Departments decision within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

TDHCA Policy

For families approved to move to a new unit within the Department's jurisdiction, the Department will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the Department's jurisdiction under portability, the Department will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

TDHCA Policy

For families approved to move to a new unit within the Department's jurisdiction, the Department will issue a new voucher within 10 business days of the Department's written approval to move. No briefing is required for these families. The Department will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the Department approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the Department's jurisdiction under portability, the Department will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **initial PHA.** The second is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance.

> **<u>TDHCA Policy</u>**
>
> In determining whether or not to deny an applicant family permission to move under portability because the Department lacks sufficient funding or has grounds for denying assistance to the family, the Department will follow the policies established in section 10-I.B of this chapter.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

> **<u>TDHCA Policy</u>**
>
> If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the Department's jurisdiction at the time the family's application for assistance was submitted, the family must live in the Department's jurisdiction with voucher assistance for at least 12 months before requesting portability. The Department will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).]

> **<u>TDHCA Policy</u>**
>
> The Department will determine whether a participant family may move out of the Department's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The Department will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2004-12].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2004-12].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

> **TDHCA Policy**
>
> For a participant family approved to move out of its jurisdiction under portability, the Department generally will not conduct a reexamination of family income and composition unless the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.
>
> The Department will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

> **TDHCA Policy**
>
> No formal briefing will be required for a participant family wishing to move outside the Department's jurisdiction under portability. However, the Department LO representative will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The Department LO representative will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. The LO representative will advise the family that they will be under the receiving PHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the Department will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

> **<u>TDHCA Policy</u>**
>
> For families approved to move under portability, the LO representative will issue a new voucher within 10 business days of the Department's written approval to move.
>
> The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

> **<u>TDHCA Policy</u>**
>
> The Department will approve **<u>no</u>** extensions to a voucher issued to an applicant or participant family porting out of the Department's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the Department's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.
>
> To receive or continue receiving assistance under the Department's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the Department's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

> **<u>TDHCA Policy</u>**
>
> Because the portability process is time-sensitive, the Department will notify the receiving PHA by phone, fax, or e-mail to expect the family. The Department will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The Department will pass this information along to the family. The Department will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2004-12]
- A copy of the family's voucher [Notice PIH 2004-12]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2004-12]

> **<u>TDHCA Policy</u>**
>
> In addition to these documents, the Department will provide the following information, if available, to the receiving PHA:
>
> > Social security numbers (SSNs);
> > Documentation of SSNs for all family members age 6 and over;
> > Documentation of legal identity;
> > Documentation of citizenship or eligible immigration status;
> > Documentation of participation in the earned income disallowance (EID) benefit; and
> > Documentation of participation in a family self-sufficiency (FSS) program.
>
> The Department will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

TDHCA Policy

If the Department has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the Department reports that the family is not yet under HAP contract, the Department will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The Department will send the receiving PHA a written confirmation of its decision by mail.

The Department will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

TDHCA Policy

The Department will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the Department that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058 and 52665

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 and 52665 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 and 52665 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR 314(e)(1), Notice PIH 2005-1]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

> **TDHCA Policy**
>
> If the Department determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the Department's jurisdiction.
>
> The Department will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving PHA's Jurisdiction [Notice PIH 2004-12]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2004-12].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the receiving PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

> **<u>TDHCA Policy</u>**
>
> The Department must promptly inform the initial PHA if it intends to absorb or bill. The Department sends Part II of HUD Form 52665 to the initial PHA. If the Department decides to bill the initial PHA, the Department not only completes Part II of HUD Form 52665, but also attaches a copy of the new HUD form 50058 before returning it to the initial PHA. In addition to the initial billing deadline discussed above, the instructions of the HUD Form 52665 provide that the Department must complete and mail (which may include electronic mail or fax) Part II of the form within 10 working days from the date a HAP contract is executed on behalf of a family.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2004-12]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2004-12].

<u>TDHCA Policy</u>

The Department will not require the family to attend a briefing. The Department will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the Department's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2004-12, 24 CFR 982.201(b)(4)]. The receiving PHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

<u>TDHCA Policy</u>

For any family moving into its jurisdiction under portability, the Department will conduct a new reexamination of family income and composition. However, the Department will not delay issuing the family a voucher for this reason. Nor will the Department delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the Department cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the Department will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2004-12].

> **<u>TDHCA Policy</u>**
>
> When a family ports into our jurisdiction, the Department will generally issue the family a voucher with in 10 business days. Provided that the family paperwork is on time, complete, the voucher from the initial PHA has not expired and the family complies with all the Department's procedures. The Department will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

> **<u>TDHCA Policy</u>**
>
> The Department's voucher will expire on the same date as the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

> **<u>TDHCA Policy</u>**
>
> The Department generally will not extend the term of the voucher that it issues to an incoming portable family unless the Department plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.
>
> The Department will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2004-12]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher,")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [Notice PIH 2004-12]

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA <u>**executes**</u> a HAP contract on behalf of the family and (b) in time that the notice will be <u>**received**</u> no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

> <u>**TDHCA Policy**</u>
>
> The Department will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [Notice PIH 2004-12].

Ongoing Notification Responsibilities [Notice PIH 2004-12, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

> **<u>TDHCA Policy</u>**
>
> The Department will send a copy of the updated HUD Form 50058 and 52665 by regular mail at the same time the family and owner are notified of the reexamination results.

Change in Billing Amount - The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family; and
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

Late Payments [Notice PIH 2004-12]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2004-12]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

> **TDHCA Policy**
>
> If the Department elects to deny or terminate assistance for a portable family, the Department will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The Department will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The Department will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2004-12].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12]

> **TDHCA Policy**
>
> If the Department decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the Department will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.
>
> If the Department decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

> Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.
>
> Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.
>
> Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

> **<u>TDHCA Policy</u>**
>
> The Department will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the Department will schedule annual reexamination effective dates to coincide with the family's anniversary date.
>
> ***Anniversary date*** is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission). Records shall be maintained by the Department to insure that every participant's income and family composition has been re-examined within a twelve month period.
>
> If the family moves to a new unit, the Department will perform a new annual reexamination.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA.

> **<u>TDHCA Policy</u>**
>
> Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the Department's Local Operator (LO) representative to request a reasonable accommodation (see Chapter 2).
>
> Notification of annual reexamination interviews will be sent by mail from Department headquarters 120 days prior to the families' annual reexamination date. In addition, the notification will inform the family of the information and documentation that must be brought to the interview. The letter will also indicate that the family will be contacted by their LO representative to set up the reexamination appointment.
>
> The LO representative will contact the head of household to set up the annual appointment 120 to 90 days before the renewal date. In addition, the LO representative will inform the family of the information and documentation that must be brought to the interview.
>
> If the family is unable to attend a scheduled interview, the family should contact the LO representative in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the LO representative will contact them to schedule a new interview appointment time.
>
> If a family fails to attend two scheduled interviews without Department approval, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.
>
> An advocate, interpreter, or other assistant may assist the family in the interview process.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

TDHCA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a Department-designated Personal Declaration form, an Authorization for the Release of Information/Privacy Act Notice, Income Verification, Child Support and Social Security Benefit forms. Families will also be required to bring any supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Annual Reexamination/Moving packets should be received by a Department Regional Coordinator (RC) no later than 60 days prior to the renewal date.

The Annual HQS inspection, including follow up re-inspections must be completed and submitted with the Annual Reexamination/Moving packets to the RC no later than 60 days prior to the renewal date.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity;
- Age;
- Social security numbers;
- A person's disability status; and
- Citizenship or immigration status.

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

TDHCA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified, in writing, at least 30 days in advance. Copies of such notifications will be retained in the participants file for (1) any change in rent and the date on which it becomes effective and (2) any change required because of a change in the composition of the family.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the Department by the date specified, and this delay prevents the Department from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

> **<u>TDHCA Policy</u>**
>
> The Department will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members <u>Not</u> Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

> **<u>TDHCA Policy</u>**
>
> The family must inform the Department of the birth, adoption or court-awarded custody of a child within 30 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

TDHCA Policy

Families must request Department approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Department prior to the individual moving in the unit.

Before the Department will consider approval of the new addition to the household, the Department must receive a written letter from the owner of the property approving the addition.

The Department will not approve the addition of a new family or household member unless the individual meets the Department's eligibility criteria (see Chapter 3).

The Department will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the Department determines an individual meets the Department's eligibility criteria as defined in Chapter 3 and the owner approves the new addition, the Department will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the Department determines that an individual does not meet the Department's eligibility criteria as defined in Chapter 3, the Department will notify the family and owner of its decision to deny approval of the new family or household member and the reasons for the denial. In the case where the Department does not approve the addition of an individual to the household, but the owner does approve of the addition, the Department's ruling will stand.

The Department will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

> **<u>TDHCA Policy</u>**
>
> If a household member ceases to reside in the unit, the family must inform the Department within 30 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.
>
> If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the Department within 30 business days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

TDHCA Policy

The Department will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the Department will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).
If the family has reported zero income, the Department will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the Department will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Department will conduct an interim reexamination.

The Department may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

TDHCA Policy

Families are required to report all increases in earned income for any wager earner eighteen (18) years of age or older, including new employment or loss of employment, within 30 business days of the date the change takes effect.

The starting of or stopping of, or an increase of or decrease of any benefits or payments received by any member of the family or household from:

a. Old Age Pension;

b. Aid for Dependent Children (TANF);

c. Black Lung;

d. Railroad Retirement;

e. Private Pension Fund;

f. Disability Compensation;

g. Veterans Administration;

h. Child Support;

i. Alimony;

j. Regular Contributions; or

k. Gifts.

Lump sum payments or retroactive payments of benefits from any of the above sources that constitute the sum of monthly payments for a preceding period paid in a lump sum must be reported and rent adjusted retroactively on such income to date of eligibility for any family member residing in the household for that period of time.

Cost of living increases in Social Security or public assistance grants need not be reported until next re-examination and re-determination of rent.

Errors of omission made at admission or re-examination shall be corrected by the Department. Retroactive payments will be made to the participant if the error is in his/her favor.

A participant who has had a rent reduction/increase after initial occupancy or after annual re-examination must report all changes in income within thirty (30) calendar days regardless of the amount or source.

The Department will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

TDHCA Policy

Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

TDHCA Policy

The family may notify the Department of changes either orally or in writing. If the family provides oral notice, the Department may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the Department determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the Department will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the Department. This time frame may be extended for good cause with Department approval. The Department will accept required documentation by mail, by fax, or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

TDHCA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
    - If the payment standard amount has i*ncreased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
    - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

TDHCA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

> Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family's behavior.
>
> Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.
>
> Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the PHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

TDHCA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the Department of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate the family's assistance at any time.

TDHCA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, the Department will follow the notice requirements in Section 12-II.E.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

TDHCA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the Department will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

The PHA must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity; and
- Any household member has violated the family's obligation not to engage in violent criminal activity.

Use of Illegal Drugs and Alcohol Abuse

TDHCA Policy

The Department will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The Department will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous six months.

The Department will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

***Drug-Related and Violent Criminal Activity* [24 CFR 5.100]**

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

TDHCA Policy

The Department will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The Department will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance.

TDHCA Policy

The Department **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

The Department **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

Any family member has been evicted from federally-assisted housing in the last five years.

Any PHA has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the Department.

A family member has engaged in or threatened violent or abusive behavior toward Department personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the Department will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the Department may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

> **TDHCA Policy**
>
> If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The PHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the PHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

> **<u>TDHCA Policy</u>**
>
> As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon Department request.

Repayment of Family Debts

> **<u>TDHCA Policy</u>**
>
> If a family owes amounts to the Department, as a condition of continued assistance, the Department will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Department of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

TDHCA Policy

The Department will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

TDHCA Policy

The Department will consider the following factors when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents;

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure;

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities;

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully; and

The Department will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

> **TDHCA Policy**
>
> If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the Department will determine whether the behavior is related to the disability. If so, upon the family's request, the Department will determine whether alternative measures are appropriate as a reasonable accommodation. The Department will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated,
- The effective date of the termination, and
- The family's right to an informal hearing as described in Chapter 16.

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

> **TDHCA Policy**
>
> When termination is initiated by the Department, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the Department, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the Department learns the family has vacated the unit.
>
> When a family requests to be terminated from the program they must do so in writing to the Department (see section 12-I.C.). The Department will then send a confirmation notice to the family and the owner no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

> **TDHCA Policy**
>
> The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.F. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

TDHCA Policy

If the eviction action is finalized in court, the owner must provide the Department with documentation related to the eviction, including notice of the eviction date, as soon as possible following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

12-III.E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

  TDHCA Policy

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

  TDHCA Policy

  The Department will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

  TDHCA Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Department at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

  <u>TDHCA Policy</u>

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The Department will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  <u>TDHCA Policy</u>

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

  <u>TDHCA Policy</u>

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the Department at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

> Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA's HCV program and highlights key owner rights and responsibilities.
>
> Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I: OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

<u>TDHCA Policy</u>

The Department will conduct owner outreach within metropolitan FMR areas to ensure that owners are familiar with the program and its advantages. The Department will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies may include:

Distributing printed material about the program to property owners and managers;

Contacting property owners and managers by phone or in-person;

Holding owner recruitment/information meetings at least once a year;

Participating in community based organizations comprised of private property and apartment owners and managers; and

Developing working relationships with owners and real estate brokers associations.

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

The following metropolitan FMR areas have been identified as areas of poverty and minority concentration within the Department's jurisdiction:

[List areas by neighborhoods/census tracts]

48007950200	**48139061500**	**48167723700**	**48167723400**	**48167721300**	**48355005602**
48007950400	**48139061600**	**48167720800**	**48167723500**	**48167721500**	**48355005900**
48039662800	**48139061000**	**48167720900**	**48167723600**	**48187210603**	**48473680400**
48055960200	**48139060400**	**48167721100**	**48167720600**	**48215024102**	
48055960400	**48139060500**	**48167721900**	**48167720700**	**48215024103**	
48071710300	**48139061100**	**48167722500**	**48167720800**	**48215024104**	

48071710500	**48157675700**	**48167723000**	**48167721100**	**48251130301**
48139061100	**48157674900**	**48167721700**	**48167721200**	**48355006100**

Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

<u>TDHCA Policy</u>

All Department activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The Department will provide owners with a Landlord handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The Department will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated Department contact person;

Coordinating inspection and leasing activities between the Department, the owner, and the family;

Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards; and

Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

> **TDHCA Policy**
>
> Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the Department LO representative in their area. The Department LO representative will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to the PHA information required under the HAP contract;
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the PHA), and any charges for unit damage by the family;
- Enforcing tenant obligations under the dwelling lease;
- Paying for utilities and services (unless paid by the family under the lease); and
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203].

13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner);
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; and
- Any member of the Congress of the United States.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program; and
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

TDHCA Policy

In considering whether to request a conflict of interest waiver from HUD, the Department will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the PHA, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

TDHCA Policy

The Department will refuse to approve a request for tenancy if any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

The owner has a history or practice of renting units that fail to meet state or local housing codes; and

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

> **<u>TDHCA Policy</u>**
>
> The Department will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II: HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

> **TDHCA Policy**
>
> The Department has not adopted a policy that defines when the housing assistance payment by the Department is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit;
- Maintenance, Utilities, and Other Services;
- Term of HAP Contract;
- Provision and Payment of Utilities and Appliances;
- Rent to Owner: Reasonable Rent;
- PHA Payment to Owner;
- Prohibition of Discrimination;
- Owner's Breach of HAP Contract;
- PHA and HUD Access to Premises and Owner's Records;
- Exclusion of Third Party Rights;
- Conflict of Interest;
- Assignment of the HAP Contract;
- Written Notices; and
- Entire Agreement Interpretation;

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

> **<u>TDHCA Policy</u>**
>
> The owner must inform the Department when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
>
> The owner must inform the Department when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the Department with a copy of such judgment or determination.
>
> After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the Department will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the Department of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS;
- If the owner has violated any obligation under any other HAP contract under Section 8;
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation ns for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- If the owner has engaged in drug-related criminal activity;
- If the owner has committed any violent criminal activity; and

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

TDHCA Policy

Before the Department invokes a remedy against an owner, the Department will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the Department will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the Department will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires; and
- The PHA elects to terminate the HAP contract.

TDHCA Policy

The Department may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3; and

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

TDHCA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Department gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the Department any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

The assignment will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

TDHCA Policy

The Department must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the Department will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the Department that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

The effective date of the HAP contract assignment;

A written agreement to comply with the terms of the HAP contract; and

Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the Department will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the Department will process the leasing in accordance with the policies in chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

> Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.
>
> Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

TDHCA Policy

The Department anticipates that the vast majority of families, owners, and Department employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the Department's HCV program is administered effectively and according to the highest ethical and legal standards, the Department will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The Department will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The Department will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The Department will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key Department forms and form letters that request information from a family or owner.

Department staff will be required to review and explain the contents of all HUD- and Department-required forms prior to requesting family member signatures.

The Department will provide all first-time owners (or their agents) with Landlord Informational packets.

The Department will provide each Department employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

> **<u>TDHCA Policy</u>**
>
> In addition to the SEMAP quality control requirements, the Department will employ a variety of methods to detect errors and program abuse.
>
> > The Department routinely will use available sources of enterprise income verification to compare with family-provided information.
> >
> > At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
> >
> > The Department will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

> **<u>TDHCA Policy</u>**
>
> The Department will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the Department's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

> **<u>TDHCA Policy</u>**
>
> The Department will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

TDHCA Policy

The Department will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the Department to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The Department will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

TDHCA Policy

The Department will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the Department will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to the Department, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

TDHCA Policy

In the case of family-caused errors or program abuse, the Department will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the Department will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

TDHCA Policy

The Department will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the Department determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

> **TDHCA Policy**
>
> Increases in the family share will be implemented only after the family has received 30 days notice.
>
> Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

> **TDHCA Policy**
>
> In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The Department may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the Department will terminate the family's assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family [HCV GB p. 22-12]

> **TDHCA Policy**
>
> The Department will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

TDHCA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the Department for rent, security deposit, and additional services;

Offering bribes or illegal gratuities to the Department Board of Commissioners, employees, contractors, or other Department representatives;

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the Department on the family's behalf;

Use of a false name or the use of falsified, forged, or altered documents;

Intentional misreporting of family information or circumstances (e.g. income, family composition);

Omitted facts that were obviously known by a family member (e.g., not reporting employment income); and

Admission of program abuse by an adult family member.

The Department may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

TDHCA Policy

In cases where the owner has received excess subsidy, the Department will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

TDHCA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the Department;

Charging a security deposit other than that specified in the family's lease;

Charging the family for services that are provided to unassisted tenants at no extra charge;

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;

Knowingly accepting incorrect or excess housing assistance payments;

Offering bribes or illegal gratuities to the Department Board of Commissioners, employees, contractors, or other Department representatives;

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the Department; and

Residing in the unit with an assisted family.

Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

TDHCA Policy

Any of the following will be considered evidence of program abuse by Department staff:

Failing to comply with any HCV program requirements for personal gain;

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the Department;

Disclosing confidential or proprietary information to outside parties;

Gaining profit as a result of insider knowledge of Department activities, policies, or practices;

Misappropriating or misusing HCV funds;

Destroying, concealing, removing, or inappropriately using any records related to the HCV program; and

Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. CRIMINAL PROSECUTION

TDHCA Policy

When the Department determines that program abuse by an owner, family, or Department staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the Department will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

TDHCA Policy

The Department only operates a Section 8 Housing Choice Voucher Program. Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

  Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

- *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security*: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

  Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

> Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
>
> The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be 0- or 1-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.I. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART V. COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. PHAs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a PHA offers both forms of assistance, a family must choose which form of assistance to receive.

The PHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

- For PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;
  - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD’s Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The PHA may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, the PHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt

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CHAPTER 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses, the PHA may use these funds for other housing purposes permitted by Federal, State and local law.

If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

TDHCA Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

TDHCA Policy

Copies of the payment standard and utility allowance schedules are available for review in the Department's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The Department will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

TDHCA Policy

The Department will review the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the Department will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The Department will review the budget to determine the impact that projected subsidy adjustments will have on funding available for the program and the number of families served. The Department will compare the number of families that could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the Department will consider increasing the payment standard. In evaluating rent burdens, the Department will not include families renting a larger unit than required for their family unit size.

Quality of Units Selected: The Department may review the quality of units selected by participant families when making the determination of the percent of income that families are paying for housing to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The Department may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The Department may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The Department may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1st of every year unless, based on the proposed FMRs, it appears that one or more of the PHA's current payment standard amounts will be outside the basic range when the final FMRs are published. In that case, the PHAs payment standards will be effective October 1st instead of January 1st.

If the PHA has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, the PHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the PHA at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

<u>TDHCA Policy</u>

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the PHA must determine that:

There is a shortage of affordable units that would be appropriate for the family;

The family's Total Tenant Payment (TTP) would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50^{th}, rather than the 40^{th} percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 16 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

> **TDHCA Policy**
>
> The Department has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the Department will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease; and
- Refusing to process or provide assistance under portability procedures.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- A determination of the family unit size under the PHA subsidy standards;
- A PHA determination not to grant approval of the tenancy;
- A PHA determination that the unit is not in compliance with the HQS; and
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition.

> **TDHCA Policy**
>
> The Department will only offer an informal review to applicants for whom assistance has being denied. Denial of assistance includes: Department's refusal to include applicant on waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

TDHCA Policy

A request for an informal review must be made in writing and delivered to the Department, either in person or by mail, by the close of the business day, no later than 10 business days from the date of the Department's denial of assistance.

The Department must schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the review will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

> **TDHCA Policy**
>
> In rendering a decision, the Department will evaluate the following matters:
>
> > Whether or not the grounds for denial were stated factually in the Notice.
> >
> > The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
> >
> > The validity of the evidence. The Department will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the Department will uphold the decision to deny assistance.
> >
> > If the facts prove the grounds for denial, and the denial is discretionary, the Department will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.
>
> The Department will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease;
- Terminating housing assistance payments under an outstanding HAP contract; and
- Refusing to process or provide assistance under portability procedures.

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule;
- A determination of the family unit size under the PHA's subsidy standards;
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards, or the PHA determination to deny the family's request for exception from the standards;
- A determination to terminate assistance for a participant family because of the family's actions or failure to act;
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules; and
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)].

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- Establishment of the PHA schedule of utility allowances for families in the program;
- A PHA determination not to approve an extension or suspension of a voucher term;
- A PHA determination not to approve a unit or tenancy;
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS;
- A PHA determination that the unit is not in accordance with HQS because of family size; and
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

TDHCA Policy

The Department will offer participants the opportunity for an informal hearing only when required to by the regulations.

Informal Hearing Procedures

Notice to the Family [24 CFR 982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

TDHCA Policy

In cases where the Department makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The Department's hearing procedures.

The proposed action or decision of the Department.

A brief statement of the reasons for the decision, including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for the Department's decision.

A statement that if the family does not agree with the decision, the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

Identification of the person to whom the hearing request should be addressed.

***Scheduling an Informal Hearing* [24 CFR 982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

> **<u>TDHCA Policy</u>**
>
> The family must submit, in writing, a request for an informal hearing and deliver it to the Department either in person, by mail, or by courier at the close of the business day. The request for an informal hearing must be submitted to the Department no later than 10 business days from the date of the Department's decision or notice to terminate assistance.
>
> The Department must schedule and send written notice to the family for the informal hearing appointment within 10 business days of receipt of the family's request.
>
> The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the Department may request documentation of the "good cause" prior to rescheduling the hearing.
>
> If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the Department within 24 hours of the scheduled hearing date, excluding weekends and holidays to request that the Department consider rescheduling the hearing. The Department will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

> **<u>TDHCA Policy</u>**
>
> Any fees for copying or procuring the documents shall be at the expense of the family. The family will be allowed to copy any documents related to the hearing at a cost of $.10 per page. The family must request discovery of Department documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.
>
> The Department must be given an opportunity to examine at the Department offices, before the hearing, any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the Department will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer* [24 CFR 982.555(e)(4)] *and Attendance at the Informal Hearing

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision (to terminate assistance).

> **<u>TDHCA Policy</u>**
>
> The Department's structure for conducting an informal hearing consists of a hearing officer and at least two other persons, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision to terminate assistance.
>
> Hearings may be attended by a hearing officer and the following applicable persons:
>
> > A Department representative and any witnesses for the Department;
> >
> > The participant and any witnesses for the participant;
> >
> > The participant's counsel or other representative; and
> >
> > Any other person approved by the Department as a reasonable accommodation for a person with a disability.

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

> **<u>TDHCA Policy</u>**
>
> The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence [24 CFR 982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

<u>TDHCA Policy</u>

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: written documentation relevant to the case includes all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the Department or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

<u>TDHCA Policy</u>

In rendering a decision, the hearing officer will consider the following matters:

Department Notice to the Family: The hearing officer will determine if the reasons for the Department's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the Department and the family were given the opportunity to examine any relevant documents in accordance with Department policy.

Department Evidence to Support the Department Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument.

The hearing officer will evaluate the facts to determine if they support the Department's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and Department policies. If the grounds for termination are not specified in the regulations or in compliance with Department policies, then the decision of the Department will be overturned.

The hearing officer will issue a written decision to the family and the Department no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of hearing committee representatives; and

Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Department's decision.

Order: The hearing report will include a statement of whether the Department's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Department to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the Department to restore the participant's program status.

Procedures for Rehearing or Further Hearing

TDHCA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the Department will take effect and another hearing will not be granted.

In addition, within 10 business days after the date of the hearing officer's report is presented to the Department and mailed to the participant, the Department or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of the Department to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

***PHA Notice of Final Decision* [24 CFR 982.555(f)]**

The department is not bound by the decision of the hearing officer for matters in which the Department is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the Department determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the Department must promptly notify the family of the determination and the reason for the determination.

TDHCA Policy

The Department will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the Department's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for pro-ration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief und the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

> **<u>TDHCA Policy</u>**
>
> The Department will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.
>
> The family must provide the Department with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

> **<u>TDHCA Policy</u>**
>
> The Department will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial or termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. For a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

> **TDHCA Policy**
>
> Any fees for copying or procuring the documents shall be at the expense of the family. The family will be allowed to copy any documents related to the hearing at a cost of $.10 per page copy. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

> **TDHCA Policy**
>
> The Department will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance;
- The form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for an USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing;
- The final informal hearing decision;

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

TDHCA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the Department holds the owner or participant liable to return any overpayments to the Department.

The Department will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

16-IV.B. REPAYMENT POLICY

Owner Debts to the PHA

<u>TDHCA Policy</u>

Any amount due to the Department by an owner must be repaid by the owner within 30 days of the Department determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the Department will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments and refuses to repay the debt within the required time frame, the Department will ban the owner from future participation in the program and may pursue other modes of collection.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Department will ban the owner from future participation in the program and may pursue other modes of collection.

Family Debts to the PHA

<u>TDHCA Policy</u>

Any amount due to the Department by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the Department will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Department will terminate the assistance upon notification to the family and may pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement

<u>TDHCA Policy</u>

Prior to the execution of a repayment agreement, the owner or family must pay 10 percent of the balance owed to the Department.

Payment Thresholds

TDHCA Policy

Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

Execution of the Agreement

TDHCA Policy

The head of household and spouse/co-head (if applicable) must sign the repayment agreement.

Due Dates

TDHCA Policy

All payments are due by the close of business on the 5^{th} day of the month. If the 5^{th} does not fall on a business day, the due date is the close of business on the first business day after the 5^{th}.

Non-Payment

TDHCA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Department, the Department will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the Department will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the Department will terminate assistance upon written notification to the family.

No Offer of Repayment Agreement

TDHCA Policy

The Department will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceed the Federal or State threshold for criminal prosecution.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the PHA maintains an up-to-date utility allowance schedule. • Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections

Maximum Score: 5

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

Indicator 6: HQS enforcement

Maximum Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards

Maximum Points: 5 points

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations

Maximum Points: 10

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections

Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections

Maximum Points: 10

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up

Maximum Points: 20 points

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances

Maximum Points: 10

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders **Maximum Points: 5** • Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts. • This indicator shows whether voucher holders were successful in leasing units with voucher assistance. • Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.
Deconcentration Bonus Indicator **Maximum Points: 5** • Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile. • Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data. • Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.;
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

TDHCA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Department staff.

Department staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Enterprise Income Verification (EIV) Records

PHAs that access EIV data through HUD's EIV System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in *Enterprise Income Verification (UIV) System PHA Security Procedures*, Version 1.1, issued April 4, 2004.

TDHCA Policy

The Department is currently implementing EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person’s disability. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

<u>TDHCA Policy</u>

The Department will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

<u>TDHCA Policy</u>

The Department will provide an updated list of the addresses of units receiving assistance under the HCV program to the Department of Sate and Health Services, Child Lead Poisoning Prevention Program on a quarterly basis. The reports are provided for the periods ending March 30th, June 30th, September 30th, and December 31st.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.
ACC	Annual Contributions Contract
BR	Bedroom
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.
CPI	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
ELI	Extremely low income
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act - Social Security taxes
FmHA	Farmers Home Administration
FMR	Fair Market Rent
FY	Fiscal Year
FYE	Fiscal Year End
GAO	Government Accounting Office
GFC	Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP).
GR	Gross Rent
HAP	Housing Assistance Payment
HAP Plan	Housing Assistance Plan

HCDA	Housing and Community Development Act
HCV	Housing Choice Voucher
HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development or its designee.
HURRA	Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations
IG	Inspector General
IGR	Independent Group Residence
IPA	Independent Public Accountant
IRA	Individual Retirement Account
LO	Local Operator
MSA	Metropolitan Statistical Area established by the U.S. Census Bureau
PHA	Public Housing Agency
PMSA	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RC	Regional Coordinator
RFAT	Request for Approval of Tenancy
RFP	Request for Proposals
RRP	Rental Rehabilitation Program
RTA	Request for Tenancy Approval
SRO	Single Room Occupancy
SSMA	Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area.
TDHCA	Texas Department of Housing and Community Affairs

TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
URP	Utility Reimbursement Payment

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

1937 ACT. The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

ABSORPTION. In portability, the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADA. Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

ADJUSTED INCOME. Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the PHA for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

ADMISSION. The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

ANNUAL BUDGET AUTHORITY. The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

ANNUAL INCOME. The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

APPLICANT. (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

"AS-PAID" STATES. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

ASSETS. (See Net Family Assets.)

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BIFURCATE. To divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain in tact.

BUDGET AUTHORITY. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

CERTIFICATE. A Certificate issued by the PHA under the Section 8 pre-merger certificate program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

CERTIFICATE PROGRAM. Pre-merger rental certificate program.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

COMMON SPACE. In shared housing: Space available for use by the assisted family and other occupants of the unit.

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

CONTINUOUSLY ASSISTED. An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

CONTRACT. (See Housing Assistance Payments Contract.)

COOPERATIVE. (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: See 24 CFR 982.619.

COVERED FAMILIES. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

DATING VIOLENCE. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

DEPARTMENT. Also referred to as the Texas Department of Housing and Community Affairs.

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

DISABLED FAMILY. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

DISABLED PERSON. See Person with Disabilities.

DISPLACED PERSON/FAMILY. A person or family displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

DOMESTIC VIOLENCE. Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

DOMICILE. The legal residence of the household head or spouse as determined in accordance with State and local law.

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

ECONOMIC SELF-SUFFICIENCY PROGRAM. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

ELDERLY FAMILY. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

ELDERLY HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family)**.** A family is defined by the PHA in the administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of medical income for an area if HUD finds such variations are necessary due to unusually high or low family incomes.

FAIR HOUSING ACT. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

FAIR MARKET RENT (FMR). The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register.*

FAMILY. (Also see Participant and Tenant) "Family" includes but is not limited to:

> A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
>
> An elderly family;
>
> A near-elderly family;
>
> A displaced family
>
> The remaining member of a tenant family; and
>
> A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.
>
> ("Family" can be further defined by the PHA).

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or service person" when:

> The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

> The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY RENT TO OWNER. In the voucher program, the portion of the rent to owner paid by the family.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE. The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

FMR/EXCEPTION RENT. The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

FOSTER CHILD CARE PAYMENT. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

FUNDING INCREMENT. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

GROSS FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

GROUP HOME. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

HAP CONTRACT. (See Housing Assistance Payments contract.)

HEAD OF HOUSEHOLD. The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

> A payment to the owner for rent to owner under the family's lease.
>
> An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN. (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING CHOICE VOUCHER PROGRAM (HCV). (See Section 8)

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD. The Department of Housing and Urban Development.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

IMMEDIATE FAMILY MEMBER. A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood or marriage.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when assets exceed $5,000.

IMPUTED WELFARE INCOME. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

INCOME. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

INCOME FOR ELIGIBILITY. Annual Income.

INDIAN. Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA). A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

INITIAL PHA. In portability, the term refers to both:

> A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and
>
> A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

INITIAL PAYMENT STANDARD. The payment standard at the beginning of the HAP contract term.

INITIAL RENT TO OWNER. The rent to owner at the beginning of the HAP contract term.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION. The area in which the PHA has authority under State and local law to administer the program.

LANDLORD. This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LARGE VERY LOW INCOME FAMILY. Prior to the 1982 regulations, this meant a very low income family which included six or more minors. This term is no longer used.

LEASE. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

LEASE ADDENDUM. For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families.

LOCAL OPERATOR. The Local Operator is a separate agency with which the Department contracts to assist with administration of the HCV Program on a local level.

LOCAL OPERATOR REPRESENTATIVE. The Local Operator representative works as an agent of the said agency to administer the Section 8 HCV program locally in the cities and/or areas covered under the Department's HCV Program.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low income families.

MANUFACTURED HOME. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

MANUFACTURED HOME SPACE. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES. Those total medical expenses, including medical insurance premiums that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

MERGER DATE. October 1, 1999.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the Annual Income.

MUTUAL HOUSING. Included in the definition of COOPERATIVE.

NATIONAL. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

NEAR-ELDERLY FAMILY. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.

NON-CITIZEN. A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OVER-FMR TENANCY (OFTO). In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT. (Also see "Family" and "Tenant") A family that has been admitted to the PHA's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (First day of initial lease term).

PAYMENT STANDARD. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family.

PERSON WITH DISABILITIES. A person who has a disability as defined in 42 U.S.C 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

PORTABILITY. Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

PREMISES. The building or complex in which the dwelling unit is located, including common areas and grounds.

PRIVATE SPACE. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

PROCESSING ENTITY. Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

PROGRAM. The Section 8 tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

PUBLIC ASSISTANCE. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

PUBLIC HOUSING AGENCY (PHA). PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

REASONABLE RENT. A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

RECEIVING PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

RECERTIFICATION. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim recertifications.

REGULAR TENANCY. In the pre-merger certificate program: A tenancy other than an over-FMR tenancy.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER. The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

RESIDENCY PREFERENCE. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

RESIDENT ASSISTANT. A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

RESPONSIBLE ENTITY. For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

SECRETARY. The Secretary of Housing and Urban Development.

SECTION 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

SECURITY DEPOSIT. A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

SHARED HOUSING. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type.

SINGLE PERSON. A person living alone or intending to live alone.

SPECIAL ADMISSION. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES. See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

SPECIFIED WELFARE BENEFIT REDUCTION. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

SPOUSE. The husband or wife of the head of the household.

STALKING. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

> Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or
>
> Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
>
> Direct loans pursuant to Section 202 of the Housing Act of 1959; or
>
> Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
>
> Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
>
> A Public Housing Project.

SUBSIDY STANDARDS. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

SUBSTANDARD UNIT. Substandard housing is defined by HUD for use as a federal preference.

SUSPENSION/TOLLING. Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

TENANCY ADDENDUM. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

TENANT. (Also see “Family” and “Participant”) The person or persons (other than a live-in-aide) who executes the lease as lessee of the dwelling unit.

TENANT RENT. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

UNIT. Residential space for the private use of a family.

UNUSUAL EXPENSES. Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UTILITIES. Utilities mean water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

UTILITY REIMBURSEMENT. In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

UTILITY REIMBURSEMENT PAYMENT. In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VACANCY LOSS PAYMENTS. (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

VERY LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the pre-merger certificate and voucher programs.

VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

VIOLENT CRIMINAL ACTIVITY. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

VOUCHER (rental voucher). A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

VOUCHER HOLDER. A family holding a voucher with an unexpired term (search time).

VOUCHER PROGRAM. The Section 8 Housing Choice Voucher program.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy that are waiting for subsidy to become available.

WAITING LIST ADMISSION. An admission from the PHA waiting list.

WELFARE ASSISTANCE. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

WELFARE RENT. This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

> If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.
>
> If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

WELFARE-TO-WORK (WTW) FAMILIES. Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN. A citizen or national of the United States.

EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS. The documents which must be submitted to evidence citizenship or eligible immigration status.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

NATIONAL. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

NONCITIZEN. A person who is neither a citizen nor national of the United States.

PHA. A housing authority who operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

Reserved

COMMUNITY AFFAIRS DIVISION
BOARD ACTION REQUEST
June 28, 2010

Requested Action

To expedite processing, staff requests advance authorization to release a Request for Applications for the Community Action Program, Inc. (CAP Inc.) service area contracts. CAP Inc. has struggled to meet the requirements of the existing contracts and is in jeopardy of losing funds for the American Reinvestment and Recovery Act (ARRA) Weatherization Assistance Program (WAP), the Department of Energy (DOE) Weatherization Assistance Program, and the Low-Income Home Energy Assistance Program (LIHEAP) Comprehensive Energy Assistance Program (CEAP). Staff requests approval for the Executive Director to make a commitment to the qualified respondent; and to authorize submission to appropriate federal entities of the eligible respondents to obtain their required approval, and with the condition that all commitments made are subsequently presented to the Board for ratification.

> **RESOLVED,** that the Executive Director is authorized to release a Request for Applications and make future commitments of ARRA WAP, DOE WAP, and CEAP funds to eligible respondents to the Request for Applications without specific prior Board approval and to authorize submission to appropriate federal entities of those eligible respondents to obtain their required approval, and with the condition that all commitments made are subsequently presented to the Board for ratification.

Background

On March 22, 2010 the Texas Department of Housing and Community Affairs (the Department) suspended funding for CAP Inc. for the CEAP and the WAP, and requested documentation in order to justify expenditures in the CSBG as well as CEAP and WAP. On May 20, 2010 the CAP Inc. Board elected to suspend operation of all of CAP Inc.'s programs due to financial instability. Operation of the ARRA WAP, DOE WAP, and CEAP remain suspended.

In an effort to ensure that the low income households located in the counties served by CAP Inc. continue to benefit from the services provided by these programs, the Department requests authorization to release a Request for Applications to identify alternative providers to receive the funds previously awarded to CAP, Inc. to operate the ARRA WAP, DOE WAP, and CEAP.

Applicants responding to this RFA must meet the qualifications of the RFA and as provided in ARRA, DOE, and LIHEAP regulations must be a unit of government or non-profit organization to be an eligible subrecipient of funds. Upon identification of eligible respondents, the Department must still obtain approval from appropriate federal entities to include those respondents. In the interest of expediting submission to those federal entities, staff requests that the Executive Director have the authority to determine final eligibility and submit an entity for approval. All such submissions will be presented to the TDHCA Board for ratification.

HOUSING TRUST FUND DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve Housing Trust Fund (HTF) Program Award Recommendation from the 2010-2011 Affordable Housing Match Program Notice of Funding Availability (NOFA), involving the award of two (2) applications, requesting $250,000 in funds, which will result in assistance for 87 low income households and leveraged funds from the primary funding sources in the amount of $2,275,000.

> **RESOLVED,** that the award of a commitment letter and contract to Motivation, Education & Training, Inc. and Temenos Community Development Corporation (CDC), totaling $250,000 in project funds, resulting in assistance for 87 low income households, is hereby approved or approved with amendments and staff authorized to proceed with the issuance of a letter of commitment and contract with the awarded applicant.

Background

A Notice of Funding Availability (NOFA) of $750,000 for the 2010–2011 Affordable Housing Match Program was approved by the Board on July 30, 2009, as part of the 2010-2011 Housing Trust Fund Plan. The purpose of the HTF Affordable Housing Match Program is to provide Texas-based Nonprofit Organizations, Community Development Financial Institutions (CDFIs), and Rural municipalities and counties the direct match funds needed to apply for affordable housing funding that, without the required direct match, may otherwise not be accessed.

The 2010–2011 Affordable Housing Match Program NOFA was posted on March 30, 2010 with an open application cycle ending December 31, 2010. Six applications were received, requesting $531,174 in funds. Two (2) of the applications are ineligible and no longer under review because funds from the primary funding source have been awarded and an application from Family Gateway was withdrawn because match was not required by their proposed primary funding source.

Two of the six applications received have completed the review process, requesting a total of $250,000 in Match funding. Staff is recommending $250,000 in funding awards to assist 87 households for the following two applications that will leverage $2,275,000 in federal funds from the primary funding sources:

Motivation, Education & Training, Inc.	Motivation, Education & Training, Inc. will be submitting a pre-application for $1,875,000 in funding to the U.S. Department of Agriculture (USDA) Section 514/516 Farm Labor Housing no later than July 9, 2010 to build 16 multifamily units. Total project funds leveraged will be $2,550,000.

Temenos CDC

Temenos CDC submitted an application to the U.S. Department of Housing and Urban Development (HUD) Permanent Supportive Housing Program in the amount of $400,00 for which match will be required to receive an award. Temenos will acquire and rehabiliate 71 supportive housing units. Total project funds leveraged will be $6,175,250.

The remaining applications will complete review and be presented at a future board meeting. A summary of the proposed use of Match funds that would be awarded through this board item is provided below.

Applicant	Region	Primary Funding Source	HTF Funds Requested	Funds Leveraged	Total Project Funds	Assisted Units
Motivation, Education & Training, Inc.	1	USDA Section 514/516 Farm Labor Housing	$125,000	$1,875,000	$2,550,000	16
Temenos CDC	6	HUD Permanent Supportive Housing	$125,000	$400,000	$6,175,250	71
TOTAL			**$250,000**	**$2,275,000**	**$8,725,250**	**87**

Awards are conditioned upon there being no findings or issues of material non-compliance, unresolved audit findings or questioned or disallowed costs.

The Application and Award Recommendations Log is attached.

2010-2011 HTF Affordable Housing Match Program

Application and Award Recommendation Log

Total NOFA Amount: $750,000

Total Amount Available Prior to Action: $750,000

Application Number	Received Date	Applicant	Region(s) Served	Area(s) Served	Project Funds Requested	Total Units	HTF Project Funds Awarded and/or Recommended	Total Units	Comments
2010-0011	4/30/2010	Temenos Community Development Corporation	6	Harris County	$125,000	71	$125,000	71	**Pending Award**
2010-0012	5/3/2010	Family Gateway, Inc.	3	Dallas	$125,000	60	Not recommended for funding		Applicant received award from primary source
2010-0013	5/25/2010	Family Promise of East Bell County	8	Bell County	$125,000	100			Under Review
2010-0015	5/27/2010	Family Gateway, Inc.	3	Dallas	N/A	N/A	Not recommended for funding		Withdrawn 6/3/2010, Match not required
2010-0019	5/28/2010	Motivation, Education & Training, Inc.	1	Hale Center	$125,000	16	$125,000	16	**Pending Award**
2010-0022	6/8/2010	WOMAN, Inc.	6	Galveston	$31,174	10	Not recommended for funding		Applicant received award from primary source

Last Updated June 21, 2010

Application Number	Received Date	Applicant	Region(s) Served	Area(s) Served	Project Funds Requested	Total Units	HTF Project Funds Awarded and/or Recommended	Total Units	Comments
	TOTALS				**$531,174**	**257**	**$250,000**	**87**	

Last Updated June 21, 2010

HOUSING TRUST FUND DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve Housing Trust Fund (HTF) Program award recommendations from the 2010-2011 Rural Housing Expansion Program Notice of Funding Availability (NOFA), involving the award of three (3) Direct Housing Delivery Program applications, totaling $1,000,000 in project funds and $150,000 in capacity building funds which will result in assistance for 66 low income households, and authorize staff to release the NOFA on an open cycle basis as needed.

> **RESOLVED,** that the award of commitment letters and contracts to Motivation, Education & Training, Inc., Willacy County, and Brazos Valley Affordable Housing Corporation, totaling $1,000,000 in project funds and $150,000 in capacity building funds, resulting in assistance for 66 low income households, are hereby approved or approved with amendments and staff authorized to proceed with the issuance of letters of commitment and contracts with the awarded applicants.
>
> **FUTHER RESOLVED**, that staff is hereby authorized and directed to release the Notice of Funding Availability on an open cycle basis as needed and, in connection therewith, make such non-substantive technical corrections as they may deem necessary or advisable to effectuate the foregoing.

Background

The 2010–2011 Rural Housing Expansion Program Design was approved by the Board on March 11, 2010. The goal of the program is to increase the capacity of rural Texas communities to provide affordable housing. Based on significant public input and feedback, it was determined that the most likely means for successfully achieving this goal is to simultaneously provide capacity building resources and funds for direct housing delivery. By having a commitment of direct delivery funds, the recipient entity would truly develop capacity through training, technical assistance and hands-on experience.

The Program Notice of Funding Availability (NOFA) was released on March 31, 2010 with a competitive application cycle ending May 28, 2010. Up to $1,000,000 in project funds and $250,000 in funds for direct capacity building costs was made available for a total of $1,250,000. An additional $500,000 is set aside and available for USDA Section 502 Loan Packaging Application Assistance, which includes $50,000 in funding available for capacity building. The Board approved revisions to the NOFA on May 12, 2010, which were based on public feedback, and the revised NOFA was posted on May 18, 2010.

Five (5) applications were received for the Direct Housing Delivery activity, requesting a total of $1,775,160 in project funds and $238,100 in funds for capacity building for a total of $2,013,260. Applicants outlined need in their local community, capacity issues and proposed an affordable housing concept that may be subject to revision. Two (2) of these applications were terminated due to material deficiencies or applicant ineligibility and, therefore, will no longer be considered.

Three (3) of the five (5) applications received have completed the review process and are being recommended for a total of $1,150,000 in funding to assist 66 households at or below 80% AMFI:

Motivation, Education & Training, Inc.	Motivation, Education & Training (MET), Inc. will receive $500,000 in project funds and $50,000 in capacity building funds to construct 16 multifamily units by layering funds from the U.S. Department of Agriculture (USDA) Section 514/516 Farm Labor Housing Program. **Capacity Created**: MET has not developed affordable multifamily housing. This award will help build their capacity in this area.
Willacy County	Willacy County will receive $200,000 in project funds and $50,000 in capacity building funds to rehabilitate 20 single family units. **Capacity Created**: Willacy County has not yet fully established and built their infrastructure for housing and community development. This award will promote building their internal capacity to develop affordable housing in rural Texas.
Brazos Valley Affordable Housing Corporation	Brazos Valley Affordable Housing Corporation will receive $300,000 in project funds and $50,000 in capacity building funds to rehabilitate 30 single family units. **Capacity Created**: Brazos Valley has not yet developed an affordable single family subdivision. This award will increase their capacity to develop affordable single family housing subdivisions in rural Texas.

These awardees will receive a funding commitment letter and be required to participate in capacity building. Each awardee must undergo an intensive capacity assessment performed by a Technical Assistance Provider procured separately by the Department through a Request for Proposals (RFP). The capacity assessment tool used will meet the criteria of GAA, Rider 17. Based on the assessment, the Technical Assistance Provider will identify a plan for each awardee that covers what their capacity needs are and how to achieve them, and will provide some of the technical assistance skills to enhance capacity. All funds released will be pre-approved by the Department and must directly related to the capacity building and direct housing delivery activity. Additionally, the Technical Assistance Provider will evaluate the strength of the affordable housing concept originally proposed and will work with the awardee to revise that concept as needed so that it is realistic and attainable based on the awardees assessment and resources.

Should this board item be approved, all project funds for the Direct Housing Delivery activity will be committed and up to $100,000 in funds for capacity building will remain available. In accordance with the NOFA, these unawarded capacity building funds for Direct Housing Delivery may be made available for project funds.

It should be noted that $500,000 will still remain available for the USDA Section 502 Loan Application Assistance Activity. Two (2) applications for this activity are under review and, should all criteria be met, recommendations will be presented at a future board meeting.

Awards are conditioned upon there being no findings or issues of material non-compliance, unresolved audit findings or questioned or disallowed costs.

The Application and Award Recommendations Log is attached.

2010-2011 Rural Housing Expansion Program – Direct Housing Delivery and Capacity Building

Application and Award Recommendation Log

Total NOFA Amount $1,250,000

Total Amount Available Prior to Action: $1,250,000

Application Number	Received Date	Applicant	Region(s) Served	Project Funds Requested	Capacity Building Funds Requested	Total Units	Score	Project Funds Awarded and/or Recommended	Capacity Building Funds Awarded and/or Recommended	Total Units	Comments
2010-0014	5/27/2010	Willacy County	11	$200,000	$38,100	20	35	$200,000	$50,000	20	**Pending Award**
2010-0016	5/28/2010	Orange Inter City Re-Development Corporation	5	$496,160	$50,000	36		Not recommended for funding	Not recommended for funding		Applicant Ineligible
2010-0017	5/28/2010	Brazos Valley Affordable Housing Corporation	8	$304,000	$50,000	30	34	$300,000	$50,000	30	**Pending Award**
2010-0018	5/28/2010	Tender Loving Care Center for Children	5	$275,000	$50,000	12		Not recommended for funding	Not recommended for funding		Material Deficiency
2010-0020	5/28/2010	Motivation Education and Training, Inc.	1	$500,000	$50,000	16	45	$500,000	$50,000	16	**Pending Award**
	TOTALS			**$1,775,160**	**$238,100**	**114**		**$1,000,000**	**$150,000**	**66**	

Last Updated June 15, 2010

HOUSING TRUST FUND DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve or approve with amendments the use of available additional funds from Housing Trust Fund.

> **RESOLVED**, that the Executive Director and his designees be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to program available additional funds from Housing Trust Fund, consistent with the Housing Trust Fund Plan, as presented in this meeting.

Background

During the 81st Legislative Session the Department was appropriated General Revenue for the Housing Trust Fund in the amount of $21,927,750. On March 12, 2010 the Board approved amendments to the Housing Trust Fund Plan, which reflected a general revenue reduction of $1,950,000 as described in the Plan with an adjusted General Revenue amount of $19,977,750.

On May 18, 2010, the Legislative Budget Board released approved reduction targets for agencies, which reflected an adjustment of $883,922 in funding to the Trust Fund. The Department anticipates having approximately $1,013,470 in total additional funds available to program as described below. Staff proposes to program the available additional funds into activities already proposed in the Housing Trust Fund Biennial Plan (as amended by the Board) through Housing Trust Fund Notices of Funding (NOFAs) that are oversubscribed and for which demand is high.

Available Additional Funds	
General Revenue Adjustment (reduced target amount from the proposed 5% General Revenue reduction)	$883,922
Deobligations	$457,539
Loan Repayments	$655,100
Interest Earnings	$16,909
*$1,000,000 for Rider 9**	*-1,000,000*
Total Funds Available for Programming	**$1,013,470**

**The Department annually accrues interest and receives loan repayments to the Fund. Rider 9 of the General Appropriation Act (GAA) clarifies that included in funds appropriated each year under the Single Family strategy is an estimated $1,000,000 per year in interest to the account as well as loan repayments.

HOUSING RESOURCE CENTER

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve the submission of the Agency Strategic Plan for Fiscal Years 2011-2015.

> **RESOLVED,** that the proposed Agency Strategic Plan for Fiscal Years 2011-2015 is hereby approved as presented to this meeting and staff is authorized and directed to file and distribute the Strategic Plan as required, including providing it to appropriate legislative and oversight offices.

Background

By July 2, 2010, the Agency Strategic Plan must be submitted to the Governor, Lieutenant Governor, Speaker of the House, Comptroller of Public Accounts, State Auditor, Sunset Advisory Committee, House Appropriations Committee, Senate Finance Committee, Governor's Office of Budget, Planning and Policy, Legislative Budget Board, Texas State Library, the Legislative Reference Library, and the Department of Information Resources.

The following sentence from the Legislative Budget Board's report preparation instructions sums up the purpose of this document well.

"A Strategic Plan is a formal document that communicates an agency's goals, directions, and outcomes to various audiences, including the Governor and the Legislature, client and constituency groups, the general public, and the agency's employees."[1]

The TDHCA Strategic Plan for Fiscal Years 2011-2015 (the Plan) outlines its approach to addressing the affordable housing and community service needs of lower income Texans. The Plan was developed within the context of the State's overall goals and budget to generate specific outcomes that tie directly to the Department's budget structure. TDHCA will use the Plan to help meet needs of the citizens of Texas through logical, transparent, accountable, and effective actions.

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[1] From the "Introduction" to the Instructions for Preparing and Submitting Agency Strategic Plans Fiscal Years 2011-2015, p. 3.

The Plan provides a high level overview of issues that may affect the ongoing accomplishment of TDHCA's mission over the next five years. Examples of internal issues the report considers include the Department's budget, workforce characteristics, technological assets and projects, organizational structure, and existing performance measures. External factors that may change over time are also studied. Such factors include TDHCA's available funding resources, service population characteristics, service area boundaries, and the economic, legal, and environmental conditions in which it operates. Finally, the Plan provides TDHCA with an opportunity to describe some of its strengths, weaknesses, challenges, and opportunities for change.

Please note that while this is a "planning" document, it does not establish future performance measure targets (This is done through the Legislative Appropriations Request process); or program set asides or intended program activities (This is done through program rule making. funding plans and the State Low Income Housing Plan).

ATTACHMENT A

AGENCY STRATEGIC PLAN FOR THE FISCAL YEARS 2011-2015 PERIOD
BY THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

AGENCY STRATEGIC PLAN

FOR THE FISCAL YEARS 2011–15 PERIOD

BY

The Texas Department of Housing and Community Affairs

Board Chair	Term	Home Town
Mr. C. Kent Conine	9/14/1997 – 1/31/2013	Dallas, Texas

Date of Submission
July 2, 2010

SIGNED: ____________________________
Michael Gerber, TDHCA Executive Director

APPROVED: ____________________________
C. Kent Conine, TDHCA Board Chair

Prepared by the TDHCA Housing Resource Center
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INTRODUCTION

"*In 1991, Texas initiated a comprehensive process of strategic planning for all state agencies within the executive branch of government. House Bill 2009, Seventy-second Legislature, Regular Session, 1991, authorized the process. This legislation established the requirements and time frame under which Texas completed its first planning cycle.*

House Bill 2009 was subsequently codified as Chapter 2056 of the Texas Government Code.

In 1993, the Legislature amended Chapter 2056 of the Texas Government Code to consolidate certain planning requirements and to change the required planning horizon from six years to five years (i.e., the second year of the current biennium and the next two biennia). Agencies must complete and submit plans every two years; however, they may engage in planning on a continual basis and may adjust plans internally as changing conditions dictate.

CONCEPTUAL FRAMEWORK
Strategic planning is a long-term, iterative, and future-oriented process of assessment, goal setting, and decision-making. It includes a multiyear view of objectives and strategies for the accomplishment of agency goals. Clearly defined results provide feedback that leads to program performance that influences future planning, resource allocation, and operating decisions. The strategic planning process incorporates and sets direction for all agency operations.

An agency's strategic plan is a formal document that communicates its goals, directions, and outcomes to various audiences, including the Governor and the Legislature, client and constituency groups, the public, and the agency's employees." [1]

The Texas Department of Housing and Community Affairs (TDHCA or Department) Strategic Plan for Fiscal Years 2011–2015 (the Plan) outlines its approach to addressing the affordable housing and community service needs of lower-income Texans. The Plan was developed within the context of the State's overall goals and budget to generate specific outcomes that tie directly to the Department's budget structure. TDHCA will use the Plan to help meet needs of the citizens of Texas through sound, transparent, accountable, and effective actions.

[1] From the "Introduction" to the Instructions for Preparing and Submitting Agency Strategic Plans Fiscal Years 2011-2015.

STATEWIDE VISION, MISSION, AND PHILOSOPHY

THE VISION FOR TEXAS STATE GOVERNMENT

"*Fellow Public Servants:*

Since the last exercise in strategic planning began in March 2008, much has changed in the national economic picture. States across the nation have struggled with severe budget shortfalls and the national economy has yet to rebound as many hoped and predicted. Texas, however, has weathered the economic downturn better than other states and been recognized as an example for other states to follow.

Our position relative to other states is not by accident. Texas has demonstrated the importance of fiscal discipline, setting priorities, and demanding accountability and efficiency in state government. We have built important reserves in our state's "Rainy Day Fund," cut taxes on small businesses, and emphasized a stable and predictable regulatory climate in an effort to show that the Lone Star State is a great place to build a business and raise a family.

Over the last year, families across this state and nation have tightened their belts in response to the economic challenges. Government should be no exception. As we begin this next round in our strategic planning process, we must critically reexamine the role of state government by identifying the core programs and activities necessary for the long-term economic health of our state, while eliminating outdated and inefficient functions. We must set clear priorities that will help maintain our position as a national leader now and in the future by:

Ensuring the economic competitiveness of our state by adhering to principles of fiscal discipline, setting clear budget priorities, living within our means, and limiting the growth of government;

Investing in critical water, energy, and transportation infrastructure needs to meet the demands of our rapidly growing state;

Ensuring excellence and accountability in public schools and institutions of higher education as we invest in the future of this state and ensure Texans are prepared to compete in the global marketplace;

Defending Texans by safeguarding our neighborhoods and protecting our international border; and

Increasing transparency and efficiency at all levels of government to guard against waste, fraud, and abuse, ensuring that Texas taxpayers keep more of their hard-earned money to keep our economy and our families strong.

I am confident we can address the priorities of our citizens with the limited government principles and responsible governance they demand. I know you share my commitment to ensuring that this state continues to shine as a bright star for opportunity and prosperity for all Texans. I appreciate your dedication to excellence in public service and look forward to working with all of you as we continue charting a strong course for our great state."

RICK PERRY
Governor of Texas[2]

[2] Instructions for Preparing and Submitting Agency Strategic Plans Fiscal Years 2011-2015.

THE MISSION OF TEXAS STATE GOVERNMENT

"Texas state government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of strong family environments for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

Aim high . . .we are not here to achieve inconsequential things!*"* [3]

THE PHILOSOPHY OF TEXAS STATE GOVERNMENT

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise, we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse and providing efficient and honest government.
- § Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly."[4]

Descriptions of ways TDHCA works to fulfill the Vision, Mission, and Philosophy of Texas State Government are provided in the following section which details TDHCA's impact on the corresponding statewide goals and benchmarks for Texas State Government.

[3] Ibid.
[4] Ibid.

RELEVANT STATEWIDE GOALS AND BENCHMARKS

TDHCA's strategies directly or peripherally impact the following statewide goals and associated benchmarks.

EDUCATION - PUBLIC SCHOOLS

Priority Goal

To ensure that all students in the public education system acquire the knowledge and skills to be responsible and independent Texans by:

- § Ensuring students graduate from high school and have the skills necessary to pursue any option including attending a university, a two-year institution, other post-secondary training, military or enter the workforce;
- § Ensuring students learn English, math, science and social science skills at appropriate grade level through graduation; and
- § Demonstrating exemplary performance in foundation subjects.

Benchmarks

- § High school graduation rate
- § Percent of graduates earning recommended high school diploma
- § Percentage of students who demonstrate satisfactory performance on the annual state assessments
- § Percentage of Texas high school students who need remediation
- § Percent of students from third grade and above who are able to read at or above grade level
- § Percent of students from third grade and above who perform at or above grade level in math

Access to affordable housing for families with children results in a marked improvement in the graduation rate of children. Considering that "three or more early life residential moves can reduce a child's odds of graduating high school by nearly 20 percent compared to their nonmoving peers," [5] affordable housing is a major factor in the success of children in school. When families struggle to satisfy their daily needs, school performance can decline. Overcrowded housing conditions can adversely impact childhood development.

TDHCA addresses the priority goals and benchmarks in the following ways.

- § TDHCA activities result in lower rental and mortgage payments for families, repairs to and replacement of substandard housing, and reduced utility payments. This assistance helps families provide a safe and stable home environment for their children – conditions that are conducive to promoting educational achievement.
- § In addition to providing housing that is safe, decent, and affordable, TDHCA activities often provide supportive services and amenities that are geared towards helping educate children. Examples of this assistance include supportive services provided by rental

[5] Partnership for America's Economic Success. (2008). The hidden costs of the housing crisis: the long-term impact of housing affordability and quality on young children's odds of success. Retrieved from http://www.partnershipforsuccess.org/docs/research_report_200807_housing.pdf.

housing developments and community action agencies that TDHCA has funded. Such services include class room space and equipment, nutrition, afterschool care, computer training, and health and human services care for children that help eliminate barriers to educational success.

§ Through the Emergency Shelter Grants Program, Homelessness Prevention and Rapid Re-housing Program, and Homeless Housing and Services Program, TDHCA funds organizations providing homelessness prevention activities by assisting families that are homeless or threatened with homelessness.

EDUCATION – HIGHER EDUCATION

Priority Goal

To prepare individuals for a changing economy and workforce by:

§ Providing an affordable, accessible, and quality system of higher education; and

§ Furthering the development and application of knowledge through teaching, research, and commercialization.

Benchmarks

§ Percent of population age 24 years and older with vocational/technical certificate as highest level of educational attainment

§ Percent of population age 24 years and older with two-year college degree as highest level of educational attainment

§ Percent of population age 24 years and older with four-year college degree as highest level of educational attainment

People with higher levels of education tend to have lower rates of unemployment and higher rates of income. The Bureau of Labor Statistics found that in 2009, the average unemployment for all workers was 7.9 percent, but the average unemployment for people with a bachelor's degree was 5.2 percent and a professional degree was 2.3 percent. Similarly, the average weekly earnings for all workers was $774, but the average for people with a bachelor's degree was $1,025 and a professional degree was $1,529.[6] TDHCA supports students of higher education by providing affordable housing to allow them to finish their programs.

TDHCA addresses the goals and benchmarks in the following ways:

§ Students of higher education may be eligible for reduced rent through the HOME and Housing Tax Credit programs if they meet program-eligibility requirements. Reduced rent will allow the student to spend more time on studying and completing school.

§ Rental assistance programs, such as the Emergency Shelter Grants Program, Homelessness Prevention and Rapid Re-housing Program, Homeless Housing and Services Program, and Tenant-Based Rental Assistance can provide case management which may include a recommendation for the individual to start or continue an appropriate educational program.

[6] Bureau of Labor Statistics. (2010, May). Education pays. Retrieved from http://www.bls.gov/emp/ep_chart_001.htm.

- Through its Community Service Block Grant (CSBG) program, TDHCA provides administrative support funds to Community Action Agencies (CAAs) and other human service delivery organizations that offer emergency and poverty-related programs to lower-income persons. Activities for CSBG can include education services, such as providing funds for tuition or scholarships for higher education.

HEALTH AND HUMAN SERVICES

Priority Goal

To promote the health, responsibility, and self-sufficiency of individuals and families by:

- making public assistance available for those most in need through an efficient and effective system while reducing fraud in the system; and
- continuing to create partnerships with local communities, advocacy groups, and the private and not-for-profit sectors.

Benchmarks

- Percent of long-term care clients served in the community
- Percent of adult welfare participants in job training who enter employment
- Percent of Texas population receiving food stamps
- Incidence of confirmed cases of abuse, neglect, or death of children, the elderly, or spouses per 1,000 population
- Rate of substance abuse and alcoholism among Texans
- Percent of people completing vocational rehabilitation services and remaining employed

There are several groups in Texas designated by TDHCA as special needs populations, including, but not limited to, homeless populations, persons with disabilities, elderly populations, and persons with alcohol and substance abuse issues. Many of these special needs population groups are vulnerable to poverty and may enter into the health and human services system. For example, the 2005 to 2007 American Community Survey estimates 23.4 percent of people with disabilities were below the poverty level in Texas during that time period. Tailoring some programs for these groups' needs allows TDHCA to promote healthy, responsible and self-sufficient individuals and families.

TDHCA addresses the priority goals and benchmarks in the following ways:

- TDHCA's rental assistance vouchers provided through the US Department of Housing and Urban Development's (HUD) HOME, Housing Choice Voucher (Section 8), and rental assistance vouchers through the Housing Trust Fund programs can be used to help people live independently and remain in their own homes. To help persons with special needs own their own homes, TDHCA has made available HOME Program funds to help persons with disabilities purchase a home, access homebuyer education, access down payment and closing cost assistance, and receive funding for architectural barrier removal. In addition, the Housing Trust Fund has a Home Free Barrier Removal and Rehabilitation program to provide grants for home modifications needed for accessibility for persons with disabilities.

§ TDHCA's multifamily properties offer valuable services to tenants that range from job training programs, computer labs, and literacy programs, to matched savings plans that can be used to fund educational opportunities. Local community action agencies funded through TDHCA's Community Services Block Grant Program, Homelessness Prevention and Rapid Re-housing Program and other Community Affairs' programs provide essential services, including access to child care, transportation, job training and employment services, utility assistance, and educational programs. These activities are of great value to persons trying to improve their chance of getting and keeping a job and help promote long-term self sufficiency.

§ Battered women who live in poverty are often forced to choose between staying in abusive relationships or homelessness. According to the National Coalition for the Homeless, a majority of homeless women have been victims of domestic violence: The Network to End Domestic Violence states that 63% of homeless women have experienced domestic violence in their adult lives.[7] In 2008, there were 193,505, a 3.6 percent increase from 2006, reported family violence incidents in Texas.[8] Through TDHCA's community services programs, many victims of domestic violence are able to access shelter and supportive services that help them become self sufficient.

§ According to the National Health Care for the Homeless Council, "Among surveyed homeless people 38% have an alcohol problem, and 26% report problems with other drugs." [9] Homeless persons with substance abuse problems may require supportive services. Through Community Affairs' programs, such as the Emergency Shelter Grants Program and Homeless Housing and Services Program, TDHCA funds organizations that provide shelter and related services for homeless persons, as well as intervention services to persons threatened with homelessness. Activities include renovating buildings for use as shelters; medical and psychological counseling; assistance in obtaining permanent housing; and homeless prevention services, such as rent and utility assistance. In addition, the TDHCA Housing Tax Credit program can be used to develop transitional housing and permanent supportive housing for homeless populations.

§ Many programs have specific activities that service elderly Texans. For example, the Community Service Block Grant Program funds eligible entities that operate programs targeting the elderly, such as Meals-on-Wheels, senior activity centers, and home care services. The Sabine Pass Restoration Program allows homeowners with a disability or elderly households the opportunity to apply for an additional $15,000 in assistance for accessibility-related costs associated with elevating the dwelling. The Department's energy assistance and weatherization programs, give preference to the elderly as well as other special needs and priority populations. HOME's Homeowner Rehabilitation activity provides funds for the repair and rehabilitation of homes owned by very low-income households and many of the assisted households are elderly. Finally, the

7 National Coalition for the Homeless. (2009, July). Why are people homeless? Retrieved from http://www.nationalhomeless.org/factsheets/why.html.
8 http://www.tcfv.org/wp-content/uploads/2007/10/tcfv_stats2008.pdf
9National Coalition for the Homeless. (2009, July). Who is homeless? Retrieved from http://www.nationalhomeless.org/factsheets/Whois.pdf.e

Housing Tax Credit Program and the Multifamily Bond Program fund "Qualified Elderly Developments", which is a development in which elderly residents occupy 80 to 100 percent of the affordable units. Ensuring that the elderly have access to affordable housing and services helps that population gain self sufficiency.

ECONOMIC DEVELOPMENT

Priority Goal

To provide an attractive economic climate for current and emerging industries that fosters economic opportunity, job creation, capital investment, and infrastructure development by:

- promoting a favorable and fair system to fund necessary state services;
- addressing transportation needs;
- promoting a favorable business climate; and
- developing a well trained, educated, and productive workforce.

Benchmarks

- Number of employees in targeted industry sectors
- Number of new non-government, non-farm jobs created
- Per capita gross state product
- Texas unemployment rate
- Number of Texans receiving job training services

The provision of affordable housing has an economic impact on communities. Just as an economic benefit accompanies the construction of market-rate real estate, so too does the benefit accompany affordable housing. Construction directly creates jobs, wages, and tax revenues. It also provides indirect economic benefits as the construction creates demand for goods and services. According to a study by the National Association of Home Builders published in 2009,[10] the construction of:

- 100 single-family homes in a typical metro area include $21.1 million in local income, $2.2 million in taxes and other revenue for local governments, and 324 local jobs.
- 100 rental apartment units in a typical metro area include $7.9 million in local income, $827,000 in taxes and other revenue for local governments, and 122 local jobs.

The economic growth of communities can be adversely impacted when job growth is not matched with corresponding growth in affordable housing opportunities. Despite lower interest rates, relatively low home prices, and moderate rent increases, many workers are still unable to affordably buy a median-priced home or rent a typical apartment in the communities they serve.[11] This may create a barrier for employers to find workers. As expressed at many TDHCA public hearings, affordable housing's affect on economic development is of particular concern to

[10] National Association of Homebuilders, (2009, June) The local impact of homebuilding. Retrieved from http://www.nahb.org/fileUpload_details.aspx?contentTypeID=3&contentID=35601&subContentID=21918.
[11] Center for Housing Policy. (2010). Paycheck to Paycheck 2010 Executive Summary: Is housing affordable for America's workers? Retrieved from, http://www.nhc.org/pdf/P2P_2010_ExecutiveSummary.pdf.

rural areas. The relative geographic isolation of some rural communities means they cannot rely on nearby communities for housing that can help support their growth opportunities.

TDHCA addresses the priority goals and benchmarks in the following ways.

- The following table shows TDHCA funding allocated during fiscal year 2009 and the corresponding number of housing units to be built or rehabilitated. As described above, this activity has a significant economic impact in the communities where the construction will occur.

Table 1. TDHCA funding allocated FY 2009

Activity	Funds	Households*
Rental New Construction	$132,084,399.00	7,327
Rental Rehabilitation	$30,637,002.00	2,213
Owner Financing & Down Pmt.	$106,989,379.00	1,596
Owner Rehabilitated Asst	$29,325,695.00	452
Total	**$301,974,495.00**	**11,588**

*In this context, households represent number of units.

- In addition to the economic benefits derived from constructing housing units with the help of TDHCA resources, as described in the "Health and Human Services" goals and benchmarks section of this report, the rental development and community services programs help persons in need by providing essential employment-related services. These services include access to computers, the internet, child care, transportation, job training and employment services, and education services.
- Local governments, organizations, and developers receiving TDHCA funds typically use local labor and companies to complete the work, thus supporting the local economy. For example, local community action agencies operating the Weatherization Assistance Program use local contractors to make energy-efficient repairs and improvements.
- Community Service Block Grant (CSBG) activities can be instrumental in preventing homelessness in the lowest-income populations. Activities for CSBG program can include job training, employment services and other activities to promote self-sufficiency.

REGULATORY

Priority Goal

To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by:

- implementing clear standards;
- ensuring compliance;
- establishing market-based solutions; and
- reducing the regulatory burden on people and business.

Benchmarks

- Percent of state professional licensee population with no documented violations
- Percent of new professional licensees as compared to the existing population
- Percent of documented complaints to professional licensing agencies resolved within six months
- Percent of new and renewed professional licenses issued via internet
- Percent of state financial institutions and credit providers rated "safe and sound" and/or in compliance with state requirements
- Percent increase in utilization of the state business portal

TDHCA addresses the priority goals and benchmarks in the following ways:

- TDHCA's Compliance and Asset Oversight (CAO) Division and the Program Services Division, in coordination with the Department's programs, ensure that compliance with federal and state programs is achieved. CAO focuses on maintaining required long-term affordability standards, justifying tenant income certification records. CAO also works closely with the program areas to ensure that applicants for funding who have previously received assistance from TDHCA are in compliance with the terms and requirements of those contracts. The Program Services Division is responsible for federal and departmental requirements for housing programs administered by the Department, including the processing and issuance of environmental clearances, labor standards requirements, loan closings and the commitment and disbursement of federal funds.
- The newly-created Office of American Recovery and Reinvestment Act Accountability and Oversight is responsible for identifying and mitigating risk in program development and operation and for issues that cut across all Recovery Act programs, such as reporting and federal guidance.
- The Manufactured Housing Division (MHD) licenses and regulates those who manufacture, sell, broker, and install manufactured homes. MHD issues and maintains records on manufactured home ownership and location, inspects manufactured home installations, and investigates and oversees the resolution of consumer complaints. It maintains offices in Austin, Dallas/Ft. Worth, Houston, San Antonio, Lubbock, Tyler, Waco, and has remote locations in Edinburg, Henrietta, and Beaumont (for inspection of 100% of installations in coastal counties), as well as offers professional license renewals through Texas Online. The Manufactured Housing Division also licenses and inspects migrant farmworker housing facilities and assists the Compliance Division in inspecting TDHCA-monitored multifamily properties.
- Regarding the soundness of financial institutions and credit providers, the Financial Service, Bond Finance, and Single Family Finance Production divisions offer current and future first-time homebuyers the ability to purchase homes at below market rate with down payment assistance without affecting state debt. Standard & Poor's and Moody's Investors Service have awarded TDHCA single family housing bonds with their highest bond ratings as a result of effective structuring of debt and conservative debt management practices.

GENERAL GOVERNMENT

Priority Goal

To provide citizens with greater access to government services while reducing service delivery costs and protecting the fiscal resources for current and future taxpayers by:

- supporting effective, efficient, and accountable state government operations;
- ensuring the state's bonds attain the highest possible bond rating; and
- conservatively managing the state's debt.

Benchmarks

- Total state spending per capita
- Percent change in state spending, adjusted for population and inflation
- Ratio of federal dollars received to federal tax dollars paid
- Number of state employees per 10,000 population
- Number of state services accessible by internet
- Total savings realized in state spending by making reports/documents/processes available on the internet
- Affordability of homes as measured by the Texas Housing Affordability Index

TDHCA addresses the priority goals and benchmarks in the following ways:

- TDHCA ensures that all programs follow the citizen participation and public hearing requirements as outlined in the Texas Government Code. Hearing locations are accessible to all who choose to attend and are held at times accessible to both working and non-working persons. Additionally, pertinent information is posted in the Texas Register, on TDHCA's website, and notices are sent periodically to people who have voluntarily signed up on TDHCA's Listserv. Participation and comments are encouraged and can be submitted either at a public hearing or in writing via mail, fax, email, and in some cases, directly on the TDHCA website.
- TDHCA values and relies on community input to direct resources to meet its goals and objectives. In an effort to provide the public with an opportunity to more effectively give input on TDHCA's policies, rules, planning documents, and programs, TDHCA has consolidated most of its public hearings related to policy and rule development. Each year, a hearing on all TDHCA programs will be held in at about half of the State Service Region the Department uses for planning and reporting purposes. After the regional hearings are held, the State Low Income Housing Plan, TDHCA's key annual planning and policy document, is presented to the Board so comment may be provided directly to the Board. Staff is available at each hearing to answer questions and lend technical assistance to attendees.
- All TDHCA program funds are distributed and used with the intention of delivering the highest possible level of assistance. Before being recommended to the Board for approval, all multifamily housing production applications are thoroughly underwritten by the Real Estate Analysis Division to ensure the proposed activity is both financially feasible and uses the minimum required amount of assistance. All of the Department's internal operations are thoroughly scrutinized by funding source reporting requirements,

internal and external audits, and the LBB budgeting and performance measurement system to provide for the most efficient and effective provision of services.

§ In support of the agency mission, TDHCA has a strong commitment to providing the citizens of Texas open, online access to information about every agency program and service through detailed web pages, a posted library of agency publications, and customer search tools to find local assistance providers for buying homes, renting, home repair and weatherization, and utility bill payments.

§ The TDHCA Interactive page is the website's portal to online services. In addition to the services mentioned above, the Interactive page provides a link to the Manufactured Housing online database of ownership, license, installation, and inspections records. It also includes a Contractor Tools section, which provides both housing and community affairs program subrecipients access to systems for reporting and maintaining contract and compliance data.

§ Virtually every report or document that TDHCA produces is available on the website. In 1st Half FY2010 (9/1/2009-2/28/2010), the public Web site received the following activity (averaged monthly):
  - o General Web pages:
    - § 54,499 visitors
    - § 96,612 visits
    - § 298,798 page views
  - o Help for Texans, Consumer Assistance area
    - § 5,527 visitors
    - § 7,576 visits
    - § 39,750 page views
  - o Manufactured Housing Database:
    - § 8,107 visitors
    - § 38,352 visits
    - § 326,276 page views

§ Through the Central Database project, TDHCA automated the processes associated with contract management, draw requests, and compliance reporting. The three major Central Database systems are the Community Affairs Contract System, the Compliance Monitoring and Tracking System (CMTS), and the Housing Contract System. In April 2009, the agency began projects to expand Central Database systems so that contracts for Recovery Act programs, Hurricanes Ike and Dolly Disaster Recovery funding, the Neighborhood Stabilization Program, and the Homeless Housing and Services Program could be managed in these systems. Most projects were completed by November 2009, and as of April 2010 all these programs are managed using Central Database systems.

§ TDHCA program personnel currently administer 447 active contracts for community affairs programs and 349 contracts for housing programs. Over 2,900 accounts are in place for subrecipients who submit community affairs program performance and expenditure reports and housing program contract activity setups and draw requests. Additionally, there are currently over 3,200 accounts in place for property owners and managers who submit online status reports on 1,753 active properties with over 200,000 units through CMTS.

- While TDHCA's activities do not directly impact the Texas housing affordability index, which is based on local area income levels and home prices, its single family loan products and the Texas Bootstrap loan program certainly allow many more people to buy their own home then would otherwise be possible. Also, TDHCA's programs that weatherize homes may result in lower utility payments making housing more affordable for the owner.
- Standard & Poor's and Moody's Investors Service have awarded TDHCA single family housing bonds with their highest bond ratings as a result of effective structuring of debt and conservative debt management practices.

TDHCA MISSION

The mission of the Texas Department of Housing and Community Affairs is to help Texans achieve an improved quality of life through the development of better communities.

TDHCA PHILOSOPHY

TDHCA values serving its customers with quality services, achieving a high standard of operations and developing the skills of its workforce.

CUSTOMERS

§ Advocacy: The Department will actively encourage, support, and promote an improved quality of life for extremely low-, very low-, low-, and moderate-income Texans.

§ Service: The Department will be responsive to every constituent request and provide every customer with prompt, courteous service.

§ Partnership: The Department will foster an atmosphere that is conducive to encouraging and forming public and private partnerships that are responsive to the needs of extremely low-, very low-, low-, and moderate-income Texans.

§ Equity: The Department will establish processes for the public's full participation in programs and the fair allocation of resources.

§ Respect: The Department believes in the worth of all persons and their need for decent, safe, and affordable housing.

OPERATIONS

§ Integrity: The Department will conduct business openly, free of bias, and according to the highest ethical and professional standards.

§ Accountability: The Department will be answerable and responsive to the Texas Legislature, external customers/consumers, and its various funding sources.

§ Efficiency: The work of the Department will be accomplished in the most direct, cost-effective manner.

§ Leveraging: Each program will encourage the public and private sector to contribute additional resources that maximize the economic impact of and expand the level of assistance provided by state and federal dollars.

STAFF

§ Quality: Each employee will strive for excellence in the work performed.

§ Creativity: Department staff will continually seek innovative methods for performing work in their respective fields.

§ Respect: The Department recognizes that its employees are the critical element in accomplishing its mission and goals. Therefore, it pledges to support their continued professional development and provide opportunities for reward based on their performance. In doing so, it also pledges to promote a collaborative and positive work environment for all employees.

EXTERNAL/INTERNAL ASSESSMENT

I. OVERVIEW OF AGENCY SCOPE AND FUNCTIONS

A. Statutory Basis

Chapter 2306 of the Texas Government Code outlines the functions of TDHCA as follows:

Sec. 2306.001. Purposes. The purposes of the department are to:

1) *assist local governments in*
   A) *providing essential public services for their residents; and*
   B) *overcoming financial, social, and environmental problems;*
2) *provide for the housing needs of individuals and families of low and very low income and families of moderate income;*
3) *contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;*
4) *assist the governor and the legislature in coordinating federal and state programs affecting local government;*
5) *inform state officials and the public of the needs of local government;*
6) *serve as the lead agency for:*
   A) *addressing at the state level the problem of homelessness in this state;*
   B) *coordinating interagency efforts to address homelessness; and*
   C) *addressing at the state level and coordinating interagency efforts to address any problem associated with homelessness, including hunger.*
7) *serve as a source of information to the public regarding all affordable housing resources and community support services in the state.*

B. Historical Perspective

The following events have shaped TDHCA's current organizational structure and program responsibilities.

- § In 1991, the 72nd Texas Legislature created TDHCA from the Texas Housing Agency, the Texas Department of Community Affairs, and the Community Development Block Grant (CDBG) Program from the Texas Department of Commerce.
- § On September 1, 1992, two programs were transferred to TDHCA from the Texas Department of Human Services: the Low Income Home Energy Assistance Program (LIHEAP) and the Emergency Nutrition and Temporary Emergency Relief Program.
- § On September 1, 1995, in accordance with House Bill 785, regulation of manufactured housing was transferred to the Department.
- § On September 1, 2001, in accordance with House Bill 7, the CDBG and Local Government Services programs were transferred to the newly-created Texas Department of Rural Affairs (TDRA). However, TDHCA, through an interagency contract with TDRA, administers 2.5 percent of the CDBG funds used for the Self-Help Centers along the Texas-Mexico border.

- § Also on September 1, 2001, in accordance with Senate Bill 322, the Manufactured Housing Division became an independent entity administratively attached to TDHCA.
- § The 81st Legislature of 2009 approximately doubled the Housing Trust Fund money, to approximately $21,927,750 over the biennium, resulting in TDHCA making the Housing Trust Fund a separate division.
- § Hurricanes Rita and Katrina in 2005 and Hurricanes Dolly and Ike in 2009 resulted in TDHCA administering approximately $1.8 billion in Community Development Block Grant hurricane recovery funds in conjunction with the Texas Department of Rural Affairs. TDHCA's Disaster Recovery Division primarily oversees the housing recovery funds of these awards.
- § The Housing and Economic Recovery Act of 2008 and the American Recovery and Reinvestment Act of 2009 resulted in the Department receiving approximately $1.2 billion in additional funds over three years. The influx of funds resulted in the creation of several new divisions and programs, including the Neighborhood Stabilization Program Division, Mortgage Advantage Program, the 90-Day Down Payment Assistance Program, Homeless Prevention and Rapid Re-Housing Program, Housing Tax Credit Exchange Program and Tax Credit Assistance Program. Furthermore, additional funding was made available to existing programs, such as the Community Services Block Grant and Weatherization Assistance Programs.
- § In a recent effort to improve efficiency and effectiveness, the Department implemented a significant reorganization of certain housing-related activities and administrative structures. A separate division called Program Services was created; Program Services is responsible for adherence, processing and completion of cross-cutting federal and departmental requirements for housing programs administered by the Department. TDHCA's programs continue to evolve in response to statutory changes, federal program changes, and public participation.

C. Affected Populations

As established by §2306.001(2), TDHCA is to "provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income…" Per Section 2306.004, individuals and families are classified by the following income categories:

- § "extremely low income" earn not more than 30 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.
- § "very low income" earn not more than 60 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.
- § "low income" earn not more than 80 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

Section 2306.004 also defines “"Family of moderate income" to be a family:
“(A) that is determined by the board to require assistance, taking into account:

(i) the amount of the total income available for housing needs of the individuals and families;

(ii) the size of the family;

(iii) the cost and condition of available housing facilities;

(iv) the ability of the individuals and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and

(v) standards established for various federal programs determining eligibility based on income; and

(B) that does not qualify as a family of low income.”

Only a few programs allow for households served to have incomes above the 80 percent median income. For the single family bond funded loans, moderate income would include homebuyers with household incomes up to 115 percent of the area median family income and 140 percent of the area median family income for targeted areas. For the Neighborhood Stabilization Program, eligible applicants can have incomes up to 120 percent of the median income, though 35 percent of all funds must be allocated to households earning no more than 50 percent of the median income. For Community Development Block Grant Disaster Recovery Programs, eligible households can have incomes up to 150 percent of the median income. For the National Foreclosure Mitigation Counseling Program, there is no household income threshold for service.

Within these income categories, there are households that have special needs which further complicate their ability to find housing. The US Department of Housing and Urban Development (HUD) has designated the homeless, persons with disabilities, the elderly, persons with alcohol and/or drug addictions, persons with HIV/AIDS, and public housing residents as special needs populations requiring special attention. TDHCA also considers colonia residents and migrant farmworkers to be special needs populations with unique needs.

The varying state and federal income categories can cause some confusion when TDHCA reports on the income levels of those receiving assistance in documents with different audiences such as the State Low Income Housing Plan, LBB Performance Measures, and the HUD Consolidated Planning documents.

D. Main Functions

To achieve its mission, TDHCA provides the following types of assistance.

Housing and Community Services Assistance

- Housing assistance for individual households (homebuyer down payment, low interest rate mortgage financing, self-help housing opportunities, home repair, homebuyer education, Texas veterans housing assistance, grants for accessible home modifications for persons with disabilities, and rental payment assistance);

- § Funding for the development of rental housing and single-family developments (new construction or rehabilitation);
- § Disaster recovery/relief (home repair and reconstruction, and development of rental housing);
- § Foreclosure relief (foreclosure prevention counseling and stabilization of neighborhoods with excessive foreclosures);
- § Energy assistance (utility payments or home weatherization activities); and Assistance for homeless persons and emergency relief for individuals or families in crisis (transitional housing, energy assistance, health and human services, child care, nutrition, job training and employment services, substance abuse counseling, medical services, other emergency assistance, and administrative support for community service agencies).

TDHCA's funding resources are awarded through formal, published processes. As such, funding is distributed to entities that, in turn, provide assistance to households in need. This distribution is done using a number of techniques.

- § Almost all housing development, rehabilitation, and rental assistance funding is awarded through formal request for proposals and notices of funding availability.
- § First time homebuyer mortgage and down payment assistance is allocated through a network of participating lenders. Counseling services is allocated to HUD-Approved Counseling Organizations that partner with TDHCA.
- § Community services and energy assistance funds are predominantly allocated through a network of community-based organizations who receive their funding on an annual, ongoing basis.

Funding for the services listed above include the US Department of Housing and Urban Development (HUD), US Department of Treasury (DoT), US Department of Health and Human Services (DHHS), and US Department of Energy (DoE), and Texas general revenue funds.

Manufactured Housing Activities

TDHCA's Manufactured Housing Division administers the Texas Manufactured Housing Standards Act (TMHSA). The TMHSA ensures that manufactured homes are well constructed and safe; are installed correctly; that consumers are provided fair and effective remedies; and that measures are taken to provide economic stability for the Texas manufactured housing industry. Services of the Manufactured Housing Division include recordation of ownership and liens, issuance of Statements of Ownership and Location (SOL); required training and examination for prospective license applicants, license issuance to manufacturers, retailers, rebuilders, installers, brokers, and/or salespersons; record and release of tax and mortgage liens; installation inspections; consumer complaints; and through a cooperative agreement with HUD, the regulation of the manufactured housing industry in accordance with federal laws and regulations.

Information Resource Assistance

TDHCA is a housing and community services informational resource for individuals, local governments, the Legislature, community organizations, advocacy groups, and members of the housing development community. Examples of information it provides include: general information on TDHCA activities, US Census data analysis, and consumer information on available housing and supportive service assistance statewide. A primary method by which this information is made available is TDHCA's interactive consumer assistance website at http://www.tdhca.state.tx.us/assist_main.htm.

In all of its activities, TDHCA strives to promote sound housing policies; promote leveraging of state and local resources; prevent discrimination; and ensure the stability and continuity of services through a fair, nondiscriminatory, and open process. *Table 2. Housing Support Continuum* briefly describes the activities assisted by and households served by each TDHCA program. The *Housing Support Continuum* is a tool that allows TDHCA to ensure that its programs support one another and to minimize conflict or duplication.

Table 2. Housing Support Continuum

Continuum		Program/Activities	Description	Eligible Households
(1) Poverty and Homelessness Prevention	*(A) Poverty Prevention*	Community Services Block Grant and Community Services Block Grant (Recovery Act)	Funds local community action agencies to provide essential services and poverty programs	<200% poverty
		Comprehensive Energy Assistance	Funds local agencies to offer energy education, financial assistance and Heating, Ventilating and Air Conditioning (HVAC) replacement	<200% poverty
	(B) Homelessness Prevention	Emergency Shelter Grant Program	Funds entities to provide shelter and related services to the homeless	<50% AMFI (Homeless)
		Homelessness Prevention and Rapid Re-Housing Program (Recovery Act)	Funds qualifying entities to provide homelessness prevention assistance and rapidly re-house persons who are homeless	<50% AMFI (Homeless)
		Homeless Housing and Services Program	Funds the eight largest Texas cities to provide services or facilities to homeless individuals and families	<50% AMFI (Homeless)
(2) Rental Assistance and Multifamily Development	*(A) Rental Assistance*	Section 8 Housing Choice Vouchers	Acts as a public housing authority to offer tenant-based rental assistance vouchers in certain rural areas	<50% AMFI
		Tenant-Based Rental Assistance (Home Program)	Grants for entities to provide tenant-based rental assistance for up to two years	<80% AMFI
		TX Veterans Housing Assistance Program – Rental Assistance (Housing Trust Fund)	Provides rental subsidies for Veterans for a maximum of two years	<80% AMFI
	(B) Multifamily Development	Affordable Housing Match Program (Housing Trust Fund)	Provides funding to Nonprofit Organizations to attract or meet requirements for affordable housing grants or government programs	<80% AMFI
		Community Housing Development Organization Set-aside (HOME Program)	These organizations can apply for loans to develop or preserve affordable rental housing	<80% AMFI
		Rental Housing Development (HOME Program)	Loans or grants to develop or preserve affordable rental housing	<80% AMFI
		Housing Tax Credit Program	Tax credits to developers for the creation or preservation of affordable rental housing	<60% AMFI
		Multifamily Bond Program	Loans to develop or preserve affordable rental housing	<60% AMFI
		Rural Housing Expansion Program (Housing Trust Fund)	Awards eligible applicants for enhancing capacity and preserving rural affordable housing	<80% AMFI
		Tax Credit Assistance Program (Home Program) (Recovery Act)	Allows HOME fund awards to housing tax credit developments affected by the tax credit devaluation	<60% AMFI
		Texas Tax Credit Exchange Program (Recovery Act)	Allows developments affected by the housing tax credit devaluation to return their credits and potentially receive a cash grant in its place	<60% AMFI

Continuum		Program/Activities	Description	Eligible Households
(3) Homebuyer Education, Assistance and Single-Family Development	(A) Homebuyer Education	Colonia Self-Help Center Program	Homebuyer education offered through Colonia Self-Help Centers and Office of Colonia Initiatives (OCI) field offices	<115% AMFI (All)
		Texas Statewide Homebuyer Education	Training for nonprofits to provide homebuyer education	<115% AMFI (All)
	(B) Homebuyer Assistance	90-Day Down Payment Assistance (Recovery Act) and Mortgage Advantage Program (Recovery Act)	Provides 5 percent of the first lien mortgage amount up to a maximum of $6,000 or $7,000 for down payment and/or closing costs at 0 percent interest for 90 or 120 days, depending on program	<115% AMFI
		Affordable Housing Match Program	Provides funding to Nonprofit Organizations to attract or meet requirements for affordable housing grants or government programs	<80% AMFI
		First Time Homebuyer Program – Non-targeted funds	Low-interest loans and/or down payment and closing costs for first time homebuyers	<115% AMFI
		First Time Homebuyer Program – Targeted funds	Low-interest loans and/or down payment and closing costs for first time homebuyers in areas of chronic economic distress	<140% AMFI
		Homeownership Assistance - Contract For Deed Conversion (HOME Program)	Stabilizes colonia resident ownership by converting contract for deeds into traditional mortgages	<60% AMFI
		Homeownership Assistance (HOME Program)	Loan and grants for entities to offer down payment and closing cost assistance	<80% AMFI
		Homeownership Assistance Program – Homebuyer Assistance (Housing Trust Fund)	Loan and grants for entities to offer down payment and closing cost assistance	<80% AMFI
		Mortgage Credit Certificate Program	Annual tax credit for qualified homebuyers based on the interest paid on the homebuyer's mortgage loan	<115% AMFI
		TX Veterans Housing Assistance Program – Homeownership Assistance (Housing Trust Fund)	Funds eligible applicants to provide low-income veterans up to $35,000 for down payment assistance, closing costs, and accessibility modifications	<80% AMFI
	(C) Single-family Development	Community Housing Development Organization Set-aside (HOME Program)	These organizations can apply for loans to assist in the acquisition, rehabilitation, or new construction of single-family housing	<80% AMFI
		Rural Housing Expansion Program (Housing Trust Fund)	Awards eligible applicants for enhancing capacity and preserving rural affordable housing	<80% AMFI
		Texas Bootstrap Loan Program	Funds entities to offer owner-builder loans programs	<60% AMFI
(4) Rehabilitation and Weatherization	(A) Rehabilitation	Home Free Barrier Removal and Rehabilitation Program (Housing Trust Fund)	Grants for entities to provide home modifications needed for accessibility for persons with disabilities	<80% AMFI
		Homeownership Assistance Program - Homeowner Rehabilitation (Housing Trust Fund)	Provides loans to homeowners for innovative homeownership initiatives, including barrier removal	<80% AMFI
		Homeowner Rehabilitation (HOME Program)	Loans and grants for entities to provide home repair assistance	<80% AMFI
	(B) Weatherization	Weatherization Assistance Program and Weatherization Assistance Program (Recovery Act)	Funds local agencies to provide minor home repairs to increase energy efficiency	<200% poverty

Continuum		Program/Activities	Description	Eligible Households
(5) Foreclosure Relief	*(A) Foreclosure Prevention*	National Foreclosure Mitigation Counseling	Fund Foreclosure Counselors to assist households avoid foreclosure	None required
	(B) Post-Foreclosure Mitigation	Neighborhood Stabilization Program	Purchase foreclosed properties to demolish or create affordable housing and stabilize existing neighborhoods	<120% AMFI
(6) Disaster Recovery and Relief		Community Development Block Grant – Hurricanes Dolly and Ike	Funds for disaster relief, long-term recovery and restoration of infrastructure, housing and economic revitalization	50% of the funds used for <80% AMFI
		Community Services Block Grant – Emergency Disaster Relief	Provide persons with emergency shelter, food, clothing, and other essentials, such as appliances and hygiene items	<200% Poverty
		Community Development Block Grant Program – Round One	Targeted disaster recovery funding to provide home repair assistance and preserve affordable rental housing	<80% AMFI
		Community Development Block Grant – Round Two	Targeted disaster recovery funding to provide home repair assistance, preserve affordable rental housing, provide infrastructure repairs and provide community services for areas with evacuees	<80-150% AMFI
		Disaster Recovery Homeowner Repair (Housing Trust Fund)	Assists households who are lacking only a small portion of funds to fulfill their full cost of construction	<80% AMFI
		Disaster Relief Homeowner Rehabilitation Assistance (HOME Program)	Deobligated HOME funds may be used in non-Participating Jurisdictions to assist with home repair, rehabilitation and reconstruction of homes affected by a disaster	<80% AMFI
		Housing Tax Credit – Disaster Relief	Tax credits to develop or preserve affordable rental housing for the Gulf Coast Opportunity Zone and counties affected by Hurricane Ike	<60% AMFI
		Texas First Time Homebuyer – Targeted Funds	Assist those affected by natural disasters by improving existing residential housing through self-help construction	<60% AMFI

E. Public Perception

As evidenced by the nature of the phone calls received from the public on TDHCA's main phone line, public comment received on TDHCA documents and comment received at Board meetings, TDHCA is seen as a financial and administrative resource that helps provide essential services and affordable housing opportunities to low-income Texans. Additionally, the Department is seen as a resource for educational materials and technical assistance for housing, housing-related, and community services matters.

A common misperception is that TDHCA has regulatory authority over all aspects of housing throughout the state, from homeowners associations and public housing authorities to the home building industry. As a result, requests are often made to intercede in issues that are not within the Department's jurisdiction. There is also some confusion regarding the roles, duties, and jurisdictions of TDHCA and federal, state, and local housing agencies. TDHCA staff seeks to clarify the Department's role through its website and publications, and by directing inquiries to appropriate service providers.

TDHCA is perceived as an organization that focuses on providing affordable housing assistance to very low-income and low-income persons and families. The basic structures of its largest multifamily rental funding sources, Housing Tax Credits and Multifamily Mortgage Revenue Bonds, serve households at or below 50 and 60 percent of the area median income. Those developments that are able to use funds from another affordable housing program, such as the HOME program or Housing Trust Fund, are often able to serve households with even lower incomes.

At times, a conflict exists between the actual characteristics of and the public perception of "affordable housing." This conflict is fed by public perceptions about the residents' income levels and employment status; construction quality, design, and density of the developments; and socio-economic impacts on the surrounding neighborhood. TDHCA is sometimes perceived as placing affordable rental housing in neighborhoods without adequately addressing the concerns of area residents.

Because the development of any type of housing involves partnerships between the community, developers, and government, the Board and TDHCA staff go to great lengths to encourage developers to communicate and work with neighborhood groups to ensure their voice is heard throughout the process. TDHCA takes seriously its obligation to evaluate community input on funding decisions, including making neighborhood input a scoring criterion for the Housing Tax Credit Program. Public comment is solicited throughout the state as part of the housing application process, and public comment is taken before and during each Board meeting. Public opposition is balanced with the goal of ensuring that low-income Texans have opportunities to live in desirable parts of their community with access to the area's employment, educational, health, and social amenities.

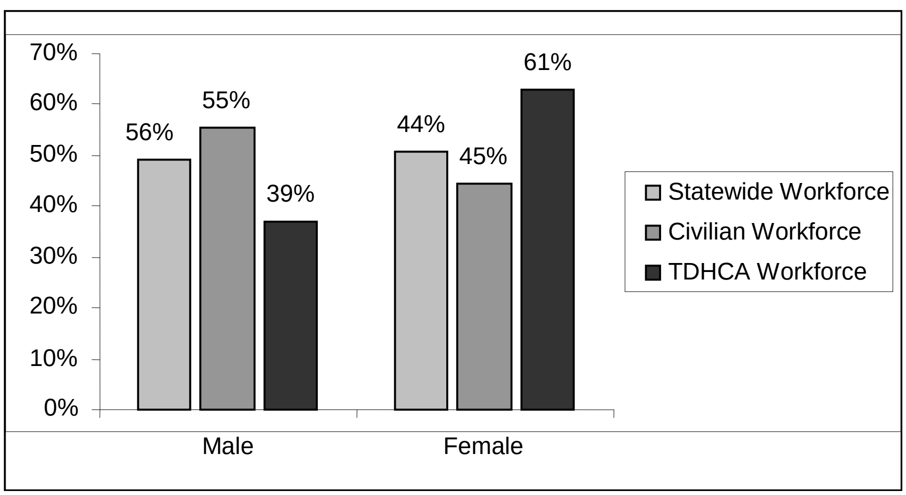
II. ORGANIZATIONAL ASPECTS

A. Size and Composition of Workforce

As of May 1, 2010, TDHCA had a total headcount of 339 employees. The agency is authorized to have 314 total full-time equivalents (cap FTEs). Additionally, TDHCA was appropriated funds for the Community Development Block Grant (CDBG) disaster recovery program as part of the disaster relief efforts after Hurricane Rita, Katrina, and Ike and also received American Recovery and Reinvestment Act (Recovery Act). As part of the CDBG and Recovery Act funding, the agency has had to hire additional temporary staff in accordance with Article IX, General Appropriations Act. The Department has budgeted for 65 full-time temporary FTEs. As of May 1, 2010, 39 out of the 65 temporary FTEs have been hired to assist with the CDBG and Recovery Act programs; these positions will count for Equal Employment Opportunity (EEO) reporting purposes only and do not count against the agency's FTE cap. These temporary FTEs will be part of TDHCA for at least the next biennium or until federal disaster funds and Recovery Act funds are expended.

Workforce by Gender

The following charts profile TDHCA's workforce and include both full-time and part-time regular and temporary employees. The TDHCA workforce is comprised of 39 percent males and 61 percent females. As shown in the table below, the TDHCA workforce has a higher representation of female workers than the state workforce population.



Workforce by Age

As of May 1, 2010, 58 percent of TDHCA's current workforce is over the age of 40. This indicates that the workforce has a high level of overall work experience. TDHCA continues to be successful in the recruitment and retention of employees in this age group. The average age of TDHCA employees is 44.

Employee Tenure

Approximately 36 percent of TDHCA employees have less than 5 years of TDHCA or state service, 21 percent with 6-10 years of TDHCA or state service, 18 percent with 11-15 years of TDHCA or state service, and 25 percent with more than 15 years of TDHCA or state service. The average number of years of service for Department employees is 15 years. TDHCA continually strives to ensure that employees are appropriately compensated; to improve internal communications through a variety of venues; to promote training and career development; and to coordinate employee service recognition activities to motivate employees and improve employee retention.

Table 3. Age

Age Group	Population	Percentage
Under 30	34	10%
30-39	89	26%
40-49	114	34%
50 – 59	79	23%
60 and over	23	7%
Total	339	

As of May 1, 2010

Table 4. Employee Tenure

Tenure Range	# of Employees	% of Total
<1 year	41	12%
1 – 5	80	24%
6 – 10	70	21%
11 – 15	61	18%
16 – 20	41	12%
21 – 25	22	6%
26 – 30	15	4%
30 +	9	3
Totals	339	100%

As of May 1, 2010

TDHCA's Workforce and the Statewide Civilian Workforce

The tables and charts that follow compare the percentage of African American, Hispanic, and Female TDHCA employees (as of April 30, 2010) to the statewide civilian workforce as reported by the Texas Workforce Commission Civil Rights Division. Overall, the race and ethnic composition of the TDHCA workforce is very diverse and exceeds the state percentages.

However, there are areas where TDHCA's Equal Employment Opportunity (EEO) employment percentages are less than the state's percentages:

§ Females, Hispanics, and African Americans in the Technical category are under-represented. Many of the positions at the Department are categorized under the professional and para-professional category based on the definition of the EEO categories. The Department has very few positions that fit the definition of the Technician category, making diversity in this category more challenging.

§ Hispanics and African Americans in the Administrator/Official category are also under-represented.

TDHCA specifically targets recruitment resources that reach out to the workforce in the under-represented EEO categories to generate a larger applicant pool to achieve the EEO goals of the state.

Table 5. Comparison of TDHCA EEO and Statewide Employment Statistics

	% African American		% Hispanic		% Females	
Job Categories*	TDHCA	State	TDHCA	State	TDHCA	State
Officials/Administrators	-	9%	21%	23.7%	42%	38.8%
Professionals	14%	11.7%	34%	19.9%	69%	54.5%
Technicians	8.33%	17%	25%	27%	18.75%	55.6%
Para-Professionals	20%	12.8%	47%	44.8%	87%	39.7%
Administrative Support	25%	13.2%	25%	31.9%	75%	66.2%

Source: TDHCA EEO Report, (April 30, 2010) and Bureau of Labor Statistics, Geographic Profile, 2007 for the state of Texas.

*A – Administrators and Officials: directors, employees establishing broad policy and exercising responsibility for execution of those policies.

P – Professionals: accountants: systems analysts, attorneys, occupations requiring specialized training or education.

T – Technician: computer technicians, occupations requiring basic scientific or technical knowledge.

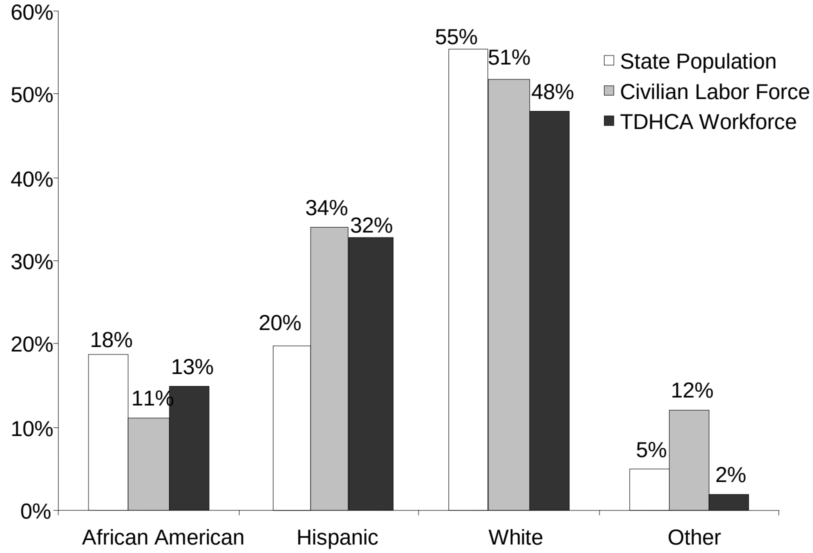
Q – Para-professionals: persons performing some of the duties of professionals in a supportive role.

C – Administrative Support: these include clerical payroll clerks, legal assistants, office machine operators, statistical clerks, and bookkeepers.

Table 6. TDHCA Workforce by Ethnicity and Gender

	African American		Hispanic		White		Other		Total	
Job Categories	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
A - Administrators and Officials	-	-	3	2	11	8	-	-	14	10
P - Professionals	7	26	26	54	38	72	3	11	74	163
T - Technician	4	-	9	3	26	6	-	-	39	9
Q - Para-professionals	1	2	1	6	-	5	-	-	2	13
C - Administrative Support	1	3	0	4	3	5	-	-	4	12
Total by Race/Ethnicity & Gender	13	31	39	69	78	96	3	11	133	207
Percent of Total by Race/Ethnicity & Gender (%)	4%	10%	11	20 %	23	28 %	0.9 %	3%	39 %	61 %
Total by Race/Ethnicity	44		108		174		14		340	
Percent of Total by Race/Ethnicity	13%		32%		51%		4%			

Comparison of TDHCA Workforce by Race/Ethnicity to State Population and Civilian Workforce



Source: Uniform Statewide Payroll System (2010 data); and SAO Turnover Report for Fiscal Year 2009

Agency Turnover

Percent of Workforce Eligible to Retire

Of the current 339 employees, there are 19 employees or 6 percent who are currently eligible to retire under the “Rule of Eighty”. Thirteen of these employees are from the Manufactured Housing Division. Within the next biennium there will be 13 additional employees eligible to retire under the “Rule of Eighty”. This will be a total of 10 percent of all employees eligible for retirement.

It should be noted that TDHCA currently has 8 return-to-work retirees. Management is aware of the impact that retirees will have on the Department within the next biennium and is continually looking at methods to replace these skills and knowledge through:

- Employee Development
- On-the-job training
- Leadership Development/Succession Planning
- Cross divisional training

Projected Employee Turnover Rate over the Next Five Years

In FY2009 the turnover rate for TDHCA was at its lowest point in comparison to the previous turnover rates. As shown by the table below, TDHCA’s turnover rates have historically been under the state turnover rates and have fluctuated.

Table 7. Historical Employee Turnover Rate

Entity	FY2005	FY2006	FY2007	FY2008	FY2009
Statewide Turnover	16.9%	15.8%	17.4%	17.3%	14.4%
TDHCA Turnover	12.9%	10.4%	6.8%	8.4%	6.9%

Source: SAO Classified Employee Turnover Report FY2009. Turnover rates exclude interagency transfers.

B. Organizational Structure and Process

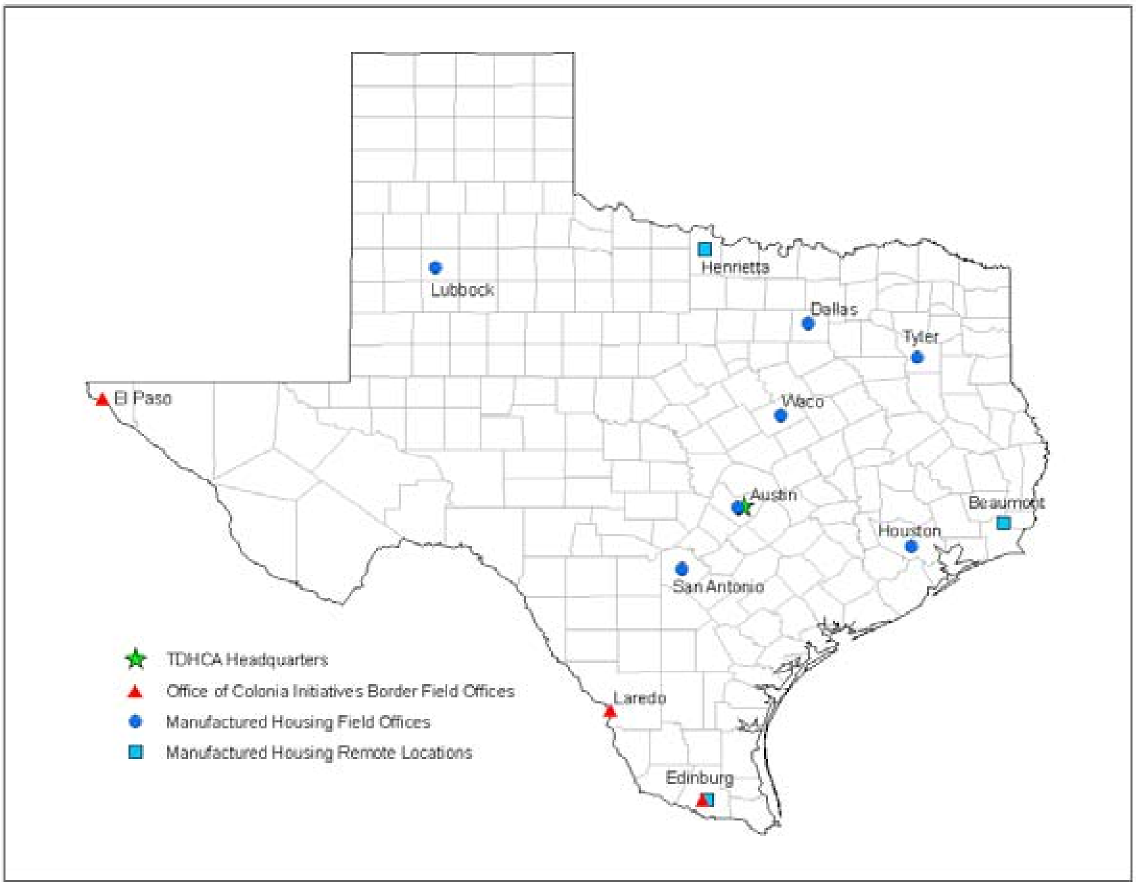
TDHCA is organized under seven divisions that report to the Executive Director: Administration, Community-Based Programs, Housing Programs, Legal Services, Compliance and Asset Oversight, Emergency Housing and Disaster Recovery, and Public Affairs. Within the Community-Based Programs Division, activities are organized under the following categories: Community Affairs, Housing Trust Fund, Office of Recovery Act Accountability and Oversight, and Housing Resource Center. Within the Administration Division, activities are organized under the following categories: Bond Finance, Financial Administration, Information Systems, Texas Homeownership, and Human Resources. Within the Housing Programs Division activities are organized under the following categories: Office of Colonia Initiatives, Neighborhood Stabilization Program, Multifamily Finance Production, Real Estate Analysis, HOME Program, Neighborhood Stabilization Program, and Program Services. The following programs are in the Compliance and Oversight Division: Portfolio Management, Compliance Monitoring, and Physical Inspections. Emergency Housing and Disaster Recovery administers Disaster Recovery in response to natural disasters. The Internal Audit Division reports directly to the Board. The Manufactured Housing Division operates within TDHCA as an administratively attached but independent entity. An organizational chart of the Department is provided in Appendix B.

TDHCA's Executive Director is employed by the Board with the approval of the Governor. The Executive Director is responsible for administering the work of the Department. The seven-member Governing Board, appointed by the Governor with advice and consent of the Senate, works with the Executive Director to develop policies and programs to meet the needs of the mission and goals of the Department.

C. Geographical Location of Agency

TDHCA's headquarters is located in the state owned State Insurance Building Annex at 221 East 11th Street, Austin, TX 78701. Because of the additional staff to manage the American Recovery and Reinvestment Act of 2009 and Disaster Recovery Funds, an additional office has been added at the Twin Towers Office Center, 1106 Clayton Lane, Suite 270W, Austin, Texas 78723. The Office of Colonia Initiatives has Border Field Offices located in Edinburg, El Paso, and Laredo. The Manufactured Housing Division has field offices located throughout the state in Austin, Dallas/Ft. Worth, Houston, San Antonio, Lubbock, Tyler, Waco, and has remote locations in Edinburg, Henrietta, and Beaumont (for inspections of 100% of installations in coastal counties), as well as offers professional license renewals through Texas Online.

Figure 1: TDHCA Locations



D. Location of Service Populations and Regions

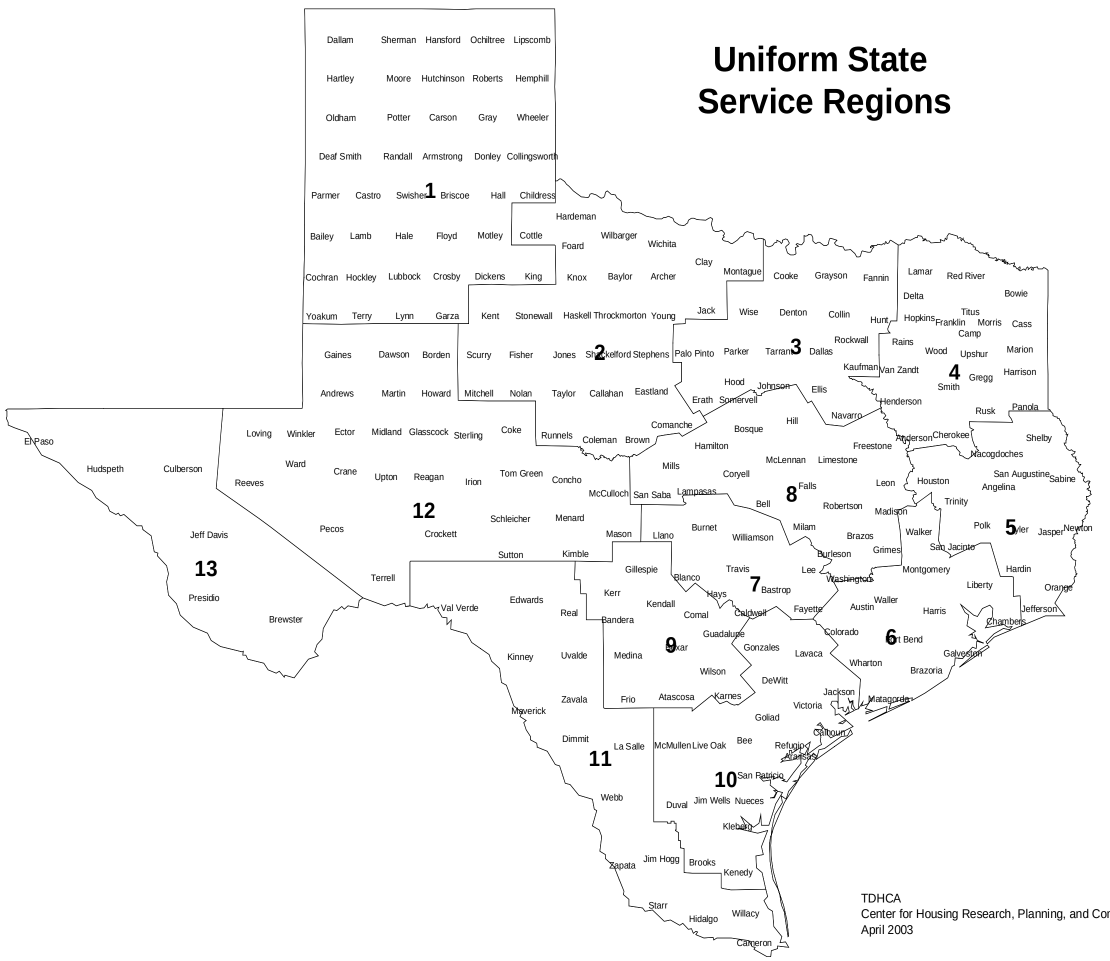
TDHCA is committed to equitably and effectively serving citizens in all areas of the state. For its general planning and reporting purposes, a 13 region geographic configuration of the state's 254 counties is used. These state service regions, which were developed by the Texas Comptroller of Public Accounts, are referenced in §2306.111(d) of the Texas Government Code which calls for the regional allocation of TDHCA's HOME, Housing Tax Credit (HTC), and Housing Trust Fund (HTF) funding. A map of the regions is shown below in Figure 2.

TDHCA funding is regionally allocated via the following:

- HOME, HTC, and HTF funding is allocated by formula to be distributed within each region. It should be noted that in some instances funding from these programs that is used to fulfill federal, state, or board mandated set-asides may be exempted from the regional distribution formula.
- Multifamily Bond financing is allocated statewide based on a lottery method controlled by the Texas Bond Review Board.

§ Community Affairs funding for the Community Services Block Grant, Comprehensive Energy Assistance Program, and Weatherization Assistance Program funding is allocated statewide through a network of subcontractors. Each subcontractor receives a funding allocation based on the level of need within the counties they serve. There may be multiple subcontractors within each region. The Emergency Shelter Grant Program and Homelessness-Prevention and Rapid Re-housing Program are funded based on awards made through applications to Notice of Funding Availability. These awards are competitive and regionally allocated.

Figure 2: TDHCA Service Regions



As described below, a wide variety of program regulations, market conditions, and legislative requirements affect TDHCA's statewide resource distribution.

Colonias

TDHCA has specific policy goals, strategies, and programs designed to support the improvement of living conditions of colonia and border residents along the Texas-Mexico border region. A "colonia," Spanish for "neighborhood" or "community," is a geographic area located within 150 miles of the Texas-Mexico border that has a majority population comprised of individuals and families of low and very low income who lack safe, sanitary, and sound housing. This includes a lack of basic services such as potable water, adequate sewage systems, drainage, streets, utilities, paved roads, and plumbing. As discussed in detail in the "III. Fiscal Aspects" section of this Plan, there are a number of Legislative Riders that dedicate specific amounts of TDHCA funding to serve these communities.

Rural and Urban Needs

As the migration of population and industries continues to urban and suburban areas, the less-populous areas of the state are faced with an aging housing stock and households with lower incomes than their urban or suburban counterparts. To address the income disparity and reduced access to housing and community services resources (e.g., larger communities and regions have greater access to bonds, a large tax base, and investment capital) in less-populous areas, TDHCA gives focused consideration to rural areas when developing its housing programs and the rules that govern these programs.

Specific examples of how TDHCA addresses rural needs include:

- It is legislatively required that 95 percent of the TDHCA HOME funding be allocated to non-participating jurisdiction areas. Because participating jurisdictions (PJs), which are larger metropolitan cities and more populous counties, receive HOME program funds directly from HUD, TDHCA directs its HOME program allocation to non-PJ areas of the state. The remaining 5 percent of HOME funds may be expended in any area of the state, but only if it funds an activity that serves persons with disabilities.
- §§2306.111(d) and 2306.1115 require that the regional allocation formula used to distribute HOME, HTC, and HTF funding consider existing housing need and available resources to meet this need in rural and urban areas.
- TDHCA and TDRA jointly administer the HTC Program rural allocation. The resulting joint outreach, training, and rural area capacity building efforts help increase participation in the rural set-aside.
- The TDHCA Section 8 Housing Choice Voucher Program specifically serves households in small cities and rural communities that are not served by similar local or regional housing voucher programs.
- The Housing Trust Fund's Rural Housing Expansion Program provides funding to develop affordable housing in rural Texas as well as build capacity. The funds would have two components for each recipient: (1) a capacity and technical assistance component designed as a grant that includes intensive technical assistance provision and (2) a direct housing delivery component provided as a no-interest loan. This model, generated from significant public input and discussion, provides rural communities the capacity they need, while also ensuring money to create affordable housing in their communities.
- TDHCA created the Rural Housing Workgroup to provide a forum where knowledgeable and involved stakeholders can share insights with TDHCA management and staff as they develop policies and priorities for the federal and state programs administered by TDHCA. The workgroup addresses the challenges

of developing affordable housing and providing services in rural Texas and ensures that rural input and concerns are adequately considered across all aspects of TDHCA's program development, design and implementation.

Regional Allocation Plans

As required by federal or state laws, depending on the program, TDHCA has developed regional allocation formulas for many of its programs. These formulas are based on objective measures of need and available resources that help ensure an equitable distribution of funding across the state.

<u>2010 HOME, HTC, and HTF Regional Allocation Formula</u>

Sections 2306.111(d) and 2306.1115 of the Texas Government Code require that TDHCA use a Regional Allocation Formula (RAF) to allocate its HOME, HTC, and HTF funding. This RAF objectively measures the affordable housing need and available resources in 13 State Service Regions used for planning purposes. Within each region, the RAF further targets funding to rural and urban areas.

As a dynamic measure of need, the RAF is revised annually to reflect updated demographic and resource data; respond to public comment; and better assess regional housing needs and available resources. The RAF is submitted annually for public comment.

Slightly modified versions of the RAF are used for HOME, HTC, and HTF because the programs have different eligible activities, households, and geographical service areas. For example, because 95 percent of HOME funding must be set aside for non-PJs, the HOME RAF only uses need and available resource data for non-PJs.

For the 2010 fiscal year, the RAF uses the following 2000 US Census data to calculate this regional need distribution. (To update the figures, the percentage population change from Households by Income, Size, Tenure and Age [HISTA] data was applied to the 2000 data. HISTA data is a four-way cross tabulation of household data built by a demographic data provider and made available for purchase from Ribbon Demographics.)

- Poverty: Number of persons in the region who live in poverty.
- Cost Burden: Number of households with a monthly gross rent or mortgage payment to monthly household income ratio that exceeds 30 percent.
- Overcrowded Units: Number of occupied units with more than one person per room.
- Units with Incomplete Kitchen or Plumbing: Number of occupied units that do not have all of the following: sink with piped water; range or cook top and oven; refrigerator, hot and cold piped water, flush toilet, and bathtub or shower.

There are a number of other funding sources that can be used to address affordable housing needs. To mitigate any inherent inequities in the regional allocation of these funds, the RAF compares each region's level of need to its level of resources. For the 2010 RAF, resources from the following sources were used: HTC, HTF, HUD (HOME, Housing

Opportunities for Persons with AIDS (HOPWA), public housing authority (PHA) capital funding, and Section 8 funding), Bond Financing, and United States Department of Agriculture (USDA) housing programs.

<u>2010 Emergency Shelter Grants Program (ESGP) Allocation Formula</u>

ESGP funds are reserved according to the percentage of poverty population identified in each of the 13 state service regions. The top scoring applications in each region are recommended for funding, based on the amount of funds available for that region.

<u>2010 Community Service Block Grant (CSBG) Allocation Formula</u>

Allocations to the 47 CSBG–eligible entities are based on two factors: (1) the number of persons living in poverty within the designated service delivery area for each organization and (2) a calculation of population density. Poverty population is given 98 percent weight, and the ratio of inverse population density is given 2 percent weight.

<u>2010 Comprehensive Energy Assistance Program (CEAP) and Weatherization Assistance Program (WAP) Allocation Formula</u>

The allocation formula for the Comprehensive Energy Assistance and Weatherization Assistance programs uses the following five factors and corresponding weights to distribute its funds by county: county non-elderly poverty household factor (40 percent); county elderly poverty household factor (40 percent); county inverse poverty household density factor (5 percent); county median income variance factor (5 percent); and county weather factor (10 percent).

Other Factors that Affect the Distribution of Funds

To simplify the application process and direct monies quickly to address rural needs, HOME and some Housing Trust Fund funds are awarded through an ‘open-cycle’ (first-come, first-served) application process. The NOFA will have a specified RAF period to ensure compliance with Chapter 2306. Under the 2009 HOME Investment Partnership Program rules, threshold criteria incentivizes income targeting, uses the Affordable Housing Needs Score (AHNS) and requires a minimal match contribution. Additionally, the process includes a review of past performance requiring good standing with the Department at the time of award. Recommendations take into consideration completion of previous HOME awards. If applicants have received awards previously and have been de-obligated due to non-performance of a contract, they are ineligible to receive funds from the HOME program for a period no less than 12 months. The process ensures compliance with federal program regulations and state program rules. Incentivizing those applicants targeting lower income populations and utilizing the AHNS ensures that the neediest Texans receive program benefit from the Department.

For applications that involve HTCs, applicants must receive a resolution from the local governing body for approval to add new units if the application is proposing new construction that is within one mile of an existing development that has received an allocation of Housing Tax Credits or Private Activity Bonds for new construction within the last three years and that serves the same population type (elderly/elderly or family/family). This applies to applications proposing New Construction and Adaptive Reuse in counties with over one million in population. Additionally, applications proposing development in a city or county that has more than twice the state average per capita of affordable housing units supported by Housing Tax Credits or Private Activity Bonds must receive a resolution from the local governing body for approval to develop in that city or county. This applies to applications proposing New Construction, Adaptive Reuse, and Acquisition/Rehabilitation.

TDHCA funding that is not regionally allocated, but is based on need, is as follows:

§ The Homeless Housing and Services Program is distributed to the eight largest cities in Texas, in accordance with legislation from the 81st Legislative Session which authorized the program for regional urban areas.

§ Section 8 Housing Choice Vouchers are provided to primarily rural cities or counties that partner with TDHCA.

§ Foreclosure counseling services are provided by HUD-Approved Counselors that partner with TDHCA.

§ Neighborhood Stabilization Program funds are distributed through a competitive application process based on a needs scoring assessment developed by HUD for the areas in Texas that have been adversely affected by foreclosures.

§ Community Development Block Grant funds are distributed to regional planning organizations, cities, counties or nonprofit organizations in areas that have been affected by state- or federally-declared national disasters. The distribution of funds to the regions is based on damage estimates and need. Distribution and administration of funds within the regions allows regional decision-making and control at the local level.

§ A statewide network of participating lenders is used to distribute the single family bond financing. The final distribution of funding is based on consumer demand.

E. Human Resource Strengths and Weaknesses

The following is an outline of human resource strengths and weaknesses in the areas of training, experience, compensation/benefits, turnover rates, impact of early retirements, succession planning, strength of policy, etc.

Human Resources Strengths

- The Department's turnover for fiscal year 2009 (6.9%) excluding interagency transfers was at its lowest point in comparison to the previous fiscal years and in comparison to the fiscal year 2009 state turnover rate of 14.4%. The low turnover rate indicates that staff is committed to its clients and to the Department in carrying out its mission and goals. Employee turnover can be both negative and positive. Negatives include the associated costs of turnover, such as training and orientation of new employees, recruitment and selection of new employees, leave payout to departing employees, and lower productivity in the workplace during the time that a position is vacant and during the time that a new employee is learning the job. However, some turnover will always occur and is normal for any organization.

- The Department acquired 65 additional temporary FTE's through Recovery Act and CDBG disaster recovery funds. The Department held a job fair in August of 2009 and a Hiring Event in April of 2010 to recruit individuals for these positions. To date, the Department has hired 39 out of the 65 positions, which indicates the Department is committed to the recruitment of staff in order to serve the needs of the citizens of the State of Texas.
- The Department is committed to providing staff with opportunities to attend continuing education courses, training workshops and conferences, and on-site training to enhance their educational background and skills and to keep professional certifications active. According to the 2010 Employee Engagement Survey, Department employees view their supervisors as fair, helpful, and critical to the daily flow of work activities.
- The Department is committed to providing supervisory and management opportunities to current and new management to ensure that leadership skills are continually being enhanced and to provide for an opportunity for employees to grow into a management role.
- The Department's workforce has a depth of institutional knowledge of the programs. Staff has demonstrated a strong commitment to its clients and customers in providing public service to Texas communities and advocacy groups and staff believe that they have a strong ability to seek out and work with relevant external entities.
- The Department has a highly diverse workforce which creates an environment of higher employee morale, increases creativity, and leads to a higher retention of employees. There is a strong team environment among the Department and employees view their work groups as effective, cohesive, and open to the opinions of all team members.
- The average staff tenure for the Department is 15 years. The Department has employees with in-depth institutional knowledge and highly skilled technical staff in the areas of housing finance and federal programs.

Human Resources Weaknesses

- The Department needs to establish a training curriculum for current and new management staff to ensure skills critical to the management of staff.
- The Department needs to develop a program for succession planning to ensure that institutional knowledge is sustained as employees leave the agency either through attrition or retirement.
- The Department has developed a pilot performance management system and has been testing this system for the last six months and has gained very useful feedback from staff and management. The Department will focus on implementing this system within the next 12 months to provide objective means of staff performance.

- The Department needs to develop a transition plan as funding for CDBG Disaster Recovery and Recovery Act come to an end and temporary positions associated with this funding will no longer be needed and Department staff contracts.
- The Manufactured Housing Division has a projected retirement of at least 13 employees currently. Should this staff decide to retire the Division does not have a plan on how to recruit and fill these positions immediately.

The Department will continue to provide employees with the opportunity to enhance their skills and abilities through promotional opportunities. The Department is committed to developing staff to provide growth opportunities and to maintain the institutional knowledge of staff.

The Department will continue to use all authorized compensation programs to maximize the ability to compensate staff through promotional, merit, and retention programs.

The Department will continue to make staff and management training a priority to ensure that employee skills and knowledge continue to be enhanced through continuing education, training workshops and conferences, and management development training programs.

The Department will continue to participate in the Employee Engagement Survey conducted by the University of Texas to address the strengths and weaknesses of the Department as perceived by Department Staff.

The Department has developed an Employee Wellness Program to promote an increase in the health, fitness, awareness, and productivity of Department employees. The program allows Department employees the opportunity to exercise during work hours.

The Department's Events Planning Committee continues to provide activities to build employee morale and recognize employee achievements.

F. Capital Assets

Strengths and Weaknesses

Technological capital asset strengths include:

§ Secure, low cost, high performance, and highly available gigabit local area network (LAN) and high speed wide area network (WAN). TDHCA's WAN, implemented in 2003, is part of the TEX-AN telecommunications service and allows six Manufactured Housing (MH) regional offices, two Office of Colonia Initiatives (OCI) regional offices, and one shared MH/OCI regional office to connect to the TDHCA local area network. In FY 2010, TDHCA expanded to a second Austin office at the Twin Towers Office Center (TTOC). We established a second LAN at TTOC and connected it to TDHCA's HQ location through a 100 Mbps WAN circuit.

§ Third party enterprise business applications, including PeopleSoft Financials 8.8, Mitas Automated Accounting and Loan Administration software, HAPPY Section 8 software, and custom enterprise business applications, including contract systems for community affairs and housing programs and the Compliance Monitoring and Tracking System. In FY 2009 and 2010, TDHCA completed a major IT project to expand custom enterprise business applications to accommodate American Recovery and Reinvestment Act (Recovery Act) programs and funds.

- Supported personal computer and laptop operating systems, office productivity software, and other specialized end user software installed as required for each Department employee.
- A mixture of mid-range and low-end servers that house TDHCA business applications.
- A small, well designed, server room facility that is shared with the Office of the Comptroller of Public Accounts.

Technological capital asset weaknesses include:
Current use of an end-of-life legacy system for the Manufactured Housing Division (MHD). TDHCA is continuing work on the FY 2008-2009 Manufactured Housing System Upgrade capital budget project. When deployed, the new system will address weaknesses with the legacy system. TDHCA plans to launch the new system in July 2010.

The system will support all major MHD business functions, including titling, installation and tracking, tax lien processing, licensing, and consumer complaint activities. Key Manufactured Housing System Upgrade goals are to:

- rebuild the system on a platform and with a design that resolves current difficulties in maintaining the system,
- Web-enable services such as submitting titling applications, tax liens, and notices of installations, and
- expand the use of Texas Online beyond manufactured housing license renewals to include providing customers the ability to pay for new licenses and pay titling fees online.

Needs and Prioritization
Throughout the FY 2011-2015 time period, TDHCA will focus on the following technology initiatives in support of Department objectives:

- Continued and frequently extensive enhancement projects for the Department's custom systems.
- Monthly upgrades of the Mitas Automated Accounting and Loan Servicing systems.
- Frequent upgrades of the HAPPY Housing Pro Section 8 System.
- Web site enhancements to provide customers easier access to information.
- Participation in the statewide ERP project, dependent on Comptroller's Office timelines.
- Continued technical support for Department employees and external customers, including supporting the expanded use of Internet technologies, such as webinars, to communicate with customers.
- IT security and disaster preparedness.

G. Agency Use of Historically Underutilized Businesses
It is TDHCA's policy to demonstrate a good faith effort to provide procurement and contracting opportunities for all minority-owned and women-owned businesses. TDHCA

understands and recognizes the challenges that occur during the bid process for these businesses. Therefore, it is committed to the recruitment and promotion of Historically Underutilized Businesses (HUBs) in all procurement processes. TDHCA's General Policies and Procedures for Historically Underutilized Businesses is referenced in Texas Administrative Code, Title 10, Part 1, Chapter 1, SubChapter A, Rule §1.6. A Department HUB Coordinator has also been designated, in accordance with Section 2161.062, Government Code.

TDHCA continues to achieve the state goals for procurement awards to HUBs and subcontracting of HUB vendors through staff education on procurement policy rules and procedures, and through aggressively recruiting and assisting HUB businesses. TDHCA also participates in vendor forums during the fiscal year, both exhibiting and co-hosting forums.

H. Key Organizational Events and Areas of Change and Impact on Organization

In FY2009, TDHCA created new divisions to better manage the influx of Recovery Act, Disaster Recovery and General Revenue funding. To proactively address new requirements for federal programs, a Program Services Division was created to oversee cross-cutting requirements including, but not limited to environmental clearances and labor standards requirements. The first requirement was needed for the HUD-funded programs, including the Neighborhood Stabilization Program, Community Development Block Grant (CDBG) Disaster Recovery Programs, Tax Credit Assistance Programs and the second requirement was needed for the Weatherization Assistance Program, CDBG Disaster Recovery Programs, and Tax Credit Assistance Program. Another new Division was created to effectively monitor Recovery Act funding: the Office of American Recovery and Reinvestment Act Accountability and Oversight. This Office is responsible for identifying and mitigating risk in program development and operation and for issues that cut across all Recovery Act programs, such as reporting and federal guidance. A third new Division was created as a result of the 81st Legislature providing additional funding for the Housing Trust Fund. The Housing Trust Fund was separated from the HOME Division and an independent Housing Trust Fund Division was created.

New programs were added to several divisions since 2008. The HOME Division now administers the Tax Credit Assistance Program (Recovery Act). The Texas Homeownership Division administered the 90-Day Down Payment Assistance Program (Recovery Act) and the Mortgage Advantage Program (Recovery Act) in FY 2009 and now administers the National Foreclosure Mitigation Counseling Program. The Housing Tax Credit Division administers the Tax Credit Exchange Program (Recovery Act). Community Affairs administers the Community Service Block Grants (Recovery Act), Weatherization Assistance Program (Recovery Act), Homelessness Prevention and Rapid Re-Housing Program (Recovery Act), and the Homeless and Housing Services Program funded through General Revenue. The Housing Trust Fund added the Affordable Housing Match Program, the Home Free Barrier Removal and Rehabilitation Program, and the Rural Housing

Expansion Program. The Emergency Housing and Disaster Recovery Division added programs to recover from Hurricanes Ike and Dolly.

I. Use and Anticipated Use of Consultants and Contractors

To effectively achieve its mission, TDHCA will continue to use consultants and contract workers in areas where their unique skills and experience represent the most effective use of the State's resources. Three divisions that expect the greatest ongoing use of consultants are Compliance and Asset Oversight, Information Systems, and Bond Finance.

Compliance and Asset Oversight

The American Recovery and Reinvestment Act requires State Housing Finance Agencies to perform asset management for properties funded through the Tax Credit Exchange Program and the Tax Credit Assistance Program. At this time, the Department is evaluating whether it will outsource this new function.

In addition, since March of 2005, the Compliance and Asset Oversight Division has outsourced Uniform Physical Condition Standards Inspections. Currently, TDHCA has contracts with two firms to perform these inspections.

Information Systems (IS) Division

TDHCA's Information Systems Division makes limited, targeted use of consultants for approved capital budget projects and software development support. In the current biennium, the Department continues to employ one contract developer to assist in the support of PeopleSoft Financials 8.8 and one contract developer to help support the Central Database suite of systems.

Bond Finance

The Bond Finance division uses the following types of consultants:

§ Bond Counsel – A nationally recognized law firm or firms experienced in the issuance of mortgage revenue bonds and mortgage credit certificates.
§ Financial Advisor **–** Typically an investment banking firm experienced in issuance of mortgage revenue bonds.
§ Master Servicer/Administrator – A financially sound bank or trust company experienced in tax compliance review and loan servicing for tax-exempt single family mortgage revenue bond programs.
§ Disclosure Counsel – A law firm experienced in securities laws particularly as it relates to disclosure of information by securities issuers to the private markets.
§ Rating Agencies – A national rating agency which analyzes bond issues and assigns a rating to them to indicate to prospective bondholders the investment quality of the issue.
§ Interest Rate Swap Advisor – Primarily monitors interest rate swaps used to hedge single family variable rate mortgage revenue bonds.
§ Guaranteed Investment Contract Broker – Provides reinvestment services for single family mortgage revenue bond issues and multifamily mortgage revenue bond issues.

§ Investment Bankers – A firm specializing in the underwriting, issuance and sale of mortgage revenue bonds and provides advice relating to financial structure and cash flows.

III. Fiscal Aspects

A. Size of Budget

The following table provides historical funding levels by goal. Goal A: Affordable Housing includes appropriated and non-appropriated resources as below described. The non-appropriated HTCs, single family, and multifamily non-appropriated amounts are estimates in fiscal years 2010–2011.

Table 8. Appropriated Funds

	2006	*2007*	*2008*	*2009*	*2010*	*2011*
Goal A: Affordable Housing	$60,085,072	$56,500,789	$51,740,565	$51,772,518	$59,133,378	$59,141,692
Goal B: Info. & Tech. Assist. (Post 79th Leg.)	$1,354,939	$1,357,663	$1,447,412	$1,450,647	$1,247,358	$1,202,882
Goal C: Poor and Homeless	$83,059,961	$83,002,846	$84,766,853	$84,762,697	$95,187,172	$95,183,042
Goal D: Ensure Compliance	$4,240,709	$4,278,876	$4,006,867	$3,983,682	$4,722,265	$4,712,924
Goal E: Manufactured Housing	$3,840,814	$3,840,815	$4,473,928	$4,630,222	$4,730,317	$4,936,897
Goal F: Indirect Administration	$6,389,609	$6,317,595	$6,171,621	$6,216,236	$6,163,224	$6,153,321
Total Appropriated Funds	**$158,971,104**	**$155,298,584**	**$152,607,246**	**$152,816,002**	**$171,705,064**	**$171,848,761**

Source: General Appropriation Bills, 79th through 81st Legislative Sessions

Table 9. Non-Appropriated Funding for Goal A, Affordable Housing

	2006	2007	2008	2009	2010	2011
HTCs (4% and 9%)	$54,306,491	$81,362,544	$52,702,583	$92,283,012	$69,472,067	$56,000,000
Multifamily Bond Funds	$111,130,000	$193,282,000	$56,025,000	$42,690,000	$0	$45,000,000
HOME	$50,322,043	$30,346,683	$40,836,161	$65,337,949	$50,000,000	$43,000,000
Housing Trust Fund	$4,349,361	$5,599,361	$8,482,100	$11,519,555	$10,608,267	$11,244,817
Section 8	$5,801,688	$9,032,468	$5,884,569	$5,291,931	$5,469,793	$5,469,793
Single-Family Bond Funds	$320,625,000	$275,200,000	$157,060,000	$102,605,000	$300,000,000	$320,000,000
Total Non-Appropriated Funds	**$546,534,583**	**$594,823,056**	**$320,990,413**	**$319,727,447**	**$435,550,127**	**$480,714,610**

Table 10. Total, All Funds

	2006	2007	2008	2009	2010	2011
Total Funding Amount	**$705,505,687**	**$750,121,640**	**$473,597,659**	**$472,543,449**	**$607,255,191**	**$652,563,371**

B. Method of Finance

The methods of finance for appropriated funds since the fiscal year (FY) 06–07 biennium are shown below.

Table 11. Methods of Finance

	2006	*2007*	*2008*	*2009*	*2010*	*2011*
Federal Funds	$135,505,609	$135,387,385	$128,733,144	$128,697,779	$132,646,833	$132,676,861
Appropriated Receipts	$15,460,458	$15,418,498	$16,586,560	$16,787,596	$16,346,832	$16,506,657
General Revenue (GR)	$7,109,007	$3,596,671	$7,219,287	$7,262,372	$22,643,144	$22,596,988
Earned Federal Funds	$813,030	$813,030	$-	$-	$-	$-
Interagency Contracts	$83,000	$83,000	$68,255	$68,255	$68,255	$68,255
Total Appropriated Funds	**$158,971,104**	**$155,298,584**	**$152,607,246**	**$152,816,002**	**$171,705,064**	**$171,848,761**

Source: General Appropriation Bills 79th through 81st Legislative Sessions

Federal Funds: These funds are the Department's primary appropriated funding source. Federal funds make up 77 percent of the total funds appropriated to the Department in the 2010–2011 biennium. As such, these funding levels are subject to change to reflect priorities at the federal level. Short-term expectations for each of the funding sources are described in "VII. Impact of Federal Statutes/ Regulations, Description of Current and Anticipated Federal Activities," Page 61. HUD and DHHS are TDHCA's largest federal grantor agencies.

Appropriated Receipts: These funds represent approximately 10 percent of the total funds appropriated to the Department. The funds are comprised of fees collected to administer the Department's housing programs or from its regulation of the manufactured housing industry. Compliance and application fee revenues provide a method of finance to support and administer the HTC Program. Fees to issue Mortgage Revenue Bonds are used to support programs and other indirect administrative costs. The Manufactured Housing Division also generates revenue through fee collections. The majority of the fees collected are pursuant to the issuance of titles, licenses and from installation inspections. The Legislature allocates the fees to the Department as Appropriated Receipts and General Revenue.

General Revenue: These funds make up 13 percent of total funds appropriated to the Department. The HTF programs and the Homeless Housing and Services Program are the primary programs receiving GR funds and are the only affordable housing programs funded by State funds.

Earned Federal Funds: As of the 2010-2011 biennium, these funds are regarded as General Revenue under the General Appropriations Act and are therefore not reflected as a separate Method of Finance.

Interagency Contracts: This source, which is less than 1 percent of the Department's funding, currently supports Goal B: Colonia Service Centers and originates from TDRA.

The Department applies for new federal funding as it becomes available. Should it receive additional federal funds, FTE cap and travel waiver requests may be submitted, depending on the increased workload new federal programs require. Currently, the Department has complied with FTE and travel limitations as set forth in the appropriation bills.

C. Per Capita and Other States' Comparisons

The majority of funding for TDHCA comes either directly from the federal government or through federally authorized tax credits or bonds. In general, funding amounts for these programs are based on a state's population. For this reason Texas, the second most populous state in the nation, receives a relatively large amount of federal funds. In contrast, when comparing levels of state appropriations through trust funds or other designated sources, Texas falls far behind the rest of the country. For 2008, the most recent year with comparable data, the State of Texas appropriated approximately $5.3 million to provide for the HTF. Using the 2008 U.S. Census Bureau's state population estimate of 23,845,989, Texas' per capita spending on affordable housing is $0.22. Table 12 provides comparisons of state-appropriated housing funds from the other five largest states in the nation.

Table 12. Comparison of State Per Capita (Sorted by State Funding Level)

State	*2008 Population*	*2008 State Funding*	*Per Capita Spending*
California	36,418,499	$85,441,798	$2.35
New York	19,428,881	$174,200,000	$8.96
Florida	18,089,889	$390,400,000	$21.58
Illinois	12,829,014	$87,202,000	$6.79
Pennsylvania	12,440,621	$33,000,000	$2.01
Texas	**23,845,989**	**$5,393,036**	**$0.22**

Sources: US Census Bureau; *Factbook: 2008 National Council of State Housing Agencies Annual Survey Results*, State Housing Finance Agencies.

D. Budgetary Limitations

Statutory and Federal Restrictions

State and federal statutes and regulations place many restrictions on the use of TDHCA funds. These restrictions affect a wide variety of program characteristics including limitations on eligible household income levels and allowable rents, maximum loan sizes, and funding allocation scoring and distribution criteria. Additionally, these programs have complex portfolio management and compliance requirements. A few specific examples of budgetary directives found in federal and state statute and regulations that regulate the use of specific funding include:

- § 24 Code of Federal Regulations, Section 92.300(a)(1), requires that 15 percent of total HOME Investment Partnerships Program funds be reserved for use by community housing development organizations (CHDOs).
- § §2306.111(c) requires that 95 percent of the TDHCA HOME funding be allocated to non-participating jurisdiction areas. Because participating jurisdictions (PJs), which are larger metropolitan cities and more populous counties, receive HOME program funds directly from HUD, TDHCA directs its HOME program allocation to non-PJ areas of the state. The remaining 5 percent of HOME funds may be expended in any area of the state, but only if it funds an activity that serves persons with disabilities.
- § §2306.111(d) requires that the regional allocation formula used to distribute HOME, HTC, and HTF funding, consider existing housing need and available resources to meet this need in rural and urban areas.
- § Section 2306.7581(a-1), Texas Government Code, requires the Department to provide $3 million per year in Housing Trust Funds toward the Texas Bootstrap Home Loan ("Owner-Builder") Program.

Appropriations Riders

The Department will fully comply with all caps on funding and FTEs. The following section describes the Riders from the 2009-2010 Bill Pattern (Article VII, 3-7, General Appropriations Act, 80th Regular Session, and House Bill 1).

"Rider 1: Performance Measure Targets.

The following is a listing of the key performance target levels for the Department of Housing and Community Affairs. It is the intent of the Legislature that appropriations made by this Act be utilized in the most efficient and effective manner possible to achieve the intended mission of the Department of Housing and Community Affairs. In order to achieve the objectives and service standards established by this Act, the Department of Housing and Community Affairs shall make every effort to attain the following designated key performance target levels associated with each item of appropriation."

Table 13. Key Performance Target Levels

	2010	***2011***
A. Goal: AFFORDABLE HOUSING		
Outcome (Results/Impact):		
% of Households/Individuals of Very Low, Low, and Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance	0.75%	0.74%
% of Households/Individuals of Very Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance	0.27%	0.27%

% of Households/Individuals of Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance	2.42%	2.41%
% of Households/Individuals of Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance	0.15%	0.15%
A.1.1. Strategy: MRB PROGRAM - SINGLE FAMILY		
Output (Volume):		
# of Households Assisted with Single Family Mortgage Revenue Bond Funds	2,000	2,000
A.1.2. Strategy: HOME PROGRAM - SINGLE FAMILY		
Output (Volume):		
# of Households Assisted with Single Family HOME Funds	952	952
A.1.3. Strategy: HTF – SINGLE FAMILY		
Output (Volume):		
# of Households Assisted through the Single Family HTF Program	344	344
A.1.4. Strategy: SECTION 8 RENTAL ASSISTANCE		
Output (Volume):		
# of Households Assisted through Statewide Housing Assistance Payments Program	1,100	1,100
A.1.5. Strategy: FEDERAL TAX CREDITS		
Output (Volume):		
# of Households Assisted through the HTC Program	10,928	10,874
A.1.6. Strategy: HOME PROGRAM – MULTIFAMILY		
Output (Volume):		
# of Households Assisted with Multifamily HOME Funds	262	262
A.1.8. Strategy: MRB PROGRAM-MULTIFAMILY		
Output (Volume):		
# of Households Assisted through the Multifamily MRB Program	1,627	1,611
B. Goal: INFORMATION & TECHNICAL ASSISTANCE		
B.1.1. Strategy: HOUSING RESOURCE CENTER		
Output (Volume):		
# of Information and Technical Assistance Requests Completed	5,000	5,000
B.2.1. Strategy: COLONIA SERVICE CENTERS		
Output (Volume):		
# of On-site Technical Assistance Visits Conducted Annually from the Field Offices	900	900

C. Goal: POOR AND HOMELESS PROGRAMS		
Outcome (Results/Impact):		
% of Persons in Poverty That Received Homeless and Poverty-related Assistance	12.35%	12.35%
% of Very Low Income Households Receiving Energy Assistance	5.28%	3.81%
C.1.1. Strategy: POVERTY-RELATED FUNDS		
Output (Volume):		
# of Persons Assisted through Homeless and Poverty-related Funds	531,498	531,498
# of Persons Assisted That Achieve Incomes above Poverty Level	2,800	2,800

C.2.1. Strategy: ENERGY ASSISTANCE PROGRAMS		
Output (Volume):		
# of Households Assisted through the Comprehensive Energy Assistance Program	66,050	48,152
# of Dwelling Units Weatherized by the Department	3,809	2,257
D. Goal: ENSURE COMPLIANCE		
D.1.1. Strategy: MONITOR HOUSING REQUIREMENTS		
Output (Volume):		
Total # of Onsite Reviews Conducted	864	959
D.1.2. Strategy: MONITOR CONTRACT REQUIREMENTS		
Output (Volume):		
Total # of Monitoring Reviews Conducted	258	248
E. Goal: MANUFACTURED HOUSING		
Outcome (Results/Impact):		
% of Consumer Complaint Inspections Conducted within 30 Days of Request	100%	100%
% of Complaints Resulting in Disciplinary Action	12%	12%
E.1.1. Strategy: TITLING AND LICENSING		
Output (Volume):		
# of Manufactured Housing Statements of Ownership and Location Issued	80,000	80,000
E.1.2. Strategy: INSPECTIONS		
Output (Volume):		
Explanatory:		
# of Installation Reports Received	13,000	13,000
E.1.3. Strategy: ENFORCEMENT		
Output (Volume):		
# of Complaints Resolved	850	850
Efficiencies:		
Average Time for Complaint Resolution (Days)	180	180
Explanatory:		
# of Jurisdictional Complaints Received	750	750

"Rider 2: Capital Budget.
None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditure for other purposes. Amounts appropriated above and identified in this provision as appropriations either for "Lease Payments to the Master Lease Purchase Program" or for items with an "(MLPP)" notation shall be expended only for the purpose of making lease-purchase payments to the Texas Public Finance Authority pursuant to Government Code § 1232.103. Upon approval from the Legislative Budget Board, capital budgeted funds listed below under "Acquisition of Information Resource Technologies" may be used to lease information resources hardware and/or software versus the purchase of information resources hardware and/or software, if determined by agency management to be in the best interest of the State of Texas."

Item	*2010*	*2011*
Acquisition of Information Resource Technologies		
(1) Purchase of Information Technologies-Scheduled Replacement of Items	$326,160	$335,760
Total, Capital Budget	$326,160	$335,760

Method of Financing (Capital Budget):

Community Affairs Federal Fund No. 127	$91,340	$121,368
Appropriated Receipts	$234,820	$214,392
Total, Method of Financing	$326,160	$335,760

"Rider 3: Low/Moderate Income Housing Construction.
Out of the funds appropriated above, no less than $500,000 each year of the biennium shall be expended on low/moderate income housing construction in enterprise zone areas."

"Rider 4: Appropriations Limited to Revenue Collections.
Fees, fines, and other miscellaneous revenues as authorized and generated by the agency shall cover, at a minimum, the cost of the appropriations made above for the strategy items in Goal E, Manufactured Housing, the cost of the appropriations required for manufactured housing consumer claims payments according to the Occupations Code § 1201, Manufactured Housing Standards Act, as well as the "other direct and indirect costs" associated with this goal, appropriated elsewhere in this Act. "Other direct and indirect costs" for Goal E, Manufactured Housing, are estimated to be $1,017,313 for fiscal year 2010 and $1,096,786 for fiscal year 2011. In the event that actual and/or projected revenue collections are insufficient to offset the costs identified by this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts reduce the appropriation authority provided above to be within the amount of revenue expected to be available."

"Rider 5: Housing Assistance.
To the extent allowed by state and federal program guidelines the department shall adopt an annual goal to apply no less than $30,000,000 of the funds available from the Housing Trust Fund, HOME Program, Section 8 Program, and Housing Tax-Credit Program's total housing funds toward housing assistance for individuals and families earning less than 30 percent of the Area Median Family Income (AMFI). No less than 20 percent of the funds available from the Housing Trust Fund, HOME Program, Section 8 Program, and Housing Tax-Credit Program shall be spent for individuals and families earning between 31 percent and 60 percent of the area median family income. To the extent allowed by state and federal program guidelines in those counties where the area median family income is lower than the state average median family income, the department shall use the average state median income in interpreting this rider. The department shall provide an annual report to the Legislative Budget Board documenting its expenditures in each income category."

"Rider 6: Conversions of Executory Contracts.

a. Out of the funds appropriated above, the department shall spend not less than $4,000,000 for the biennium for the sole purpose of contract for deed conversions for families that reside in a colonia and earn 60 percent or less of the applicable area median family income. It is the intent of the Legislature that the department shall make a good-faith effort to complete at least 200 contract for deed conversions by August 31, 2011.

b. The Department of Housing and Community Affairs shall provide a quarterly report to the Legislative Budget Board detailing the number of, and cost for each, contract for deed conversions completed."

"Rider 7: Bond Refinancing.

The department shall transfer any funds acquired through refinancing of bonds to the Housing Trust Fund. The first $3,000,000 each fiscal year in savings from the refinancing of any bonds shall be used to fund mortgage loans under the Bootstrap Self-Help Housing Loan Program."

"Rider 8: Colonia Set-Aside Program Allocation.

The Office of Rural Community Affairs shall allocate 2.5 percent of the yearly allocation of Community Development Block Grant (CDBG) monies to support the operation of the Colonia Self-Help Centers and shall transfer such funds to the Department of Housing and Community Affairs on September 1 each year of the biennium."

Consistent with federal rules and regulations, the funds provided from TDRA to the Colonia Self-Help Center in El Paso county shall be used to provide internet access and training for parents and their children attending elementary schools in colonias, to establish technology centers within those elementary school libraries, to purchase wireless devices and laptop computers to loan out from the technology centers, and improve internet access for students and parents."

"Rider 9: Appropriation: Housing Trust Fund Interest Earnings and Loan Repayments.

Interest earnings and loan repayments received from loans made through the Housing Trust Fund program from the General Revenue Fund are included above in Strategy A.1.3, Housing Trust Fund - Single Family, estimated to be $1,000,000 each year."

"Rider 10: Housing Trust Fund Deposits to the Texas Treasury Safekeeping Trust Company.

a. Out of funds appropriated above in Strategy A.1.3, Housing Trust Fund - Single Family, all funds above those retained for administrative purposes in fiscal year 2010 and fiscal year 2011 shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, at the beginning of each fiscal year. The amounts to be transferred in fiscal years 2010 and 2011 include an estimated $1,000,000 in each fiscal year from interest earnings and loan repayments received, identified above in Rider 9, Appropriation: Housing Trust Fund Interest Earnings and Loan Repayments.

b. Out of funds appropriated above in Strategy A.1.7, Housing Trust Fund - Multifamily, all funds above those retained for administrative purposes in fiscal year 2010 and fiscal year 2011 shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, at the beginning of each fiscal year.

c. Interest earnings and loan repayments received from loans made through the Housing Trust Fund program from the General Revenue Fund shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, for the same purpose.

d. The Department of Housing and Community Affairs shall provide an annual report to the Legislative Budget Board, the House Appropriations Committee, and the Senate Finance Committee no later than October 1 detailing the agency's plan to expend funds from the Housing Trust Fund during the current fiscal year.

e. Notwithstanding limitations on appropriation transfers contained in the General Provisions of this Act, the Department of Housing and Community Affairs is hereby authorized to direct agency resources and transfer such amounts appropriated above, in excess of $3,000,000 set aside for the Owner-Builder (Bootstrap) Loan Program established under Government Code, Chapter 2306, between Strategy A.1.3, Housing Trust Fund - Single Family and Strategy A.1.7, Housing Trust Fund - Multifamily. Prior to the agency making any transfers between these two strategies, they shall notify the Legislative Budget Board, and the Office of the Governor on the amounts being transferred and the reason for transferring funds between strategies.

f. Out of funds appropriated above in Strategy A.1.3, Housing Trust Fund - Single Family and Strategy A.1.7, Housing Trust Fund - Multifamily, all funds above those retained for administrative purposes in fiscal year 2010 and fiscal year 2011 and above amounts required in Sections (a) and (b) of this rider, shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, no later than October 1 of each fiscal year.

g. At the end of each fiscal year, any unexpended administrative balances appropriated under Strategy A.1.3, Housing Trust Funds - Single Family and A.1.7, Housing Trust Fund - Multifamily shall be transferred to the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306."

"Rider 11: Mortgage Revenue Bond Program.

The Department of Housing and Community Affairs shall operate the First-Time Homebuyer Mortgage Revenue Bond Program in a manner that maximizes the creation of very low-income single family housing by ensuring that at least 30 percent of the lendable bond proceeds are set aside for a period of one year for individuals and families at 80 percent and below the area median family income (AMFI), while assuring the highest reasonable bond rating. In an effort to facilitate the origination of single family mortgage loans to individuals and families at 80 percent and below the AMFI, the department shall utilize down payment and closing cost assistance or other assistance methods."

"Rider 12: Additional Appropriated Receipts.

a. Except during an emergency as defined by the Governor, no appropriation of appropriated receipts in addition to the estimated amounts above may be expended by the Department of Housing and Community Affairs unless:

(1) the department's governing board files a finding of fact along with a written plan outlining the source, use, and projected impact of the funds on performance measures with the Legislative Budget Board and the Governor and indicating that additional appropriations are required to maintain adequate levels of program performance; and,

(2) neither the Legislative Budget Board nor the Governor issue a written disapproval not later than 10 business days within receipt of the finding of fact and the written plan.

b. This provision does not apply to appropriated receipts included in the amounts appropriated above that are collected under Object Codes 3719 and 3802. Appropriated receipts collected under these revenue object codes are governed under provisions found in Article IX, Sec 8.03 and Article IX, Sec 12.02."

"Rider 13: Manufactured Homeowner Consumer Claims.

Included above in Goal E, Manufactured Housing, the Manufactured Housing Division of the Department of Housing and Community Affairs is appropriated an amount required for the purpose of paying manufactured housing consumer claims from Appropriated Receipts according to the Occupations Code Chapter 1201, Manufactured Housing Standards Act, from Statement of Ownership and Location (SOL) issuance fees involving manufactured housing that are collected during the 2010-11 biennium. No General Revenue is appropriated for the payment of these claims."

"Rider 14: CDBG Disaster Reporting Requirement.

The Department of Housing and Community Affairs shall provide a quarterly report to the Governor, the Legislative Budget Board, the House Appropriations Committee, the Senate Finance Committee and to those members of the Legislature representing counties eligible for Community Development Block Grant (CDBG) Disaster funding, detailing the receipt and expenditures of CDBG disaster funds received by the Department."

"Rider 15: Affordable Housing Research and Information Program.

Out of funds appropriated above in Strategy B.1.1, Housing Resource Center, the Department of Housing and Community Affairs shall conduct the Affordable Housing Research and Information Program with the assistance of the Texas Department of Rural Affairs, to the extent allowed by state law, in order to avoid a duplication of effort. It is the intent of the Legislature that no funds shall be transferred between the Department of Housing and Community Affairs and the Texas Department of Rural Affairs for this purpose."

"Rider 16: Reporting on Weatherization Efforts.

As part of its efforts to help low-income Texans eligible for weatherization to conserve energy and lower bills, Texas Department of Housing and Community Affairs (TDHCA) shall use funds appropriated above to coordinate with investor-owned utilities, from which TDHCA receives funds, and that offer energy efficiency programs for Texans meeting low-income eligibility criteria to make sure the monies available for low-income energy efficiency programs spent both through the agency and through utility programs are effectively and adequately spent. The TDHCA shall use funds appropriated above to produce an annual report with information about the number of low-income household benefiting from energy efficiency monies through state, federal and utility-funded programs, the amount overall electric energy saved, the amount of money saved and the number of job and job years created. A copy of the annual report shall be delivered to the Lieutenant Governor, Speaker and Governor, as well as made available on TDHCA's website by January 15th of 2010 and January 15th of 2011."

"Rider 17: Capacity Building Performance Measures.

Out of funds appropriated above in Strategy A.1.3, Housing Trust Fund - Single Family and Strategy A.1.7, Housing Trust Fund - Multifamily, the agency shall develop or contract to develop a performance measure assessment tool for any organization receiving awards for the purpose of capacity building. The assessment tool must prioritize housing unit production as a key measure along with other benchmarks including board capacity, human resources, fundraising, grants, households served, and financial administration. Prior to any transfers pursuant to Rider 10, Housing Trust Fund Deposits to the Texas Treasury Safekeeping Trust Company, the agency shall use funds necessary from appropriations in Strategy A.1.3, Housing Trust Fund - Single Family and Strategy A.1.7, Housing Trust Fund - Multifamily for these purposes."

"Rider 18: Homeless Housing and Services.

Out of funds appropriated above in Strategy C.1.1, Poverty-Related Funds, $10,000,000 in each fiscal year in General Revenue is hereby appropriated to the Department of Housing and Community Affairs (TDHCA) for the purposes of assisting regional urban areas in providing services to homeless individuals and families, including services such as case management, and housing placement and retention. Pursuant to Government Code, Section 2306.053, funding for this program shall be awarded by TDHCA through a competitive matching grant process whereby the eight largest cities may seek additional funding for this purpose. The agency shall distribute these funds to the eight largest cities with populations larger than 285,500 persons per the latest U.S. Census figures."

"Rider 19: Financial Assistance for Local Initiatives Regarding the Homeless.

It is the intent of the Legislature that the Department of Housing and Community Affairs:

(1) use funds appropriated to the department under this Act to provide financial assistance to political subdivisions, housing finance corporations, for-profit corporations, and nonprofit organizations to support local initiatives regarding homeless individuals and families; and

(2) seek any federal funding available for the purpose of providing financial assistance described by subdivision (1)."

"Rider 20: Travel Expenditures.
Out of the funds appropriated to the Department of Housing and Community Affairs authorized for out-of-state travel. This limitation shall not apply to out-of-state travel associated with federal programs if the cost of such travel is paid for or reimbursed by the federal government."

E. Degree to which Current Budget Meets Current and Expected Needs
In FY 2009, TDHCA served or committed to serve 143,660 households[12]. This is 3.8 percent of the State's 3,757,285 households in need.[13] As discussed in detail in "IV. Service Population Demographics" below, the state's level of housing need is only expected to increase in the future given current funding levels and economic conditions.

F. Capital and/or Leased Needs Due for Renewal
The 2010 projection is $13,944 for an OCI field office in Edinburg, and $23,892.24 for Manufactured Housing field office leases in Houston, Lubbock and Tyler. The Manufactured Housing Division also leases postage meters for their field offices for $4,512 annually.

The Department's personal computers and laptops are composed of some hardware which will be replaced in future fiscal years in accordance with the Department's personal computer replacement schedule. The schedule calls for four years of use prior to replacement in most cases.

Projected capital improvement needs for the FY 2012-2013 biennium will be described on a project-by-project basis in the TDHCA Information Technology Detail, which will be submitted along with TDHCA's FY 2012-2013 Legislative Appropriations Request in August 2010.

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[12] "Households served" includes households served by Housing Tax Credit, Housing Trust Fund, Multifamily Bond, Section 8, Comprehensive Energy Assistance, Weatherization Assistance and National Foreclosure Mitigation Counseling programs. It does not include Emergency Shelter Grants or Community Service Block Grants because those programs do not report households helped; they report individuals helped. No 2008 Housing and Economic Recovery Act or 2009 American Recovery and Reinvestment Act programs were included in this figure.
[13] "Households in need" includes households with cost burden, lacking kitchen and/or plumbing, that are overcrowded, in poverty and in foreclosure.

IV. SERVICE POPULATION DEMOGRAPHICS

Overview

This section identifies how population groups TDHCA serves are expected to change within the timeframe of this Strategic Plan. The analysis includes information on historical population characteristics, current characteristics, and future trends.

Information in this section is primarily obtained from the US Census, the American Community Survey and Texas State Data Center (TSDC) reports and tabulations. The TSDC prepares population projections according to four scenarios: the zero migration scenario, which assumes that growth occurs through natural (birth and death) increases; the one-half 1990-2000 (0.5) migration scenario, which assumes rates of migration equal one-half of the 1990s rate; the 1990-2000 (1.0) migration scenario, which assumes a migration rate equal to the 1990s; and the 2000-2002 migration scenario, which takes into account post-2000 growth.[14] Comparing projections, the TSDC 0.5 migration scenario most closely resembles the projections prepared by the US Census, so TDHCA is using data from this TSDC scenario in the Strategic Plan. This is also the scenario most recommended by the TSDC for use in long-term planning.

Because of methodology differences between these sources, exact figures may vary between sources. For example, Texas population projections for 2015 are 26,156,723 from the TSDC 0.5 migration scenario and 26,585,801from the US Census. However, the two figures differ by only 429,078, or approximately 1.6% of the highest projected total population.

Overall Population Growth

Historically, Texas has been one of the fastest growing states in the nation. According to US Census data, the Texas population expanded by nearly a quarter (22.8 percent) between 1990 and 2000, far exceeding the national growth average of 13.2 percent for the same decade. The increase in state population by 3,865,310 persons was the largest of any decade in Texas history. More than one of every nine persons added to the population of the United States in the 1990s was added in Texas.

For 2000, the US Census reported that 20,851,820 individuals lived in Texas, second only to California in terms of total state population. According to 2010 estimates compiled by the US Census, Texas's population had grown by 18.2 percent since April 2000 to 24,648,888 people in 2010, again exceeding the national growth rate of 9.7 percent for the same period.

For the 2011-2015 Strategic Plan period, both sources estimate that the Texas population will increase by at least 1.4 percent each year. The US Census projects a 5.86 percent growth rate from 2011 to 2015, while the TSDC 0.5 migration scenario projects a 5.59 percent growth rate.

[14] Texas State Data Center. Populations Estimates and Projections Program. (2009, June 3). 2008 Methodology for Texas Population Projections. Retrieved from http://txsdc.utsa.edu/tpepp/2008projections/.

Table 14. Texas Population Projections: 10-Year Period 2010-2020

Year	US Census Projection	Annual Change Number	Annual Change Percent	TSDC 0.5 Projection	Annual Change Number	Annual Change Percent
2010	24,648,888			24,330,646		
2011	25,026,846	377,958	1.51%	24,692,181	361,535	1.46%
2012	25,409,783	382,937	1.51%	25,056,041	363,860	1.45%
2013	25,797,428	387,645	1.50%	25,421,596	365,555	1.44%
2014	26,189,495	392,067	1.50%	25,788,871	367,275	1.42%
2015	26,585,801	396,306	1.49%	26,156,723	367,852	1.41%
2016	26,986,249	400,448	1.48%	26,525,342	368,619	1.39%
2017	27,391,070	404,821	1.48%	26,894,510	369,168	1.37%
2018	27,800,543	409,473	1.47%	27,264,173	369,663	1.36%
2019	28,215,015	414,472	1.47%	27,634,725	370,552	1.34%
2020	28,634,896	419,881	1.47%	28,005,740	371,015	1.32%
2011-2015		1,558,955	5.86%		1,464,542	5.60%

Sources: US Census[15], TSDC[16]

Future population trends point to continued rapid growth. The US Census projects that the population in Texas will reach 33,317,744 in 2030, which represents a 59.8 percent change from 2000 figures, and more than double the projected national growth rate of 29.2 percent.[17]

These population projections have a major effect on the need for housing. According to the 2000 US Census, Texas had a 90.6 percent housing occupancy rate. According to the 2006 to 2008 American Community Survey estimate, approximately 47.4 percent of occupied units were built on or before 1979. This means that a little less than half of the housing structures will be 30 years or older. Without the construction of new units and/or the rehabilitation of existing substandard and future substandard units, the need for decent and affordable housing will be significant.

Aging Population

According to the 2005-2007 American Community Survey estimate, 2,315,149 persons, or 9.9 percent of the total Texas population were age 65 or older during that time period.

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[15] U.S. Census (2004, March). File 3: Annual projections by single year of age. Retrieved from http://www.census.gov/population/www/projections/projectionsagesex.html.

[16] Texas Data Center. (2008). 2008 age, sex, and race/ethnicity estimates for the State of Texas and all Texas counties. Retrieved from http://txsdc.utsa.edu/tpepp/txpopest.php.

[17] US Census, "Interim Projections: Ranking of Census 2000 and Projected 2030 State Population and Change 2000 to 2030," http://www.census.gov/population/projections/PressTab1.xls.

There is an identified aging trend in Texas. In 1980, the median age was 28.0; in 1990, the median age was 30.8; and in 2000, the median age was 32.2.[18] Between 2005-2007, the median age was 33.1 in Texas.[19] Furthermore, it is assumed that this trend will continue, with the population over 65 years old increasing 100 percent between 2010 and 2030. Comparing age groups, individuals 65 and older are projected to be the population with the highest growth. The second highest age category growth is 14 to 17 years old with only 38.9 percent growth between 2010 and 2030. [20]

An increasingly older population leads to growth in owner-occupied housing because older households tend to have higher rates of homeownership.[21] Furthermore, with an increasingly elderly population over age 65, home repair programs, including those that include home modifications for accessibility, may grow in demand.

An American Association of Retired Persons study found that 90 percent of elderly persons expressed a desire to stay in their own homes as long as possible.[22] According to the 2005-2007 American Community Survey, approximately 1,140,246 elderly households aged 65 and over owned their own homes; this makes up approximately 82 percent of the elderly population.[23] While a high percentage of the elderly own their homes, many elderly also have lower incomes than other population groups. In Texas during 2005 to 2007, the median income of householders age 65 or older was approximately $30,777 in 2007 inflation-adjusted dollars. This was roughly $26,883 less than the median income of householders aged 45 to 64. During that same time frame, approximately 12.4 percent of Texans 65 or older lived below the poverty level.[24] Furthermore, elderly homeowners may live in older homes than the majority of the population; due to their age, homes owned by the elderly are often in need of repair, weatherization, and energy assistance.

In addition, according to the 2005 to 2007 American Community Survey estimates, approximately 45 percent, or 101,916 elderly persons, aged 65 and older have a disability as defined by the US Census. Of all elderly persons, approximately 35.6 percent have a physical disability and 20.4 percent have a go-outside-home disability.[25] For those persons who cannot or do not wish to remain in their own homes, TDHCA multifamily developments

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[18] Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 16.
[19] 2005-2007 American Community Survey.
[20] U.S. Census (2004, March). Table B1: Total population by selected age groups. Retrieved from http://www.census.gov/population/www/projections/projectionsagesex.html.
[21] Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 144.
[22] Texas Department on Aging, Office of Aging Policy and Information, *The State of Our State on Aging* (Austin, TX: Texas Department on Aging, December 2002), 19, http://www.dads.state.tx.us/news_info/publications/studies/SOSHighRez.pdf .
[23] U.S. Census Bureau, 2005-2007 American Community Survey. (n.d.). Subject tables. Retrieved from http://factfinder.census.gov/servlet/STSelectServlet?_lang=en&_ts=269269506494
[24] U.S. Census Bureau, 2005-2007 American Community Survey (n.d.). Subject tables. Retrieved from http://factfinder.census.gov/servlet/STSelectServlet?_lang=en&_ts=269269506494
[25] U.S. Census Bureau, 2005-2007 American Community Survey. (n.d.). Subject tables. Retrieved from http://factfinder.census.gov/servlet/STSelectServlet?_lang=en&_ts=269269506494

help provide affordable rental units. In many cases, these units are part of apartment developments specifically designed for and occupied by older households. These developments have design features, amenities, and supportive services geared to their specific needs and preferences.

Table 15. Texas Population by Age Group: 10-Year Period 2010-2020

Year	0-17	Annual Change Number	Annual Change Percent	18-24	Annual Change Number	Annual Change Percent
2010	6,785,408			2,504,460		
2011	6,889,979	104,571	1.52%	2,517,981	13,521	0.54%
2012	7,003,380	113,401	1.62%	2,528,448	10,467	0.41%
2013	7,123,330	119,950	1.68%	2,535,205	6,757	0.27%
2014	7,246,675	123,345	1.70%	2,540,266	5,061	0.20%
2015	7,376,218	129,543	1.76%	2,535,506	-4,760	-0.19%
2016	7,508,513	132,295	1.76%	2,532,069	-3,437	-0.14%
2017	7,639,597	131,084	1.72%	2,535,322	3,253	0.13%
2018	7,762,744	123,147	1.59%	2,553,765	18,443	0.72%
2019	7,866,920	104,176	1.32%	2,600,568	46,803	1.80%
2020	7,968,267	101,347	1.27%	2,658,208	57,640	2.17%
2011-2015		486,239	6.59%		17,525	0.69%

Year	25-64	Annual Change Number	Annual Change Percent	65+	Annual Change Number	Annual Change Percent
2010	12,771,637			2,587,383		
2011	12,954,759	183,122	1.41%	2,664,127	76,744	2.88%
2012	13,102,550	147,791	1.13%	2,775,405	111,278	4.01%
2013	13,252,187	149,637	1.13%	2,886,706	111,301	3.86%
2014	13,406,107	153,920	1.15%	2,996,447	109,741	3.66%
2015	13,561,194	155,087	1.14%	3,112,883	116,436	3.74%
2016	13,717,895	156,701	1.14%	3,227,772	114,889	3.56%
2017	13,867,455	149,560	1.08%	3,348,696	120,924	3.61%
2018	14,006,204	138,749	0.99%	3,477,830	129,134	3.71%
2019	14,135,650	129,446	0.92%	3,611,877	134,047	3.71%
2020	14,252,607	116,957	0.82%	3,755,814	143,937	3.83%
2011-2015		606,435	4.47%		448,756	14.42%

Source: US Census[26]

[26] U.S. Census Bureau. (2004, March). Table C1: The selected age groups of total population by region and division. Retrieved from http://www.census.gov/population/www/projections/projectionsagesex.html.

Race and Ethnicity

Texas is experiencing a shift toward racial and ethnic diversity. During the 1980s, the White population increased by 10.1 percent, but by only 7.6 percent during the 1990s; the Black population increased by 16.8 percent during the 1980s and 22.5 percent during the 1990s; the Hispanic population increased by 45.4 percent during the 1980s and 53.7 during the 1990s; and the Other racial/ethnic population increased by 88.8 percent during the 1980s and 81.2 percent during the 1990s.[27] The 2006-2008 American Community Survey found the racial composition of the state was 71.4 percent White, 11.5 percent Black, and 16.7 percent Other. The Hispanic population is 35.9 percent and "White alone, not Hispanic or Latino" is 47.8 percent.[28]

Future projections point to a shift from a majority White population to a majority of other racial and ethnic groups. According to TSDC projections using the 0.5 migration scenario, the "White, not Hispanic" group is expected to comprise 46.86 percent of the total Texas population in 2011, and 44.71 percent of the total population in 2015. The White population is expected to grow by only 1.07 percent from 2011 to 2015, while the Hispanic population is expected to grow by 10.47 percent during this period.

This racial shift is expected to have important implications on Texas households as a whole. Because of the rapid growth of Hispanic and Other populations, the expected result is a higher proportion of married-couple and married-couple-with-children households.[29] As for income, unless the wealth of non-White populations changes, the income distributions of households will shift towards lower income categories because of the rapid growth of Hispanic and Black populations, which tend to have lower incomes.[30] Furthermore, the growth of non-White populations, which tend to have higher rates of rentership, is projected to fuel the need for rental housing.[31]

[27] Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, xxv.
[28] 2006-2008 American Community Survey. (n.d.) SO102: Population 60 years and older in the United States. Retrieved from http://factfinder.census.gov.
[29] Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 60.
[30] Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 87.
[31] Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 144.

Table 16. Texas Population by Race and Ethnicity: 2010-2020

Year	Total Population	White (not Hispanic)	Percent	Hispanic	Percent	Black	Percent	Other	Percent
2010	24,330,646	11,533,976	47.41%	9,080,459	37.32%	2,754,751	11.32%	961,460	3.95%
2011	24,692,181	11,569,884	46.86%	9,344,010	37.84%	2,787,351	11.29%	990,936	4.01%
2012	25,056,041	11,604,028	46.31%	9,611,596	38.36%	2,819,628	11.25%	1,020,789	4.07%
2013	25,421,596	11,636,265	45.77%	9,882,960	38.88%	2,851,391	11.22%	1,050,980	4.13%
2014	25,788,871	11,666,595	45.24%	10,158,047	39.39%	2,882,626	11.18%	1,081,603	4.19%
2015	26,156,723	11,694,520	44.71%	10,436,546	39.90%	2,913,062	11.14%	1,112,595	4.25%
2016	26,525,342	11,720,134	44.18%	10,718,471	40.41%	2,942,757	11.09%	1,143,980	4.31%
2017	26,894,510	11,743,233	43.66%	11,003,878	40.91%	2,971,586	11.05%	1,175,813	4.37%
2018	27,264,173	11,763,724	43.15%	11,292,906	41.42%	2,999,491	11.00%	1,208,052	4.43%
2019	27,634,725	11,781,575	42.63%	11,585,918	41.93%	3,026,466	10.95%	1,240,766	4.49%
2020	28,005,740	11,796,448	42.12%	11,882,980	42.43%	3,052,417	10.90%	1,273,895	4.55%
2011-2015	**1,464,542**	**124,636**	**1.07%**	**1,092,536**	**10.47%**	**125,711**	**4.32%**	**121,659**	**10.93%**

Source: TSDC[32]

Income

According to the American Community Survey, the median household income in Texas between 2006-2008 was $49,078, which was less than the national median of $52,175 (in 2008 dollars).[33] Historically, the median income in Texas has tended to grow. In 1999 dollars, the Census reports that, in 1969, the household median income in Texas was $29,535; in 1979, the median income was $35,744; and in 1989, the median income was $35,246.[34]

The TSDC Center for Demographic and Socioeconomic Research has computed projected incomes in Texas for 2000, 2010, 2020, 2030, and 2040. Projections based on the 0.5 migration scenario are provided for 2000, 2010, and 2020 below, and demonstrate an increasing proportion of the population with incomes below $40,000. The authors state that the median household income will actually decline by $5,061 between 2000 and 2040 (in 2000 constant dollars) based on the 0.5 migration scenario.[35] This decline is attributed to the

[32] Texas Data Center. (2008). Table 1: Sex and race/ethnicity total projection by migration scenario for 2000-2040 in 1 year increments. Retrieved from http://txsdc.utsa.edu/tpepp/2008projections/.

[33] 2006-2008 American Community Survey. (n.d.) S1903. Median income in the past 12 months (In 2008 inflation-adjusted dollars). Retrieved from http://factfinder.census.gov.

[34] US Census, "Table S1: Median Household Income by State: 1969,1979,1989, 1999, http://www.census.gov/hhes/www/income/histinc/state/state1.html

[35] Center for Demographic and Socioeconomic Research and Education, (2002, December). *Texas Challenge in the Twenty-First Century*, 95.

rapid increase of Hispanic and Black populations and assumes that the socioeconomic gap between these groups and Whites will not change.

Table 17. Household Income in Texas by Income Category: 2000, 2010, and 2020

	2000		2010		2020	
Income Level	Households	Percent	Households	Percent	Households	Percent
$ < 10,000	766,818	10.37%	955,412	10.83%	1,218,416	11.70%
10,000 - 14,999	490,683	6.64%	609,119	6.91%	774,050	7.43%
15,000 - 19,999	486,167	6.58%	602,598	6.83%	753,896	7.24%
20,000 - 24,999	517,230	7.00%	635,750	7.21%	779,300	7.48%
25,000 - 29,999	502,547	6.80%	613,060	6.95%	741,510	7.12%
30,000 - 34,999	493,044	6.67%	595,664	6.75%	710,347	6.82%
35,000 - 39,999	445,211	6.02%	534,047	6.06%	631,032	6.06%
40,000 - 44,999	416,276	5.63%	496,321	5.63%	580,765	5.58%
45,000 - 49,999	357,312	4.83%	424,119	4.81%	493,081	4.73%
50,000 - 59,999	636,916	8.61%	748,513	8.49%	858,280	8.24%
60,000 - 74,999	722,043	9.77%	837,711	9.50%	942,578	9.05%
75,000 - 99,999	705,480	9.54%	805,588	9.13%	888,233	8.53%
100,000 - 124,999	362,413	4.90%	412,025	4.67%	450,347	4.32%
125,000 - 149,999	173,454	2.35%	194,563	2.21%	210,353	2.02%
150,000 - 199,999	153,444	2.08%	171,121	1.94%	184,276	1.77%
200,000+	164,316	2.22%	183,108	2.08%	198,719	1.91%
Total	7,393,354	100.00%	8,818,719	100.00%	10,415,183	100.00%

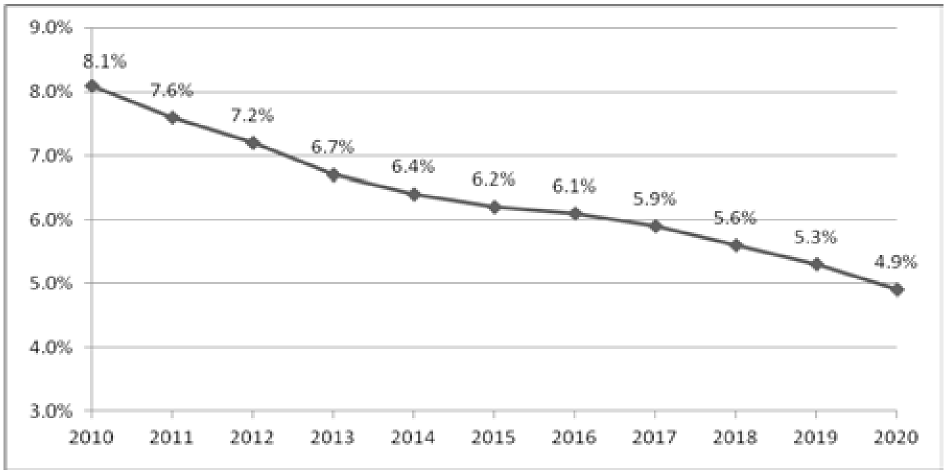
Source: Center for Demographic and Socioeconomic Research and Education[36]

If this projection towards lower incomes does indeed occur, then the need for housing and other assistance will be great. A higher proportion of households at the lowest levels will place an even higher demand on social services, energy assistance, and rental assistance programs. In terms of homeownership, the interest rates have been at historic lows. In 2007, the prime interest rate was 8.1 percent and it lowered to 3.3 percent in 2009 and 2010 due to the economic recession. The Texas Comptroller estimates that the rates will rise to 4.7 in 2011 and 7.8 in 2015. [37] Lower incomes and the higher cost of borrowing money may push the dream of homeownership out of reach for many more households in the future.

A major factor influencing income is the unemployment rate. According to the Comptroller's 2009-2010 Economic Forecast, the unemployment rate is projected to decrease during the 2011-2015 planning period from 7.6 to 6.2 percent. However, this is because unemployment is at an all-time high since the 1930s at 8.1 percent. Unemployment affects the demand for services, including rental assistance, energy assistance, and emergency financial assistance.

[36] *Texas Challenge in the Twenty-First Century*, 106-107.
[37] Texas Office of the Comptroller. (2009-2010) 2009-2010 Economic forecast: Summary calendar years 1990 through 2039. Retrieved from http://www.texasahead.org/economy/forecasts/fcst0910/calendarSummary.html.

Table 18. Texas Unemployment Rates: 2010-2020



Source: Texas Office of the Comptroller

Poverty

The 2006-2008 American Community Survey that 16.3 percent of persons in Texas were below the poverty level, which was significantly higher than the national rate of 13.1 percent.[38] Analyzing past Census data, Texas has historically had a poverty rate higher than that of the national average.

Based on Center for Demographic and Socioeconomic Research and Education projections for 2000, 2010, 2020, 2030, and 2040, the rate of families in poverty will increase. Projections based on the 0.5 migration scenario are provided for 2000, 2010, and 2020 below.

Table 19. Texas Families in Poverty: 2000, 2010, and 2020

	2000		2010		2020	
Family Type	Number	Percent	Number	Percent	Number	Percent
Family households	**598,325**	**11.4%**	**783,058**	**12.3%**	**983,798**	**13.1%**
Married couples	**300,238**	**7.5%**	**401,877**	**8.4%**	**516,708**	**9.2%**
With own children	207,093	10.3%	283,781	11.5%	364,502	12.7%
No own children	93,145	4.7%	118,096	5.1%	152,206	5.5%
Other families	**298,087**	**23.7%**	**381,181**	**24.5%**	**467,090**	**24.9%**
Male householders, no spouse	**47,931**	**15.0%**	**63,005**	**15.6%**	**79,359**	**16.0%**
With own children	31,134	19.8%	40,696	20.8%	50,174	21.9%
No own children	16,797	10.3%	22,309	10.6%	29,185	10.9%
Female householders, no spouse	**250,156**	**26.7%**	**318,176**	**27.7%**	**387,731**	**28.1%**
With own children	201,475	35.7%	256,149	37.0%	306,053	38.3%
No own children	48,681	13.0%	62,027	13.6%	81,678	14.0%

Source: Center for Demographic and Socioeconomic Research and Education, *Texas Challenge in the Twenty-First Century*, 117

[38] 2006-2008 American Community Survey. (n.d.) S1701.Poverty status in the past 12 months. Retrieved from http://factfinder.census.gov.

Increasing poverty populations will increase the demand for social services and emergency assistance, including rental assistance, energy assistance, and health and human services. In fact, the Center for Demographic and Socioeconomic Research and Education projects that the enrollment for Temporary Assistance for Needy Families, Food Stamps, and Medicaid will greatly increase between 2000 and 2040.[39]

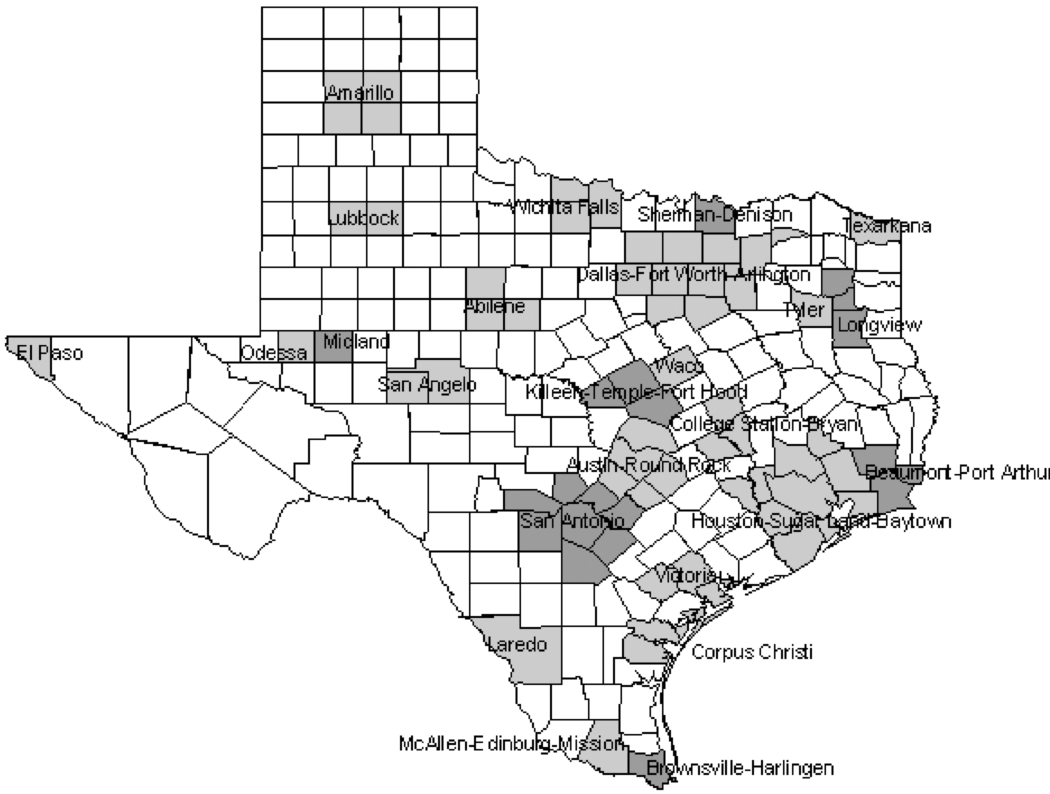
Population Distribution

The US Office of Management and Budget classifies areas as metropolitan statistical areas (MSAs) based on US Census data. These MSAs are comprised of core counties that have a high population density and surrounding counties that have economic integration with the core counties. Non-MSA counties are primarily rural. There are 25 designated MSAs in Texas that cover 77 of the 254 total counties[40], see Figure 3: Texas MSA Counties below.

In 2000, of the 20,851,820 people residing in the state, 86.1 percent resided in MSAs and 13.9 percent resided in non-MSAs. For year 2010, the TSDC, using its 0.5 migration scenario, projected that 86.92 percent of the population is living in MSAs compared to 13.08 percent residing in non-MSAs. This trend of MSA growth is projected to occur in the long term. In 2015, it is projected that 87.29 percent of the population will reside in the current MSA counties, and only 12.71 percent of the population will reside in non-MSA counties. For the 2011-2015 planning period, the population in MSA areas is expected to increase by 1,351,543 or 6.29 percent, whereas the population in non-MSA areas is expected to increase by only 112,999, or 3.51 percent.

[39] Center for Demographic and Socioeconomic Research and Education, (2002, December.) *Texas Challenge in the Twenty-First Century*, 329.
[40] U.S. Census Bureau. (2008, November). OMB Bulletin No. 09-01. Retrieved from http://www.whitehouse.gov/omb/assets/omb/bulletins/fy2009/09-01.pdf.

Figure 3: Texas MSA Counties



In addition to a greater share of the population, these metropolitan areas also generally have a greater share of industry and jobs, which leaves less-populous areas with dilapidated housing stock and households with lower incomes. According to the US Department of Housing and Urban Development, the FY 2010 median income for Texas Metropolitan areas was $61,000 compared to $46,500 for non-metropolitan areas.[41]

Table 20. Texas MSA and Non-MSA Population Projections: 2010-2015

MSA	2010	2011	2012	2013	2014	2015
Abilene	171,018	172,014	172,959	173,856	174,685	175,467
Amarillo	254,676	257,514	260,367	263,162	265,981	268,770
Austin-Round Rock	1,565,051	1,597,433	1,630,438	1,663,535	1,696,729	1,730,267
Beaumont-Port Arthur	405,139	407,195	409,236	411,191	413,159	415,012
Brownsville-Harlingen	415,304	423,766	432,007	440,445	449,058	457,457
College Station-Bryan	208,258	210,896	213,519	216,071	218,673	221,285
Corpus Christi	460,003	466,070	471,933	477,867	483,678	489,570
Dallas-Fort Worth-Arlington	6,197,626	6,305,846	6,416,199	6,526,826	6,639,133	6,752,624
El Paso	804,087	816,824	829,464	842,216	854,676	867,475
Houston-Sugar Land-Baytown	5,545,836	5,632,883	5,720,333	5,809,147	5,898,186	5,988,118
Killeen-Temple-Fort Hood	391,281	397,196	402,991	408,845	414,614	420,350
Laredo	263,727	271,151	278,946	286,720	294,612	302,631
Longview	207,577	209,068	210,559	212,050	213,501	214,957
Lubbock	271,221	272,873	274,399	275,849	277,278	278,566
McAllen-Edinburg-Mission	750,714	769,972	789,779	809,567	830,120	850,592
Midland	124,575	125,585	126,578	127,564	128,530	129,479
Odessa	132,775	134,030	135,241	136,436	137,624	138,750
San Angelo	113,236	114,029	114,785	115,503	116,186	116,852
San Antonio	1,953,572	1,977,406	2,000,714	2,024,104	2,047,285	2,069,525
Sherman-Denison	118,011	118,767	119,563	120,335	121,066	121,810
Texarkana	90,972	91,113	91,223	91,324	91,410	91,477
Tyler	188,519	190,036	191,595	193,100	194,634	196,159
Victoria	124,336	125,595	126,835	128,106	129,339	130,678
Waco	231,538	233,648	235,709	237,746	239,726	241,694
Wichita Falls	159,225	159,958	160,709	161,459	162,161	162,846

[41] HUD. (2010, May). FY 2010 HUD income limits briefing materials. Retrieved from http://www.huduser.org/portal/datasets/il/il10/IncomeLimitsBriefingMaterial_FY10.pdf.

	2010	2011	2012	2013	2014	2015
Total MSA	21,148,277	21,480,868	21,816,081	22,153,024	22,492,044	22,832,411
Percent	86.92%	86.99%	87.07%	87.14%	87.22%	87.29%
Total Non-MSA	3,182,369	3,211,313	3,239,960	3,268,572	3,296,827	3,324,312
Percent	13.08%	13.01%	12.93%	12.86%	12.78%	12.71%
State of Texas	24,330,646	24,692,181	25,056,041	25,421,596	25,788,871	26,156,723

Source: TSDC

V. Technological Developments

A. Impact of Technology on Current Operations

The business of the Department continues to be enhanced by technology. Today, almost all agency services have a Web component. In FY 2009, TDHCA redesigned its website to provide easier access to Texas citizens searching for assistance. The Help for Texans feature allows customers to quickly search for resources for rent help, buying a home, utility bill help, weatherization, homebuyer education, emergency and homeless services, home repair, and manufactured housing. We also created new pages designed specifically for 1) developers and builders and 2) communities and nonprofits, while keeping prior navigational elements in place so that customers familiar with the Web site would continue to find it easy to use.

The Department's custom-designed applications are created using a combination of Oracle PL/SQL and Java. Both development languages are Web-enabled; the latter is platform independent and license free. The database platform that backs new development work is Oracle. During FY 2009 and 2010, TDHCA rapidly extended its custom applications to meet technology needs associated with the American Recovery and Reinvestment Act (Recovery Act), Disaster Recovery, and the Neighborhood Stabilization Program (NSP). In less than 12 months, the Department built primarily upon the Central Database platform to implement modules for the following programs and activities:

§ Recovery Act Community Services Block Grant Program.
§ Recovery Act Contracting Opportunities.
§ Recovery Act Homelessness Prevention and Rapid Re-Housing Program.
§ Recovery Act Housing Tax Credits Exchange Program.
§ Recovery Act Tax Credits Assistance Program.
§ Recovery Act Weatherization Assistance Program.
§ Community Development Block Grant Disaster Recovery Program for Hurricanes Ike and Dolly.
§ General Recovery Act data collection and 1512 reporting.
§ Homelessness Housing and Services Program.
§ Neighborhood Stabilization Program.

TDHCA's financial management systems are PeopleSoft Financials and the Mitas Automated Accounting and Loan Servicing systems. In cooperation with the Office of the Comptroller of Public Accounts, the Department upgraded to the current Integrated Statewide Accounting System version of PeopleSoft Financials in FY 2007. The Mitas Loan Servicing system was implemented on September 1, 2003, and replaced and integrated the functions of four systems on separate platforms.

The Department supports both its internal and external technology-based services through a combination of Sun Solaris, Linux, FreeBSD, and Windows servers and gigabit-per-second enabled Cisco networking equipment. TDHCA's computing environment includes multiple Web, application, email, file, and database servers that work together to form the Department's Internet presence and to meet internal computing and network needs. Workgroup collaboration is facilitated by file sharing, intranet pages and postings, shared databases, and MS Exchange features such as email, Outlook WebAccess, calendars, and scheduling.

B. Impact of Anticipated Technological Advances

In the FY 2011-2015 time period, TDHCA's Information Systems Division will continue to focus on the Department's mission, goals, and objectives. All current and future projects involving technology will support the business of the agency, and the Department will continue to make use of technology described in this and past strategic plans.

C. Degree of Agency Automation and Telecommunications

The Department's Internet and intranet Web servers continue to serve as front-ends used to disseminate information to the public and employees and as places to update and maintain the Department's data in a dynamic fashion. Most critical business applications have been converted from legacy systems into a Web format, making these applications accessible using a Web browser. They can be accessed from the network or remotely using any Internet connection.

TDHCA's financial management system closely follows Office of the Comptroller of Public Accounts procedures to simplify interfaces and data exchange between the two agencies. Additionally, financial information is shared with other agency applications through interfaces and real-time database links.

Using desktop management software, TDHCA's Information Systems Division (ISD) can automatically deploy software applications, quickly rebuild PCs and laptops, and electronically obtain hardware and software information from individual workstations. These products allow staff to control personal computer configurations more effectively and provide faster support to Department employees.

Any agency employee can electronically submit a help desk request for a hardware or software problem. These requests are assigned according to the nature of the problem to be handled by appropriate ISD staff.

As technology and TDHCA systems evolve, ISD continuously aims to improve ease of data access, provide secure data exchanges, and increase the cost effectiveness of information technology solutions. In these efforts, ISD management works with executive and senior management and the steering committee to ensure alignment with business objectives and proper IT governance.

D. Anticipated Need for Automation

The Department renews its software and hardware maintenance contracts and disaster recovery services on a yearly basis. The planned FY 2011 contracts for server hardware and software installed on servers are listed in the Department's Planned Procurement Schedule.

The Department leases one T-1 circuit for Internet services, nine fractional T-1 circuits for TDHCA's regional offices, and one 100 Mbps WAN circuit between Austin offices.

Budgeted costs for planned IT acquisitions, contracts, and service renewals will be detailed in the TDHCA Information Technology Detail and Legislative Appropriations Request. Actual costs are maintained in the Department's financial management system.

E. Technology Initiative Alignment

"Technology Initiative Alignment" is the strategic alignment of technology initiatives with agency business needs and priorities. This alignment promotes collaboration between the agency's business and IT leaders, and promotes innovative technology solutions that enable the agency to achieve its objectives. The agency's governance structure guides the creation of technology initiatives to ensure that these initiatives align with the agency's business needs and priorities. Additionally, strategically aligning agency technology initiatives with the statewide technology objectives in the State Strategic Plan (The Texas Transformation) drives economies of scale, increases interoperability among the state's information systems, and promotes interagency collaboration.

TDHCA TECHNOLOGY INITIATIVE ALIGNMENT					
TECHNOLOGY INITIATIVE	RELATED AGENCY OBJECTIVE	RELATED SSP STRATEGY/ (IES)	STATUS	ANTICIPATED BENEFIT(S)	INNOVATION, BEST PRACTICE, BENCH-MARKING
Improve security policies and practices.	All goals/objectives.	2.1	Current /Ongoing	Decreases the risk of unintended access to agency information.	Benchmarking: TDHCA uses online DIR IT Security and National Institute of Standards and Technology resources.
Maintain, upgrade, secure, and enhance TDHCA's programmatic and financial systems for managing loans and grants.	Goal/Objective 1-1. Increase Availability of Safe/Decent/Affordable Housing – Make Loans/Grants/Incentives to Fund/Develop/Preserve Housing	4.1 4.2 4.4	Current	Ensures that agency systems for managing loans and grants are in alignment with changing business processes, financial transactions are securely exchanged with the Comptroller's Office and other organizations, and program participants have the ability to report to TDHCA online. In FY 2009 and 2010, TDHCA was able to rapidly enhance these systems to address new requirements for Recovery Act, Disaster Recovery, and HERA programs.	
Maintain TDHCA Web site.	Goal/Objective 2-1. Provide Information and Assistance – Provide Information and Assistance for Housing and Community Services	3.1 3.2	Current	Provides visitors with easy access to information about agency programs and services.	
Maintain, upgrade, secure, and enhance the Community Affairs Contract System.	Goal/Objective 3-1. Improve Poor/Homeless Living Conditions & Reduce VLI Energy Costs – Ease Hardships for 16% of Homeless & Very Low Income Persons Each Year	4.1 4.2 4.4	Current	Assists TDHCA's Community Affairs Division and its subrecipients in administering programs designed to provide assistance to poor and homeless populations.	
Maintain, upgrade, secure, and enhance TDHCA's monitoring systems.	Goal/Objective 4-1. Ensure Compliance with Program Mandates – Monitor Developments & Subrecipient Contracts for Compliance	4.1 4.2 4.4	Current	Reduces paper processing through online reporting by property managers; increases efficiency through an enterprise architecture in which common data elements are shared with other agency systems.	

Deploy a new Manufactured Housing System that supports all major MH business functions and provides customers with the ability to retrieve MH information and submit forms and associated payments online.	Goal/Objective 5-1. Regulate Manufactured Housing Industry – Operate a Regulatory System To Ensure Responsive SOL/Licensing/Other	4.1 4.2 4.4	Current	Provides MH customers with increased access and flexibility; reduces data entry required by MH staff.	Best Practice: Use of Texas Online for all online payments.

VI. Economic Variables And Competitive Business Practices

This section identifies key economic variables affecting the Department's activities. This discussion includes: a brief description of each variable, the extent to which each variable affects service populations; potential changes to each variable; and possible responses to address these changes.

Foreclosures

The recent nationwide increase in home foreclosures is seen as an unintended side effect of extending homeownership opportunities to higher risk households with limited incomes and wealth.[42] According to RealtyTrac, a real estate statistics firm, one in every 730 housing units in Texas received a foreclosure notice in April 2010.[43] While this is a large number of Texans, Texas is faring the national foreclosure crisis better than many other states. The Texas Mortgage Bankers Association found that 2 percent of Texas home loans were in the foreclosure process as compared to a national rate of 4.58 percent at the end of 2009.[44]

Even though Texas currently has a lower-than-average foreclosure rate, the foreclosure rate is still high for Texas: the foreclosure rate from 2000 to 2007 was .6 percent or less.[45] The current housing predicament could have a variety of implications. A glut of owners losing their homes adds to the number of households competing for low-cost rentals. At the same time, increasing foreclosures threaten renters living in foreclosed properties with sudden eviction, according to a report from Harvard University's Joint Center for Housing Studies.

In response to the foreclosure crisis, TDHCA joined with NeighborWorks America in 2008, as well as representatives from local governments, the financial industry, and the non-profit sector to form the Texas Foreclosure Prevention Task Force. The primary activity of the Task Force is to raise awareness about the nationally endorsed bilingual Homeowner's HOPE Hotline (1-888-995-HOPE) available to homeowners struggling with their mortgage payments. Additionally, the Task Force supports the outreach efforts of local foreclosure prevention initiatives; such as, the coordinated efforts already occurring in many Texas

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[42] Harvard University Joint Center for Housing Studies. (2008, April 30). America's rental housing: The key to a balanced national policy..

[43] RealtyTrac. (2010). Texas real estate trends. Retrieved from http://www.realtytrac.com/trendcenter/default.aspx?address=TX&parsed=1&stc=tx

[44] Houston Business Journal. (2010, February 19). Texas foreclosure rate hits 2%. Retrieved from http://houston.bizjournals.com/houston/stories/2010/02/15/daily45.html.

[45] Federal Dallas Reserve Bank of Texas. (2008, February). Hot housing market catching cold in Texas. Retrieved from http://www.dallasfed.org/research/swe/2008/swe0801c.cfm.

markets and monitors mortgage default patterns and trends in Texas. The Task Force also helps to support the creation of new initiatives in areas of high mortgage default rates.

In 2008, TDHCA partnered with HUD-approved housing counselors to apply for the National Foreclosure Mitigation Counseling (NFMC) Program offered through NeighborWorks America. Through three successful applications, TDHCA was awarded $944,640 for foreclosure counseling efforts. Foreclosure mitigation counseling includes financial analysis of the client's situation, research to determine the current value of the home and a review of options available to the client, such as financial restructuring. From January 1, 2009 to December 31, 2009, the NFMC Program served 1,109 households. Of those households 757 stayed in counseling long enough to reach an outcome. Only 16 of those counseled households ended in foreclosures. This is a 2.1% foreclosure rate for homeowners that were facing the prospect of foreclosure before entering counseling.

TDHCA received $102,000,000 for the Neighborhood Stabilization Program (NSP) in FY 2009 through HUD. TDHCA partnered with the Texas Department of Rural Affairs (TDRA) to administer these funds; awards are made to local units of government and other entities with the consent of the local unit of government. The purpose of the program is to redevelop abandoned and foreclosed properties in areas that are documented to have the greatest need as a result of declining property values from excessive foreclosures. These abandoned and foreclosed properties will be redeveloped into affordable housing. Activities for foreclosed or abandoned properties through NSP include homebuyer assistance to households earning 120 percent of the Area Median Family Income, rehabilitation to bring the structure into compliance with the Texas Minimum Construction Standards, and land banking to allow foreclosed properties to be temporarily removed from the real estate market in order to allow neighborhoods experiencing property values to recovery.

NSP also upholds the Protecting Tenants at Foreclosure (PTAF) Act of 2009. To comply with PTAF, NSP requires tenants residing in foreclosed property to be property notified and given 90 days to vacate. In addition, Uniform Relocation Act relocation benefits may apply when NSP funds are used, resulting in funding to allow the renter to find another place to live.

Finally, the households assisted through TDHCA's First Time Homebuyer Program are offered competitive mortgage interest rates and down payment and closing cost assistance. The program is available to credit worthy borrowers that meet either FHA, VA, USDA or Conventional underwriting guidelines. All loans made available under this program are 30-year, fixed rate mortgages, which help households to avoid the pitfalls of adjustable rate mortgage loans. Completion of a pre-purchase homebuyer education course is required of all borrowers utilizing the program.

Tightened Lending Standards

In the wake of the nationwide subprime mortgage and home foreclosure crisis, banks and other lending institutions have tightened their lending standards and terms. In a survey conducted by the Federal Reserve in January 2010, a majority of commercial banks stated that they had generally ceased tightening standards on many loan types in the fourth quarter of 2009, but have yet to unwind the considerable tightening that has occurred over the past two years. Unfortunately, through the first quarter of 2010 banks continued to tighten standards on residential real estate loans. Additionally, a majority of banks continued to report lower demand for revolving home equity lines of credit through the first quarter of 2010. [46] This trend limits the availability of home loans to borrowers, particularly those with weaker credit histories.

Beginning in the third quarter of 2009, homebuyers have seen historically low mortgage interest rates due to the Federal Reserve Bank's unprecedented purchase of nearly all the mortgage-backed securities issued by Fannie Mae and Freddie Mac. However, consumers can soon expect a return to higher mortgage rates once the government stops buying mortgage-backed securities.[47]

In February 2009, the Obama administration approved a first-time homebuyer tax credit as part of an economic stimulus bill that allowed first-time buyers to claim a credit worth $8,000 on their 2008 or 2009 taxes. This credit, which was originally set to expire on November 30, 2009, was extended until April 30, 2010. In 2009 the Department launched two separate programs to help homebuyers take advantage of the federal tax incentive. The programs provided short-term loans for down payment and closing cost assistance in exchange for them filing for and receiving the federal tax credit to repay the loan. By the April 30th deadline, the Department helped 854 low to moderate income families purchase their first home, providing $4.5 million in down payment assistance and helping create an estimated $111.3 million worth of mortgage loans.

The Department's down payment assistance and advantageous mortgage interest rate loan programs continue to help low- and moderate-income Texans overcome obstacles to homeownership. Additionally, the Department's Texas Statewide Homebuyer Education Program certifies providers who offer homebuyer classes to prospective buyers.

Energy Costs

Energy costs often constitute the largest single housing expense after food and shelter for lower-income families. For low-income households that are eligible for weatherization, utility costs often consume 12.2 percent or more of annual gross incomes.[48] Texas also has residential electric prices higher than the national average: 11.70 cents per kilowatt average

[46] "The January 2010 Senior Loan Officer Opinion Survey on Bank Lending Practices," The Federal Reserve. http://www.federalreserve.gov/boarddocs/snloansurvey/201002/default.htm
[47] "Rate Expectations," Texas Real Estate Center, January 2010. http://recenter.tamu.edu/news/NewsRel05-0110.pdf
[48] Texas Data Center. (2006). Weatherization assistance program. Retrieved from http://www.tdhca.state.tx.us/ea/wap.htm.

in Texas versus 10.93 cents per kilowatt for the national average in February 2010. In addition, per capita residential use of electricity is significantly higher than the national average.[49] One cause of the high use may be the hot weather in Texas requiring air conditioning.

TDHCA Energy Assistance programs, funded by the U.S. Department of Health and Human Services' Low-Income Home Energy Assistance Program (LIHEAP), assist low- and very low-income households in making short-term home energy payments, weatherize homes, make other home energy efficiency improvements, and otherwise encourage home energy efficiency. LIHEAP and U.S. Department of Energy (DOE) grants enable TDHCA to assist about 8-10% of the income-eligible population – households with incomes at or below 200% of federal poverty guidelines (adjusted annually).

TDHCA will continue to effectively administer its Low-Income Home Energy Assistance Program and DOE Weatherization Assistance programs to help with the needs created by rising home energy costs. Through the 2009 American Recovery and Reinvestment Act, TDHCA received approximately $326 million in supplemental funds for weatherization, allowing TDHCA's Subrecipients to reach even more low-income Texans.

Rental Submarket Characteristics

TDHCA's rental development activities are directly affected by submarket rent levels and vacancy rates as these issues affect the feasibility of all rental housing developments. Therefore, changes in the rental market directly impact what types of development are feasible and where affordable units can be built. To address local concerns over concentration issues, local governments may create standards and regulations within their consolidated planning documents that limit the amount of affordable housing that may be constructed within their community and provide the local governing entity the ability to increase the quantity of affordable housing above the level approved in the plan through the passing of a resolution.

A specific example of how the Department's activities are affected by market characteristics can be found in the allocation of mortgage revenue bond funds. The Department issues tax-exempt and taxable multifamily mortgage revenue bonds to fund loans to for-profit and qualifying nonprofit 501(c)(3) organizations to finance the costs of acquiring, constructing and equipping of affordable rental housing units. As with all of the Department's rental activities, properties financed through this program are subject to income and rent restrictions for lower income tenants and persons with special needs, tenant service programs, quality and amenity threshold criteria and other requirements as determined by the Department and its governing Board. While these developments are similar to those funded by Housing Tax Credits (HTC) (and are eligible to receive tax credits along with the bonds), the bond programs and the HTC program are administered and allocated differently.

[49] U.S. Energy Information Administration. (2010, June 3). Independent statistics and analysis: Texas. Retrieved from http://www.eia.doe.gov/state/state_energy_profiles.cfm?sid=TX.

- The Private Activity Bond Program is administered by the Texas Bond Review Board utilizing local and state qualified bond issuers, initially through a non-competitive lottery process. Due to the participation of other bond issuers, the Department has less control over where developments are located. Because the Department is the only HTC allocating agency for the state, developers must also apply to the Department for the HTC portion of the bond transaction. Therefore the Department attempts to assist local governing entities with submarket concentration issues as a result of the allocation of the HTC portion of the bond truncation through the use of various controls including, but not limited to, a one mile statutory limitation that restricts the new construction of affordable housing within one mile of another affordable housing development; another statutory restriction that prohibits the new construction of affordable housing in cities or counties that currently contain two times the state average of affordable housing on a per capita basis without the approval of the local governing entity.

- Unlike the HTC program, the use of these funds is not financially feasible statewide without additional financial support through other funding sources. As compared to HTCs, the bonds have higher administrative costs due to the complexity of the transaction. The funding structure also requires higher rent levels in order to achieve a feasible cash flow. Because the higher rents are required, the bond transactions primarily occur in the state's four largest metropolitan areas (Dallas/Fort Worth, Austin, San Antonio, and Houston). Because the transactions are harder to structure, the desirability of sites in certain "qualified" census tracts that are designated by the Treasury to receive additional credits is increased. Again, this can add to submarket concentration concerns.

Destruction of Homes and Displacement of Populations Due to Natural Disasters

The 2008 hurricane season was the most destructive weather season in Texas state history and marked the first time that all Texas coastal counties were presidentially declared disaster areas at the same time. On July 21, 2008 Hurricane Dolly struck south Texas, the most destructive storm to hit the Rio Grande Valley in 41 years. Then, on September 13, 2008 Hurricane Ike rolled across the Gulf of Mexico, destroying forestry, farmlands, crops, housing, and infrastructure. The 2008 storms left more than $29.4 billion in unreimbursed damages.[50]

Initial damage estimates provided by FEMA as of December 2008 were the basis for an initial allocation of $1.3 billion in Community Development Block Grant (CDBG) Supplemental funds to Texas. Of this total, $621.4 million was designated for housing rehabilitation, reconstruction, multifamily rental restoration, and other housing-related recovery needs. HUD released funds on May 14, 2009, July 2, 2009, and July 24, 2009. Over $562.6 million was awarded to 18 local subrecipients, while an addition $58 million was provided to rental developments through state administered programs. Over 70% of this funding was allocated to the Houston-Galveston region. In total, this housing–related

[50] Office of the Governor, *Texas Rebounds Report*, (Austin, TX: Office of the Governor, November 10, 2008).

recovery effort is anticipated to serve over 6,300 households and rehabilitate or reconstruct another 2,200 rental units.

A second round of CDBG Disaster Recovery funding, in excess of $1.7 billion, was announced in August 2009. It is anticipated that Round 2 funds will become available in early 2011. The effort to fully repair the damage caused by Hurricanes Dolly and Ike continues today.

The CDBG Disaster Recovery programs administered through TDHCA address damage caused by Hurricanes Rita, Dolly and Ike, with some programs targeted to Katrina evacuees offered through the City of Houston and Harris County.

Factors Affecting Developers

Recent turmoil in the housing and financial markets has also had a ripple effect on the developers of low-income housing. Developers utilizing the Housing Tax Credit programs and mortgage revenue bonds have encountered a contracting market for those credits, since uncertainties in the housing market and the volatility of the mortgage market have reduced investor activity. Housing developers are also experiencing an adverse shift in terms and availability on loans for land acquisition, land development, and construction, according to a report by the National Association of Homebuilders.[51]

Additional factors putting pressure on developers are increasing construction costs and the rising cost of utilities due to higher energy costs. Because utility costs are deducted from Housing Tax Credit program rent limits, utilities reduce the amount of rent that can be collected from each unit. Developers face a problem when utility costs rise faster than rent limits, and net rental income is reduced. Tax credit rent limits have been stagnant in many areas of the country, partly due to changes made by HUD for determining area median incomes. Rising expenses, such as construction and insurance costs, also compound this issue.

Business Practices on Competitiveness

TDHCA has several measures in place to examine the effect of its business practices on our customer's competeveness. For example, repair and reconstruction programs require Subrecipients to receive competitive bids for construction, thus ensuring quality construction that is competitive with non-government-funded repair programs. Furthermore, to effectively leverage 2009 American Recovery and Reinvestment Act funds, the Texas Department of Housing and Community Affairs promotes competitiveness by publishing contract opportunities both directly with the TDHCA as well at the subrecipient level. These opportunities are posted on the TDHCA or the Electronic State Business Daily website thereby allowing businesses to quickly and conveniently access these opportunities. Further, TDHCA staff disperses information about these opportunities and how they can be

[51] "Credit Tightening On Builder Loans Threatens To Prolong Housing Downturn," National Association of Homebuilders, April 30, 2008. http://www.nahb.org/news_details.aspx?newsID=7060

accessed. By ensuring everyone has access to the contracting opportunities, TDHCA is promoting competition amongst those who ultimately are given Recovery Act funds.

The Department also has rules that promote competitiveness. All programs have a formal award process, as required by statute. Most programs have a competitive application process, such as the Housing Tax Credit Program and Neighborhood Stabilization Program. Moreover, the Real Estate Analysis Division performs underwriting to make sure that the proposed apartment developments using government money meet strict fiscal standards. Recently, in response to customer needs, the HOME and Housing Trust Fund Programs have utilized the option to make funds available through an open cycle application process in which, the organizations are recommended for award on a first-come, first-served basis after passing minimum threshold requirements in addition to federal and statutory requirements. Additionally, HOME and Housing Trust Fund are moving to a new funding reservation process to expedite the expenditure of funds.

However, the extent of the reporting required by federal and state legislation can create regulatory barriers toward competitiveness. More organizations may apply for the funds if there were fewer reporting requirements and if reporting took less time.

The Manufactured Housing Division (MHD) promotes fair competition by providing a way to report and stop unlicensed activities, such as installation, brokering, manufacturing, or sale of a manufactured home. Unlicensed businesses can offer services at much lower fees, which is a disadvantage to license holders and a high risk to the consumer, since unlicensed business are typically not bonded. By featuring a reporting tool on its website, the MHD enables a consumer or license holder to report illegal and unlicensed activity which receives immediate response by the enforcement staff. This reporting process and priority handling by the Division helps create a safe and fair business environment.

VII. Impact of Federal Statutes/ Regulations

A. Role of Federal Involvement

Of TDHCA's program funding, 98 percent came directly from the Federal Government in FY 2009. Since almost all of its funds are derived from federal sources, TDHCA activities and the corresponding beneficiaries have been and continue to be dictated by federal statutes. A brief description of each of those sources and their purposes that affect local agencies and populations is provided below.

B. Description of Current Federal Activities and Anticipated Impact

Community Development Block Grant Program (CDBG)

Source: US Department of Housing and Urban Development

Statute: 42 USCA § 5301 et seq.

Purpose: The primary purpose of CDBG is to develop viable communities by providing decent housing and a suitable living environment, restoration of infrastructure, and by expanding economic opportunities, principally for low and moderate income persons. While TDRA administers the state's formula allocation of CDBG funds, TDHCA, and TDRA are jointly administering CDBG funding provided for rebuilding after Hurricanes Rita and Katrina in 2005 and Hurricanes Dolly and Ike in 2008. TDRA also provides CDBG funds for the operation of seven Colonia Self-Help Centers. Round One and Round Two of funding from the federal government for recovery efforts for Hurricanes Rita and Katrina began in 2006 to make a total of approximately 502.5 million in funding. This round of funding is currently being administered by TDHCA and TDRA, with a large portion of the funds distributed through a third party project management firm, ACS State and Local Solutions. For Hurricanes Dolly and Ike, approximately $1.3 billion was allocated to Texas for recovery efforts with TDRA as the lead agency. TDHCA will administer the housing portion of this grant.

TDHCA received about $621 million for housing activities under the Ike/Dolly Disaster Recovery Round One. All of the funds have been obligated to 18 Subrecipients comprised of councils of governments, cities and counties. The Subrecipients are currently reaching out to those in communities in need of assistance, and providing assistance by repairing or replacing damaged housing. The CDBG disaster recovery program is a reimbursement program so funds must be spent to rehabilitate or reconstruct housing before the funds are released. Approximately $11 million in program and administrative funds have been drawn as of June 1, 2010.

Status: Public Law 109-234 provided $428,671,849 in CDBG disaster recovery funds to provide assistance to help restore and rebuild areas of the state most affected by Hurricanes Rita and Katrina. Approximately 68 % of the funds have been expended for housing and non-housing activities. On the housing side, assistance to rehabilitate or reconstruct over 1500 homes has been provided as of June 1, 2010.

Community Services Block Grant Program (CSBG)

Source*:* US Department of Health and Human Services

Statue*:* P.L. 105-285, 42 U.S.C. 9901-9924

Purpose*:* CSBG funds provide administrative support to the Community Action Network (Network) in Texas. CSBG funds provide support which enables the Network to operate a comprehensive array of programs that address needs of low-income persons in the areas of education, nutrition, emergency services, employment, housing, health, income management, programs to assist persons obtain self-sufficiency, and information and referral services to link persons with other services available in the community. In many rural areas of the State, the Community Action Agency is one of a handful of organizations providing emergency services and services which help transition persons out of poverty into self-sufficiency.

CSBG discretionary funds are utilized to fund statewide projects, organizations serving migrant seasonal farmworkers, and Native Americans, and to fund innovative and demonstration projects. The Department releases a notice of funding availability annually and award recommendations are approved by the Department's board.

CSBG funds are also utilized for disaster related assistance. Community Action Agencies serving areas of the State which suffer a natural disaster are provided with CSBG discretionary funds which are utilized to provide emergency assistance to low-income households impacted by the disaster.

Status*:* The FY 2010 Health and Human Services Appropriations Act (PL 109-149) provided $680 million for CSBG. Texas will received $33.5 million in CSBG funds in FY 2010. A cut or loss of funding of CSBG would have a devastating impact on estimated 470,000+ low-income persons in Texas who are served annually by programs supported with CSBG funds. Due to the availability of CSBG funds in 2009, the Network in Texas was able to leverage approximately $643 million dollars of state, local, and private funds and resources.

Community Services Block Grant (CSBG) – Recovery Act
Source*:* US Department of Health and Human Services
Statute*:* P.L. 111-5 (American Recovery and Reinvestment Act)
Purpose*:* The purpose of the CSBG program is to provide emergency and poverty-related programs to lower-income persons. (See above description.)
Status: Funded $48,148,071. Program services must be rendered by September 30, 2010.

Emergency Shelter Grants Program (ESGP)
Source*:* US Department of Housing and Urban Development
Statute*:* 24 CFR part 576
Purpose*:* The purpose of the ESGP program is to rehabilitate or convert buildings for use as emergency shelters for the homeless, to pay certain operating expenses and essential services in connection with emergency shelters for the homeless, and to provide homeless prevention activities.
Status*:* The U.S. Department of Housing and Urban Development's Community Planning and Development Program (CPD) 2010 allocation for the Emergency Shelter Grants (ESG) totaled $160 million. Texas received $11 million in ESG funds for eligible jurisdictions and, as of this writing, the Texas Department of Housing and Community Affairs received $5.23 million.

Homebuyer Tax Credit Programs: 90-Day Down Payment Assistance Program - Recovery Act
Source: Supplemental Bond Contingency Reserve Funds
Statute: In March 2009, the Department's Board gave staff the authority to utilize up to $5 million in Supplemental Bond Contingency Reserve Funds for down payment and closing cost assistance through the 90-Day Downpayment Assistance Program.
Purpose: The purpose of the program is to provide 5 percent of the first lien mortgage amount up to a maximum of $7,000 for down payment and/or closing costs at 0 percent interest for 90 days.
Status: Funded $5 million. Ended September 23, 2009 and served 756 households.

Homebuyer Tax Credit Programs: Mortgage Advantage Program – Recovery Act
Source: Mortgage Credit Certificate Program and Mortgage Revenue Bond Program
Statute: In March 2009, the Department's Board gave staff the authority to utilize up to $2.5 million from funds within the Mortgage Credit Certificate Program and Mortgage Revenue Bond Program 70 for the Mortgage Advantage Program.

Purpose: The purpose of the program is to provide 5 percent of the first lien mortgage amount up to a maximum of $6,000 for down payment and/or closing costs and offer 0 percent interest on the second lien for 120 days for homebuyers using the Recovery Act first-time homebuyer tax credit and the Texas First Time Homebuyer Program and/or the MCC Program.
Status: Funded $2.5 million. Ended September 23, 2009 and served 98 households.

Homelessness Prevention and Rapid Re-Housing Program (HPRP) – Recovery Act
Source: US Department of Housing and Urban Development
Statute: P.L. 111-5 (American Recovery and Reinvestment Act)
Purpose: The purpose of the program is to enable persons who are homeless or at risk of homelessness to maintain housing.
Status: Funded $41,472,772. All HPRP contracts were executed in October 2009. HPRP is administered through the Community Affairs Division at the Department. According to the Recovery Act, 60 percent of the HPRP funds must be expended within two years and 100 percent within three years, and the Department is on target to meet this deadline.

Home Investment Partnerships Program (HOME)
Source: US Department of Housing and Urban Development
Statute: 24 CFR Part 92
Purpose: The HOME Investment Partnerships Program provides housing assistance for Low, Very Low, and Extremely Low Income households through homebuyer/downpayment assistance, tenant-based rental assistance, new construction or rehabilitation of owner-occupied housing and investment in the acquisition and/or new construction or rehabilitation of affordable multifamily housing.
Status: The FY 2010 HUD Appropriations Act (PL 111-117) provides approximately $1.8 billion for the HOME program, an approximate one percent (1%) decline in allocation compared to FY 2009. For FY 2010, TDHCA anticipates receiving $43,593,825 in HOME Investment Partnership Program funds to be distributed to eligible entities by HOME program staff.

Housing Tax Credit Program (HTC)
Source: US Treasury Department
Purpose: The HTC program provides credits against federal income taxes for owners of qualified low income rental housing projects and the allocation of available tax credit amounts.
Status: It is projected based on the per capita allocation formula that the state will receive $66,000,000 in Housing Tax Credits in 2010 ($51 million in competitive credits and an unlimited ceiling that may result in $15 million in non-competitive credits associated with tax exempt bond financing).

Housing Tax Credit Exchange Program – Recovery Act
Source: U.S. Department of the Treasury
Statute: Section 42, Internal Revenue Code, Section 2306, Tx Govt Code

Purpose: The purpose of the program is to allow developments allocated HTCs in 2007, 2008 and through September 2009 to return their tax credits. The Department can exchange the returned credits with the Treasury for cash at a rate of $0.85 for each dollar in credit returned.
Status: Funded $594,091,929. TDHCA submitted its application to the U.S. Treasury Department in December for the full amount of $594,091,929 and it was accepted. TDHCA has subsequently awarded $585,338,571 of that amount.

Low Income Home Energy Assistance Program (LIHEAP)
Source: US Department of Health and Human Services
Statute: 42 USCA § 8621
Purpose: The LIHEAP program provides direct financial assistance for energy needs of low income persons through the Comprehensive Energy Assistance Program (CEAP), and to partially fund the Weatherization Assistance Program (see below).
Status: The Health and Human Services (HHS) received appropriated funds from the Consolidated Appropriations Act, 2010 (P.L. 110-161), which provided $5.1 billion for LIHEAP. Texas will receive approximately $210 million in LIHEAP funding for FY 2010.

Mortgage Revenue Bond Programs (MRBs)
Source: US Treasury Department
Purpose: Under the MRB program, the Department issues mortgage revenue bonds to help lower income working families buy their first homes with low interest loans. It includes a multifamily bond program and several single family bond programs.
Status: It is projected that the MRB program will receive $90,000,000 in 2010. The actual part of this amount that will be utilized may change significantly based on market conditions in the parts of the state where the bonds are supported by income levels and allowable rents.

National Foreclosure Mitigation Counseling Program (NFMC)
Source: U.S. Department of Housing and Urban Development
Statute: Consolidated Appropriations Act (Public Law 110-161); Housing and Economic Recovery Act of 2008 (Public Law 110-289); Omnibus Appropriations Act of 2009 (Public Law 111-8); Consolidated Appropriations Act of 2010 (Public Law 111-17).
Purpose: The purpose of the program is to help defray counseling costs associated with foreclosure prevention.
Status: Funded $449,960 for NFMC Round 3 and $58,293 for Round 4. Reimburses for counseling performed between July 1, 2009 and June 30, 2010 for Round 3 and December 2009 to December 2010 for Round 4.

Neighborhood Stabilization Program (HERA)
Source: U.S. Department of Housing and Development
Statute: Housing and Economic Recovery Act of 2008

Purpose: The purpose of the program is to redevelop into affordable housing or acquire and hold abandoned and foreclosed properties in areas that are documented to have the greatest need for declining property values as a result of excessive foreclosures.
Status: Funded $102,000,000 for FY 2009.

Weatherization Assistance Program (WAP)
Source: US Department of Energy (DOE) and US Department of Health and Human Services
Statute: 42 USCA § 6861
Purpose: WAP provides residential weatherization and other cost-effective energy-related home repair to increase the energy efficiency of dwellings owned or occupied by low income persons.
Status: The FY 2010 DOE award to the State of Texas is $4,294,261. The Department estimates the proposed funding for FY 2011 to be level funding at approximately $4.3 million. The WAP also receives approximately 15% (about $31 million) of the LIHEAP allocation.

Weatherization Assistance Program - Recovery Act
Source: U.S. Department of Energy
Statute: P.L. 111.85 and P.L. 111-005
Purpose: The purpose of the program is to allocate funding to help households control energy costs through the installation of weatherization measures and through energy conservation education. (See above description.)
Status: Funded $326,975,732. Recovery Act WAP performance period lasts until March 2012.

Section 8 Housing Assistance Program (Section 8)
Source: US Department of Housing and Urban Development
Statute: 42 USCA § 1437f
Purpose: Section 8 provides rent subsidy vouchers to families and individuals, including the elderly and persons with disabilities, whose annual gross income does not exceed 50 percent of HUD's median income guidelines. The statewide program is designed specifically for needy families in small cities and rural communities not served by similar local or regional programs.
Status: The FY 2008 HUD Appropriations Act (PL 110-161) provides $15.9 billion for the Section 8 program. TDHCA, which administers 1,064 vouchers out of 144,000 in the state, will receive approximately $5.6 million for FY 2008 activities.

Tax Credit Assistance Program – Recovery Act
Source: U.S. Department of Housing and Urban Development
Statute: P.L. 111-5 (American Recovery and Reinvestment Act)
Purpose: The purpose of the program is to award federal HOME funds to HTC developments adversely affected by current HTC market conditions.
Status: Funded $148,354,769. Funds must be expended by February 16, 2012.

X. OTHER LEGAL ISSUES

The Texas Legislature has given local governments significant discretion over applications in areas where a potential over concentration of HTC units may exist. The Department works to ensure that local governments are aware of possible TDHCA funding awards in their community through an extensive notification process. With the provision of these notifications, local officials and community organizations are encouraged to comment on the need and impact of the development on local community. Such comments are considered in the final approval of the Board of the application.

In some programs, state and local support for an application is part of the scoring criteria in the application process. The Department’s Multifamily Bond applications include scoring criteria that provides "points" for public comment from local officials. HTC and MRB applications receive points for receiving a commitment for local funding or in-kind contributions (i.e., donations of land, waivers of fees such as building permits, water and sewer tap fees or similar contributions) that would benefit the development. Applicants may also receive points for developing in locations with city or county-sponsored zones or districts or rehabilitating an existing Residential Development that is part of a Community Revitalization Plan.

Local governments control each applicant’s ability to provide evidence of proper zoning for the development site and consistency with local consolidated planning documents. In instances where the property is not currently zoned for housing, the local government may deny a requested zoning change which would make the development ineligible for consideration.

Local governments have significant input on applications in their local areas.

- For applications that involve HTCs, applicants must receive a resolution from the local governing body for approval to add new units if the application is proposing new construction that is within one mile of an existing development that has received an allocation of Housing Tax Credits or Private Activity Bonds for new construction within the last three years and that serves the same population type (elderly/elderly or family/family). This applies to applications proposing New Construction and Adaptive Reuse in counties with over one million in population.
- Additionally, applications proposing development in a city or county that has more than twice the state average per capita of affordable housing units supported by Housing Tax Credits or Private Activity Bonds must receive a resolution from the local governing body for approval to develop in that city or county. This applies to applications proposing New Construction, Adaptive Reuse, and Acquisition / Rehabilitation.

While they do not impact TDHCA directly, the following local governmental issues can be barriers to the provision of affordable housing.

- § Zoning provisions: A municipality's zoning authority governs the type and direction of growth within their boundaries. Ordinances may be passed to encourage affordable housing through measures such as lowering minimum lot sizes, decreasing building set-back requirements, and lowering minimum square footages of homes. However, ordinances that prohibit these types of activities can drive land and construction costs up to the point that affordable housing cannot be built.
- § Impact Fees and Development Fees: As a condition of permit approval, municipalities may assess fees to pay for infrastructure costs. These impact fees increase the cost of developing all types of housing including affordable housing.

The Department has a significant legal dispute, litigation styled ICP vs. TDHCA et al. This lawsuit is currently pending in the Federal District Court for the Northern District of Texas and is scheduled for trial beginning August 2010. Plaintiff, the Inclusive Communities Project is an organization created out of the Walker v. HUD litigation to address racial isues in public housing. They allege that in the Dallas area the Department has engaged in concentration of units in high minority areas creating racial discrimination in the administration of the low income housing tax credit program and have sought an injunction to prevent the TDHCA Governing Board from awarding more credits in Dallas. Additionally they seek to disregard Texas statutes passed by the Texas Legislature and allow the board to make awards using broad discretion.

The Department has denied the allegations and contends that it has administered the program in conformity with the requirements of applicable state and federal law. The location of the low income housing tax credits are admitted; however, the Department contends that the requirements governing the program and the results they yield, including giving preference to certain qualified census tracts, are a direct result of the federal mandates reflected in Section 42 of the Internal Revenue Code

Settlement discussions were held but, as the Plaintiff's seek a rewrite of state and federal law, TDHCA was unable to agree to the resolutions sought.

IX. Self-Evaluation and Opportunities For Improvement

A. Effectiveness and Efficiency of the Department

Performance Measures

This section discusses performance measures established by the 81st Legislature. Goals one through five are established through interactions between TDHCA, the Legislative Budget Board and the Legislature. They are referenced in the General Appropriations Act enacted during the most recent legislative session.

GOAL 1: TDHCA will increase and preserve the availability of safe, decent and affordable housing for very low-, low- and moderate-income persons and families.

Strategy 1.1

Provide mortgage financing and homebuyer assistance through the Single-Family Mortgage Revenue Bond Program

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of single-family households Assisted through the First Time Homebuyer Program	1,716	835	48%	1,911

Explanation of Variance: Due to volatility in the housing market in 2009, the resulting mortgage crisis and the disruption in the investor markets, the Department has been unable to structure and make available a mortgage revenue bond program. Therefore, our performance figures are much lower than originally projected.

Strategy 1.2
Provide funding through the HOME Program for affordable single family housing

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of single-family households assisted with HOME funds	1,255	783	62%	952

Explanation of Variance: Due to programmatic changes and based on public input, there was an increase in the investment per unit, which resulted in a reduction of the total number of households assisted by Rehabilitation Activities. Additionally, due to current economic and housing market challenges, there was significantly less demand for Homebuyer Assistance. There was an increase in the number of households assisted through Tenant-Based Rental Assistance; the increase in the investment per household is reflected in households serving special needs families.

Strategy 1.3
Provide funding through the HTF program for affordable single family housing

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of single-family households assisted through the Housing Trust Fund	209	275	132%	344

Explanation of Variance: The Department received approximately $5.8 million in appropriations for the Housing Trust Fund for the 2008-2009 biennium. In accordance with the funding plan, $1,000,000 was awarded for the Texas Veterans Housing Assistance Program. During the third quarter, this program provided assistance to 30 Veteran Households. The Department also released a Homeownership SuperNOFA, making available $1,000,000 from the annual appropriation. This program provided assistance to 83 Texas families. Additionally, the Department was able to award $50,000 as gap financing for the Disaster Recovery effort in Southeast Texas, supporting the rehabilitation of 8 units. The Department was able to exceed the target due to the lower amount of assistance provided per household for the gap financing for Disaster Recovery and Veteran's Housing Assistance programs.

Strategy 1.4
Provide tenant-based rental assistance through Section 8 certificates

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of households assisted through Statewide Housing Assistance Payments Program	1,494	956	64%	1,100

Explanation of Variance: The targeted measure of 1,494 voucher was developed when HUD provided Section 8 Housing Assistance Program funds based on a specified number of vouchers. The methodology for the allocation of Section 8 Housing Assistance Program funds has changed and the Department no longer received funds based on a specified number of vouchers but rather receives a set amount of funding that limits the number of households served to approximately 1,100 a year. Consequently, the number of households served will be below target.

Strategy 1.5

Provide federal tax credits to develop rental housing

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of multifamily households assisted with Housing Tax Credits	11,779	8,998	82%	10,928

Explanation of Variance: The Housing Tax Credit program activity for this measure is a combination of 4% (multifamily bond related) and 9% (competitive application cycle) rental development funding awards. The 4% credits are tied to the bond market which is experiencing a dramatic slowdown nationally due to the recession in the economy.

Strategy 1.6

Provide funding through the HOME Program for affordable multifamily housing

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of multifamily households assisted with HOME funds	526	620	118%	262

Explanation of Variance: The Department maintained a continuous open-cycle Notice of Funding Availability (NOFA) for rental development throughout FY 2009. Additional HOME funds that were deobligated from non-performing contracts were made available for this strategy. This allowed the Department to maintain a continuous award process and facilitate the timely commitment and expenditure of HOME funds in accordance with federal requirements.

Strategy 1.7

Provide funding through the Housing Trust Fund for affordable multifamily housing

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of multifamily households assisted through the Housing Trust Fund	800	160	20%	38

Explanation of Variance: The Department utilized all funds set-aside for the HTF Multifamily Housing Activity during the 3rd Quarter. Due to programming, the investment of HTF funds was fixed to subsidized units--those units required to assist very low or extremely low income during the affordability period. As a result, there has been a significant increase of investment per unit and a decrease in the estimated number of units assisted.

Strategy 1.8

Provide funding through the Mortgage Revenue Bond Program for affordable multifamily housing

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of households assisted through the Mortgage Revenue Bond Program	2,217	504	31%	1,627

Explanation of Variance: This measure is tied to the bond market which is experiencing a dramatic slowdown. Economic conditions in the equity markets have made it very difficult for developers to present financially feasible applications to the Department. This Strategy correlates to Strategy 1.1.

GOAL 2: TDHCA will promote improved housing conditions for extremely low-, very low- and low-income households by providing information and technical assistance.

Strategy 2.1
Provide information and technical assistance to the public through the Public Affairs Division and the Housing Resource Center

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of information and technical assistance requests completed	4,900	5,281	108%	5,000

Explanation of Variance: None needed.

Strategy 2.2
To provide technical assistance to colonias through field offices

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of on-site technical assistance visits conducted annually from the field offices	800	948	119%	800

Explanation of Variance: As the Department continues to improve the Texas Bootstrap Loan Program and the colonia SHC Program, OCI Field Staff continues to provide technical assistance to units of local governments and nonprofit organizations. The Texas Bootstrap Loan Program Reservation System has necessitated increased technical activities. In addition, technical assistance visits have increased for the colonia SHC Program due to environmental assessments, labor laws, changes to rules and processes and other related federal regulations.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of colonia residents receiving assistance	8,000	11,707	146%	12,000

Explanation of Variance: The Department focuses on empowering the units of local government and nonprofit organizations to work with the colonia residents on a one-on-one basis through the colonia SHCs. Due to increased outreach efforts more colonia residents are utilizing the programs and activities of the colonia SHCs. In addition, targeted performance for 2009 has increased due to Val Verde County conducting two solid waste removal activities during the 3rd Quarter and one during the 4th Quarter and Webb County conducting one during the 3rd Quarter. This activity is reported as area wide and benefiting all colonia residents in the targeted area.

Strategy Measure (C)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of entities and/or individuals receiving informational resources	1,000	636	63%	1,000

Explanation of Variance: The Office of Colonia Initiatives (OCI) staff provides technical assistance to county governments and local nonprofits. Local nonprofits are the primary conduits of information since the Department (OCI) does not provide direct services to individuals. As a consequence, a majority of informational resources is provided through our nonprofits and county governments rather than through OCI staff. It is also important to note that in FY2008 the OCI released a biennial NOFA under the Texas Bootstrap Loan Program.

GOAL 3: TDHCA will improve living conditions for the poor and homeless and reduce the cost of home energy for very low-income Texans.

Strategy 3.1

Administer homeless and poverty-related funds through a network of community action agencies and other local organizations so that poverty-related services are available to very low-income persons throughout the state.

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of persons assisted through homeless and poverty related funds	512,224	590,481	115%	531,498

Explanation of Variance: This measure is impacted by the number of persons assisted through the CSBG and ESGP. CSBG and ESGP subrecipients served 51,045 more persons in SFY 2009 than in 2008. Of that increase, 12,931 persons were assisted by ESGP subrecipients and 38,114 by CSBG subrecipients. There are more persons who are homeless or at risk of homelessness. CSBG subrecipients have also had an increase in the number of persons seeking assistance due to the increase in unemployment and poverty.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of persons assisted that achieve incomes above poverty level.	2,200	1,770	80%	2,800

Explanation of Variance: The tough economic times facing Texas have impacted the ability of CSBG subrecipients assisting persons to transition out of poverty. Staff resources at the subrecipient level also have to focus on providing more emergency assistance and services to families facing unemployment and poverty.

Strategy Measure (C)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of shelters assisted through the Emergency Shelter Grant Program	76	77	105%	76

Explanation of Variance: None needed.

Strategy 3.2

Administer the state energy assistance programs by providing grants to local organizations for energy related improvements to dwellings occupied by very low-income persons and for assistance to very low-income households for heating and cooling expenses and energy related emergencies.

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of households assisted through Community Energy Assistance Program	51,502	129,907	252%	66,050

Explanation of Variance: Federal funding increased.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of dwelling units weatherized through Weatherization Assistance Program	2,960	4,489	151%	3,809

Explanation of Variance: Federal funding increased.

GOAL 4: TDHCA will ensure compliance with the Texas Department of Housing and Community Affairs' federal and state program mandates.

Strategy 4.1
The Portfolio Management and Compliance Division will monitor and inspect for Federal and State housing program requirements.

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Total number of monitoring reviews conducted	965	956	99%	864

Explanation of Variance: None needed.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Total number of units administered	252,766	248,191	98%	209,444

Explanation of Variance: None needed.

Strategy 4.2
The Portfolio Management and Compliance Division will administer and monitor federal and state subrecipient contracts for programmatic and fiscal requirements.

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Total number of monitoring reviews conducted	258	593	229%	208

Explanation of Variance: More monitoring reviews were conducted than anticipated.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of contracts administered	430	256	59%	525**

Explanation of Variance: During this reporting period, there were few new contracts which would result in contract administration. The numbers reported reflect activity on existing contracts.

**The performance measure for 2010 has been changed to "Number of contracts monitored".

GOAL 5: To protect the public by regulating the manufactured housing industry in accordance with state and federal laws.

Strategy 5.1
Provide titling and licensing services in a timely and efficient manner.

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of manufactured housing statements of ownership and location issued	90,000	63,767	70.8%	80,000

Explanation of Variance: This measure is under the targeted amount due to the excessive number of applications which were incomplete, as a result of law changes effective January 2008. Approximately 38% of the applications received were rejected, but will ultimately be resubmitted for issuance.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of licenses issued	4,000	2,318	57.9%	3,100

Explanation of Variance: Performance is under the targeted projection due to receiving fewer applications for new and renewed licenses. Effective in January 2008, the licenses were renewed every two years as opposed to every year, which caused a reduction in the number of renewals for this fiscal year.

Strategy 5.2

Conduct inspections of manufactured homes in a timely manner.

Strategy Measure (A)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of routine installation inspections conducted	6,000	4,801	80.0%	5,000

Explanation of Variance: The measure was below the targeted projection. However, there were 5,315 attempted inspections; but, due to lack of accessibility, only 4,801 could be successfully completed. If all attempted inspections had been successful, then the measure would have been exceeded. The Department is meeting the program's statutory requirement to inspect at least 25% of the installation inspections received. The actual year-to-date inspection rate is 38%.

Strategy Measure (B)	2009 Target	2009 Actual	% of Goal	2010 Target
Number of non-routine installation inspections conducted	2,200	2,239	101.8%	2,300

Explanation of Variance: No explanation required.

Strategy 5.3

To process consumer complaints, conduct investigations and take administrative actions to protect the general public and consumers.

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Number of complaints resolved	1,250	629	50.3%	850

Explanation of Variance: The Department has received fewer complaints than expected, resulting in fewer complaints resolved.

Goals six through eight are established in legislation as riders to TDHCA's appropriations, as found in the General Appropriations Act.

GOAL 6: TDHCA will target its housing finance programs resources for assistance to extremely low-income households.

Strategy 6.1

The housing finance divisions shall adopt an annual goal to apply $30,000,000 of the division's total housing funds toward housing assistance for individuals and families earning less than 30 percent of median family income.

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Amount of housing finance division funds applied towards housing assistance for individuals and families earning less than 30 percent of median family income.	$30,000,000	$42,328,192	141%	$30,000,000

Explanation of Variance: The performance is higher than expected because the Rider 5 report now captures actual incomes of households served by TDHCA and not projected income groups.

Note: For more information, see Rider 5 of TDHCA's Appropriations as found in HB 1 (General Appropriations Act), 81st Legislature, Regular Session.

GOAL 7: TDHCA will target its housing finance resources for assistance to very low-income households.

Strategy 7.1

The housing finance divisions shall adopt an annual goal to apply no less than 20% of the division's total housing funds toward housing assistance for individuals and families earning between 31% and 60% of median family income.

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Percent of housing finance division funds applied towards housing assistance for individuals and families earning between 31% and 60% of median family income.	20%	56%	282%	20%

Explanation of Variance: The majority of TDHCA housing programs serve households under 60% of median family income. The Rider 5 Report includes Section 8, HOME Single Family, HOME Multifamily, Housing Trust Fund Single Family, Housing Trust Fund Multifamily, and Housing Tax Credit Programs.

Note: For more information, see Rider 5 of TDHCA's Appropriations as found in HB 1 (General Appropriations Act), 81st Legislature, Regular Session.

GOAL 8: TDHCA will provide contract for deed conversions for families who reside in a colonia and earn 60 percent or less of the applicable area median family income.

Strategy 8.1

Help colonia residents become property owners by converting their contracts for deed into traditional mortgages.

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Amount of TDHCA funds applied towards contract for deed conversions for colonia families earning less than 60% of median family income.	100	25	25%	100

Explanation of Variance: Rider 6 of the Department's appropriations act requires that the Department direct $2,000,000 a year towards completing 100 contract for deed conversions. The decline in the number of contract for deed requests has inhibited the ability of the Department to attain the target.

Note: For more information, see Rider 6 of TDHCA's Appropriations as found in HB 1 (General Appropriations Act), 81st Legislature, Regular Session.

The following TDHCA-designated goal addresses the housing needs of persons with special needs.

GOAL 9: TDHCA will work to address the housing needs and increase the availability of affordable and accessible housing for persons with special needs.

Strategy 9.1

Dedicate five percent (5%) of the HOME project allocation for benefits of persons with disabilities who live in any area of this state.

Strategy Measure	2009 Target	2009 Actual	% of Goal	2010 Target
Amount of HOME project allocation awarded to applicants that target persons with disabilities.	$2,196,677	$5,167,301	235%	$2,000,000**

Explanation of Variance: These include funds from the Persons with Disabilities Set-Aside and HOME general funds that were used to assist households with persons with disabilities. It is important to note that while funds from the set-aside may be used anywhere in the state, HOME general funds may only be utilized in non-participating jurisdictions, those communities that do not receive funds directly from HUD.

**Estimate based on $40,000,000 prior to finalized Congressional appropriation.

Note: For more information, see 2306.111(c)(2).

Strategy 9.2:

Compile information and accurately assess the housing needs of and the housing resources available to persons with special needs.

Strategy Activities:

- Assist counties and local governments in assessing local needs for persons with special needs.
- Work with State and local providers to compile a statewide database of available affordable and accessible housing.
- Set up a referral service to provide this information at no cost to the consumer.
- Promote awareness of the database to providers and potential clients throughout the State through public hearings, the TDHCA web site as well as other provider web sites, TDHCA newsletter and local informational workshops.

Strategy 9.3:

Increase collaboration between organizations that provide services to special needs populations and organizations that provide housing.

Strategy Activities:

- Promote the coordination of housing resources available among State and federal agencies and consumer groups that serve the needs of special needs populations.
- Continue working with agencies, advocates and other interested parties in the development of programs that will address the needs of persons with special needs.
- Increase the awareness of potential funding sources for organizations to access, to serve special needs populations, through the use of TDHCA planning documents, web site and newsletter.

Strategy 9.4:

Discourage the segregation of persons with special needs from the general public.

Strategy Activities:

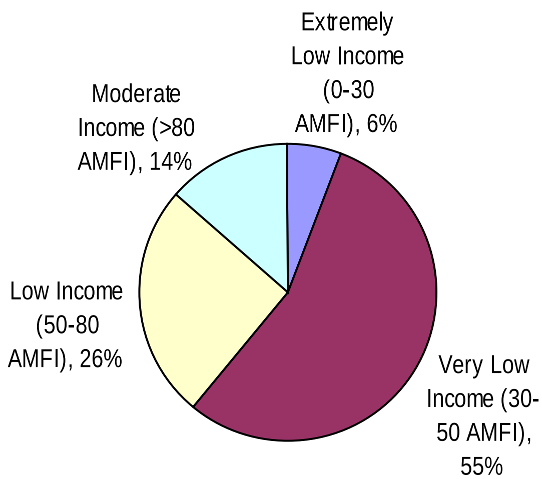
- Increase the awareness of the availability of conventional housing programs for persons with special needs.

- Support the development of housing options and programs, which enable persons with special needs to reside in noninstitutional settings.

Serving Critical Populations

As shown in the figures below, the distribution of TDHCA's housing resources in fiscal year 2009 showed a clear prioritization of assistance to individuals and households with the lowest incomes. The vast majority of households served by the Department were classified as extremely low income, very low income, and extremely low income.

Total Funding by Income Level, FY 2009



Total Households Served by Income Level, FY 2009

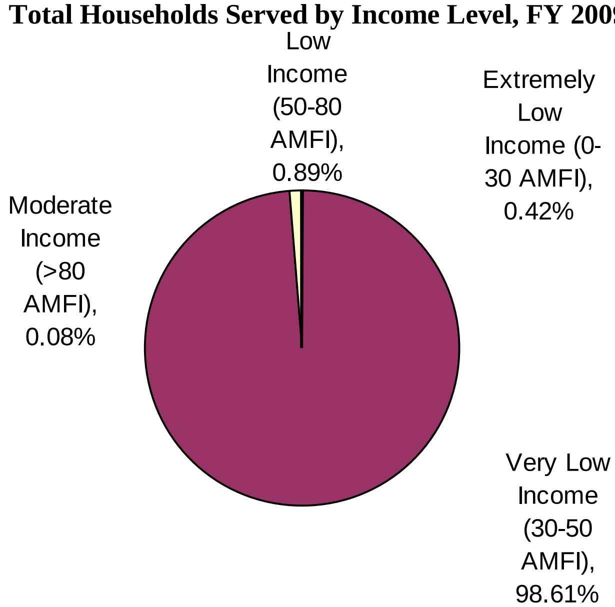


Table 21. TDHCA Funding and Households/Persons Served by Income Category, FY 2009 - All Activities

Activity	Committed Funds	Number of Households/ Individuals Served	% of Total Committed Funds	% of Total Households/ Individuals Served
Extremely Low Income (0-30 AMFI)	$30,400,029	1,677	6%	0.25%
Very Low Income (30-50 AMFI)	$282,428,761	655,017	55%	98.79%
Low Income (50-80 AMFI)	$130,174,650	5,767	25%	0.87%
Moderate Income (>80 AMFI)	$70,200,575	561	14%	0.08%
Total	$513,204,015	663,022	100%	100.00%

Emulating Best Practices

TDHCA is an active member of the following housing and community service industry groups. As a part of these groups, TDHCA strives to emulate the industry's best practices. In addition, when working with local governments and organizations, TDHCA strives to incorporate their best practices, as described starting on page 95 in *E. Working with Federal, State and Local Entities to Achieve Success.*

§ National Council of State Housing Agencies. This organization is comprised of housing finance agencies from of every state, the District of Columbia, Puerto Rico, and the Virgin Islands, and more than 350 profit and nonprofit firms in the affordable housing field. In addition to being a good source of research information on these agencies' activities, this organization holds a number of conferences and training sessions throughout the year where its members meet to discuss changing regulations, best practices and success stories.

§ The Affordable Housing Tax Credit Coalition. A group of developers, syndicators, lenders, nonprofit groups, public agencies, and others concerned with the low-income housing tax credit. The Coalition is a nonprofit corporation that has taken a leading role in all of the legislation concerning the low-incoming housing tax credit.

AHTCC plays a major role in assuring the continuance of the low-income housing tax credit. The Coalition was founded in 1988 with the primary goal of achieving permanent extension of the low-income housing tax credit program. From that time until the credit was permanently extended in 1993, the Coalition worked tirelessly to achieve that end by taking a leading role in coordinating the efforts of many concerned groups and individuals, both on Capitol Hill and throughout the country.

§ The National Association of Housing and Redevelopment Officials (NAHRO). NAHRO is a professional membership organization comprised of over 23,200 housing and community development agencies and officials throughout the United States who administer a variety of affordable housing and community development programs at the local level. NAHRO's mission is to create affordable housing and safe, viable communities that enhance the quality of life for all Americans, especially those of low- and moderate-income by:

- o Ensuring that housing and community development professionals have the leadership skills, education, information and tools to serve communities in a rapidly changing environment;
- o Advocating for appropriate laws and policies which are sensitive to the needs of the people served, are financially and programmatically viable for our industry, are flexible, promote deregulation and local decision making; and
- o Fostering the highest standards of ethical behavior, service and accountability.

NAHRO enhances the professional development and effectiveness of its members through its comprehensive professional development curriculum, conferences, and publications. Through these efforts we are working to equip NAHRO and our membership with the skills, knowledge, and abilities necessary to survive and prosper in a changing environment, and make our Association more efficient and effective.

- § National Association for State Community Services Programs. Membership in this organization includes state administrators of both the CSBG and WAP. The organization was created to provide research, analysis, training and technical assistance to state CSBG and WAP offices, the Community Action Network, community action agencies and state associations, in order to increase their capacity to prevent and reduce poverty.
- § National Energy Assistance Directors' Association. Membership in this organization consists of state administrators and tribal directors of the LIHEAP. The organization is the primary educational and policy organization for the state and tribal directors of the LIHEAP. The organization also works closely with the National Association for State Community Services Programs, representing the state weatherization program offices and the National Association of State Energy Officials to more effectively share ideas on the delivery of state energy services through the Energy Programs Consortium.

Insights Gained and Implemented Programmatic Changes
TDHCA is the recipient of regular internal and external audits as well as monitoring reviews. These audits and reviews are performed by the Department's Internal Audit Division, its external auditors, its funding source agencies, and other state agencies such as the State Auditor's Office (SAO) and the Comptroller's Office.

An independent audit of the Department's financial statements is conducted annually by its external auditors, and regular audits of its major federal programs are conducted in connection with the Federal Single Audit coordinated by the SAO. Various monitoring reviews of the Department's federal programs are conducted by its federal funding agencies, and audits of various programs or processes are conducted by other state agencies. Audits of specific functions or processes within the Department are conducted by the Internal Audit Division.

The results of these audits and reviews have improved TDHCA's internal controls, which are designed to achieve the objectives and goals of the Department, ensure compliance with program rules and regulations, and safeguard the Department's assets. Some specific examples include:

- The Department has significantly improved the quality of its HOME Program monitoring and has implemented a process to enhance the required annual monitoring of its subrecipients and Community Housing Development Organizations.
- TDHCA has enhanced its internal controls over the Weatherization Assistance Program to help ensure that $327 million in Recovery Act funds are spent according to program objectives and that the Department's 44 subgrantees, responsible for weatherizing almost 34,000 homes, are appropriately monitored. Internal controls at the subgrantee level were also enhanced.
- Homes in the Office of Colonia Initiatives' reservation system are correctly categorized by county and are now in compliance with the Government Code. In addition, the reservation system used to commit and track funds for the Bootstrap Loan Program is now reconciled with the system used to track loans, and is consistently updated.
- The Department improved the accuracy of its records related to the recycling of program income in the HOME Division.
- Enhancements were made to the weatherization monitoring process to increase efficiency, communicate the results of monitoring efforts to subrecipients more timely, and ensure that all completed units have an opportunity to be selected for monitoring.

TDHCA has also implemented an enterprise risk management program designed to identify, prioritize, assess, document, report, monitor and address other financial, operating, and legal risks of the Department.

B. Agency Characteristics Requiring Improvement

Communication Regarding the Need for Affordable Housing

While statistics and anecdotal evidence support the enormous need for affordable housing, the Department has determined that additional efforts need to be made to communicate that need to public officials and organizations that can help to address this need in their communities. To that end, staff has made a strong effort to meet with elected officials and neighborhood groups to help them understand TDHCA's programs and processes and how to participate in those processes effectively. The Department has also established general and specific program email distribution lists to announce funding opportunities, hearings, or other events within the Department. In addition, the Department distributes press releases to media outlets throughout the state to promote departmental activities and those that they serve.

Communication with Customers

From the 2010 Report of Customer Service, 67 percent of respondents agreed or strongly agreed with the statement that they were satisfied with their experience with TDHCA. Regarding staff, 82 percent of respondents agreed or strongly agreed that TDHCA staff are courteous and 75 percent agreed or strongly agreed that TDHCA Staff members demonstrated a willingness to assist. However, 22 percent disagreed or strongly disagreed with the statement that "TDHCA staff members respond to my e-mails and voice messages in a timely manner" and 24 percent disagreed or strongly disagreed with the statement that "TDHCA automated phone system is easy to navigate and helps me reach the correct division or individual when I call."

To increase response time, TDHCA has undergone intensive hiring to meet the demands of the increased productivity required. In 2009 staff has increased by more than one-third with most of the positions funded though the 2009 American Recovery and Reinvestment Act and funded by disaster recovery funds provided for Hurricane Dolly and Ike. Some survey comments expressed concern about the lengthy telephone wait times for customers contacting the Manufactured Housing Division. To assist in reducing the hold time, this division has implemented several initiatives to reduce or redirect the number of inquiries, such as a "Support Services," line which serves the needs of license holders, title companies, attorneys, and lenders.

Accurate Data Regarding Affordable Housing Needs in Rural Areas

The Department is mandated to describe available housing data and significant characteristics of the state's housing markets in the State Low-Income Housing Plan and Annual Report. Detailed data on housing needs in rural Texas is unavailable, especially for farmworkers. In 2010, the Department will release a Request for Proposal to analyze rural and farmworker housing in Texas. This report will provide details on housing needs in rural Texas and the status of farmworker housing. The report's analysis will also include a review of best practices and regulatory barriers, as well as recommendations for the Department and others to ameliorate those barriers.

C. Key Obstacles

A number of macro issues that present obstacles to TDHCA's ongoing efforts are below provided in alphabetical order.

Fiscal: The largest obstacle TDHCA faces is the limited amount of financial resources available for affordable housing. Even with all of its resources, TDHCA can serve only about 3.8 percent of those in need. The most apparent obstacle to meeting underserved housing needs in Texas is a severe shortage of affordable housing stock. There is a corresponding shortage of funding sources to maintain and increase this housing stock. With few exceptions, every housing program administered by TDHCA receives far more applications than could be funded from available resources. This is evidence that there is significant interest on the part of both the nonprofit and for-profit sectors to produce the housing that is needed. While layering, leveraging, and partnering helps to stretch available funds, there is no amount of innovation that will overcome this lack of funding.

To add to the fiscal obstacles, the economic downturn starting in 2008 has led to a decrease of the annual TDHCA financial sources. Housing tax credits were severely devalued as tax credits ceased to be in high demand; reduced earnings by businesses that would have bought tax credits resulted in less need for a reduction in their taxes and less need for tax credits. From 2008 to 2009 tax credits went from $.80 cents on the dollar to $.70 cents on the dollar. In addition, there was significantly less demand for bonds. In SFY 2010, no multifamily bonds were issued, whereas the prior fiscal year $42,690,000 in multifamily bonds were issued.

To address the crisis with the devaluation of Housing Tax Credits, the federal government has created two new programs: Housing Tax Credit Exchange and Housing Tax Credit Assistance Program. In addition, several new programs were added to TDHCA through the 2008 Housing and Economic Recovery Act and 2009 American Recovery and Reinvestment Act, including the Neighborhood Stabilization Program, single-family bonds created through authority issued by HERA, the Homelessness Prevention and Rapid Re-housing Program, Mortgage Advantage Program, 90-Day Down Payment Assistance Program, and additional funds for Community Service Block Grant Program and Weatherization Assistance Program. These new programs resulted in approximately $1.1 billion in additional funds for three years starting in 2009. However, a majority of these funds will most likely not address need that existed before the economic downturn; much of the need addressed will most likely be need created by the economic downturn, such as the housing tax credit exchange devaluation, falling property values as a result of excessive foreclosures and increased dangers of homelessness as households' incomes decrease.

Lack of Organizational Capacity: Service providers may also lack organizational capacity. Because of the remote nature of and smaller communities in rural areas, many of these communities are not aware of public or private resources or do not know how to successfully obtain them. The service providers in these communities may not know when or where to apply for funding, have availability of qualified staff, or have experience completing a successful housing program. As compared to larger metropolitan areas, these communities have fewer resources that can be used a matching funds, staff members (if any) to put together an application and oversee an application is funding is obtained.

Local Opposition to Affordable Housing: Public opposition acts as a barrier to affordable housing, especially in regards to low-income multifamily development. During every application cycle for affordable multifamily housing, several communities submit letters to the Department stating their opposition to the proposed developments. Many of these complaints cite the communities' fear of falling property values or an increase in crime if a new affordable housing apartment is developed. However, direct association between affordable housing and crime or lower property values has not been proven by academic studies. These negative attitudes have been perpetuated by the "Not-In-My-Backyard" (NIMBY) mentality. TDHCA continues to work to educate the general public on affordable housing issues and encourages developers to interact directly with neighborhood organizations throughout the application process. This educational process is done with such tools as the public hearing process, TDHCA's website and publications, and the application scoring criteria for rental development funding.

Water Service for Colonias: Another obstacle applies to colonias projects. There have been cases when a county applies to provide water service to an area, but more than one water supply corporation or city may have a Certificate of Convenience and Necessity (CCN) in that territory (CCNs have been issued which have overlapping territories). In these cases, a dispute over which water supply corporation/city has the right to serve the territory (and therefore collect the revenues) may arise. A public hearing process may be necessary to resolve this issue, which can then delay projects for months.

Clear Title: Another obstacle to affordable housing can be difficulty obtaining a clear title for low-income homeowners. Clear titles are required for homeowners to meet program eligibility requirements and protect TDHCA's investment in affordable housing. Homeowners in need of housing repair or contract-for-deed conversions often have difficulty obtaining a clear title. Titles may not be in the homeowners' name because of divorce or widowing, in which case the ex-spouse is also on the title. Titles with liens are a common occurrence when converting contract-for-deeds into traditional mortgages.

Technological: Since TDHCA was created in 1991, its program data has tended to be stored and accessed in a number of separate databases. These separate data sources have been an obstacle to effective agency operations. Through the Central Database project, TDHCA has managed to consolidate much of this data into a single source. This has allowed for processes associated with contract management, draw requests, and compliance reporting to be automated. Throughout 2009, the Department enhanced the Community Affairs Contract System and Housing Contract System to help administer new and expanded programs associated with the American Recovery and Reinvestment Act of 2009, the Housing and Economic Recovery Act of 2008, and Community Development Block Grant Disaster Recovery funding. Additionally, in November 2009, the Department launched the Manufactured Housing Tax Lien Database. This Web application provides taxing entities the ability to release tax liens online. Both systems can be accessed through the TDHCA Interactive page.

D. Opportunities

Organizational Training and Employee Development

In February 2010, TDHCA participated in an Organizational Excellence Survey sponsored by the University of Texas. The survey helps TDHCA leadership by providing information about work force issues that impact the quality of service ultimately delivered its customers. The data provide information not only about employees' perceptions of the effectiveness of their own organization, but also about employees' satisfaction with their employer. This will help management work to address TDHCA's strengths and weaknesses as seen through the eyes of its employees. Results of this survey are described in Appendix F.

Technology

Throughout the FY 2011-2015 time period, TDHCA will focus on the following technology initiatives in support of Department objectives:

§ Continued and frequently extensive enhancement projects for the Department's custom systems.
§ Quarterly upgrades of the Mitas Automated Accounting and Loan Servicing systems.
§ Frequent upgrades of the HAPPY Housing Pro Section 8 System.
§ Web site enhancements to provide customers easier access to information.
§ Participation in the statewide ERP project, dependent on Comptroller's Office timelines.
§ Continued technical support for Department employees and external customers, including supporting the expanded use of Internet technologies, such as webinars, to communicate with customers.
§ IT security and disaster preparedness.

Through the TDHCA Web site, mailing list, webcasts, and webinars, the Internet continues to offer new opportunities to communicate directly with the Department's customers. Important examples of Department services that customers can access online include board meetings, training sessions on agency programs, and an extensive, well organized collection of publications.

Political

Daily communication with the Texas Legislature is a priority for the Department as it responds to program informational requests and constituent queries. In addition to being responsive to members' needs, the Department uses these opportunities to raise awareness of its affordable housing and community affairs programs and how they impact each member's district. Sometimes these discussions will center around how economic development in the state relies heavily upon the existence and availability of affordable housing. The Department strives to provide the most current and comprehensive information on its programs to state's policy-makers as they deliberate on the important matters of affordable housing and community affairs.

E. Working with Federal, State, and Local Entities to Achieve Success

Because the efficiency of service provision and the capacity of available resources to create successful housing and housing-related endeavors can be greatly increased through partnerships with federal, state, regional, and local organizations, TDHCA strives to develop and maintain partnerships with a wide variety of groups.

Coordination with Federal Agencies

As discussed in detail in the "Description of Current and Anticipated Federal Activities" contained in Section VII, TDHCA works with a number of Federal organizations to allocate its funding. These organizations include the US Department of Housing and Urban Development, US Department of the Treasury, the US Department of Health and Human Services, and the US Department of Energy. TDHCA works to establish effective working relationships with these organizations' personnel at both the national and regional level. In addition to ensuring that planning and oversight efforts are accomplished successfully, these partnerships leads to joint marketing of programs, cross program client referrals, and technical assistance with workshops and other training efforts.

As a provider of services to rural Texas communities, TDHCA has an ongoing relationship with USDA Rural Development. Collaborations have been achieved through several TDHCA programs (HTC, HTF, HOME) in the form of multifamily developments and single family homeownership initiatives.

Coordination with State Agencies

Below is a listing of state agencies that TDHCA works with on an ongoing basis.

§ Texas Department of Rural Affairs (TDRA): TDHCA and TDRA have entered into an interagency contract to jointly administer the rural regional allocation of the HTC Program. TDHCA and TDRA jointly provide outreach and training to promote rural area capacity building, develop threshold requirements and scoring criteria for the rural applications, and score the applications. TDRA also participates in the site inspection of rural developments proposed under the rural allocation. TDHCA and TDRA coordinate services in seven Colonia Self-Help Centers to provide housing and technical assistance to improve the quality of life for colonia residents. Finally, TDHCA and TDRA are working together to administer the Community Development Block Grant Disaster Recovery funding for Hurricanes Rita and Katrina and Hurricanes Dolly and Ike.

§ Texas Interagency Council for the Homeless: TDHCA serves as a member of, and provides administrative support to, the Texas Interagency Council for the Homeless—a council comprised of six member state agencies.

§ Texas Department of Aging and Disability Services (DADS): TDHCA, in cooperation with the DADS, the Texas Health and Human Services Commission, and local PHAs, administers a housing voucher pilot program developed by HUD, the DHHS, and the Institute on Disability at the University of New Hampshire. "Project Access" helps low income persons with disabilities transition from nursing facilities into the community by providing access to affordable housing. TDHCA also serves on several committees coordinated by DADs, including the Aging Texas Well Committee, Promoting

Independence Advisory Committee, and the Money Follows the Person Demonstration Project Advisory Committee.

- Texas State Affordable Housing Corporation (TSAHC): TDHCA works with TSAHC to share data and information in the development of the State of Texas Low Income Housing Plan and Annual Report. TSAHC also manages the bank account for the TDHCA Texas Statewide Homebuyer Education Program, collaborates with TDHCA to administer the National Foreclosure Mitigation Counseling program, and is a Neighborhood Stabilization Program.
- Department of State Health Services (DSHS): TDHCA serves on two advisory committees, the Mental Health Planning Advisory Commission and the Transformational Workgroup, coordinated by DSHS that focus on improving mental health services and supports.
- Texas Department of Criminal Justice (TDCJ): TDHCA serves on the Reentry Task Force that was created by the 81st legislature to make recommendations regarding successful reintegration of those released from the TDCJ facilities.
- Department of Family and Protective Services (DFPS): TDHCA continues to serve on the Interagency Coordinating Commission for Building Healthy Families that focuses on the prevention of child abuse and neglect.
- The Housing and Health Services Coordination Council (HHSCC): The HHSCC was created by Senate Bill 1878 during the 81st Texas Legislative Session to increase the amount of service-enriched housing for seniors and people with disabilities; improve interagency understanding of housing and services, and increase the number of staff in state housing and state health services agencies that are conversant in both housing and health care policies; and offer a continuum of home and community-based services that are affordable to the state and the target population. The HHSCC includes eight members appointed by the Governor, and seven State agency representative members. The Executive Director of the Texas Department of Housing and Community Affairs serves as the Council Chair.

Coordination with Local and Regional Governments and Other Organizations

Most recently in 2006, TDHCA conducted a major outreach effort to better understand local needs for specific types of funding and services. This outreach was in the form of a Community Needs Survey that was made available online to community leaders across the state. These leaders included state senators and representatives, city mayors and county judges, city managers, housing and community development departments, US Department of Agriculture regional offices, public housing authorities, councils of governments, community action agencies, and HOPWA administrative agencies.

This survey provided the respondents with opportunity to describe their community's specific housing, assistance, and community development issues. The survey findings will help determine how to most effectively use existing resources, help develop future assistance programs, and will be used as a description of local need in TDHCA planning documents. This data is particularly useful to the Department because it helps inform decisions on what activities will be particularly encouraged through the application process. For example, the survey results help determine whether or not a higher percentage of funding should be dedicated towards new versus rehab multifamily development or if more funding is needed for owner occupied rehabilitation than down payment assistance. Knowing what kind of assistance is in great demand allows set aside amounts and scoring priorities in the program rules to be adjusted accordingly.

Organizations that TDHCA continues to partner with across the state include the following.

§ Affordable housing providers: Department staff is highly sought out to serve as speakers for annual conferences sponsored by the Texas Affiliation of Affordable Housing Providers, the Rural Rental Housing Association of Texas, the Texas Association of Community Development Corporations, the Association of Rural Communities in Texas, and the Texas Association of Local Housing Finance Agencies.

§ Local Utility Companies: TDHCA has partnerships with financial commitments between the Weatherization Assistance Program and El Paso Electric to provide energy conservation measures to very low and extremely low income utility customers.

§ NeighborWorks America. TDHCA continues to contract with NeighborWorks America to facilitate the Texas Statewide Homebuyer Education Program training. The program also collaborates with several other partners including TSAHC, JP Morgan Chase, Fannie Mae, the Texas Home of Your Own Coalition, and Texas C-BAR to implement the trainings.

§ Texas Association of Realtors: The Department since 2004 has worked with the Texas Association of Realtors and Fannie Mae in developing and keeping current an educational outreach campaign to help first time homebuyers access low-cost mortgage financing.

§ Texas Homeless Network: TDHCA collaborates with the Texas Homeless Network through TDHCA's work on the Texas Interagency Council on Homelessness to build the capacity of homeless coalitions across the State of Texas, enabling them to become more effective in the communities they serve.

F. Access to Key Resources

Technological

Open source software will continue to have a positive impact on the Department's IT architecture. TDHCA's IS Division has made evaluation of this alternative, which is free of software licensing costs, a standard part of the process of selecting technical products to meet agency operational needs.

Community/Business Resources

There is an existing network of local service providers which represent a substantial community resource. TDHCA will continue to work closely to help support the ongoing efforts of the following types of organizations: community action agencies, community development corporations, PHAs, CHDOs, faith-based organizations, nonprofit and for-profit entities. The dedicated efforts of these organizations allow the State to make the most of limited funding.

Employees' Attitudes and Possibilities for Change

In February of 2010, TDHCA participated in the Survey of Organizational Excellence sponsored by the University of Texas. This survey forms the basis of the following observations concerning TDHCA's strengths and weaknesses according to the employees of the Department. The very high response rate of 93 percent indicates that employees have an investment in the Department, want to see the Department improve, and generally have a sense of responsibility to the Department.

In reviewing the scoring constructs, the following categorizations are useful:

§ Scores of 375 or higher indicate areas of substantial strength.

§ Scores above 350 indicate employees perceive the issue more positively than negatively.

§ Scores below 350 indicate employees perceive the issue more negatively than positively.

§ Scores below 300 indicate areas of concern for the Department. They should receive immediate attention. No items in the TDHCA survey scored below the 300 range.

In comparison to the 2008 Survey or Organizational Excellence the Department scores improved. The chart below shows the comparison of scores for 2008 versus 2010. All the scores increased in 2010 with the exception of one score (Quality) that decreased by one point.

Score Legend

¨	3 highest scores
à	3 lowest scores

CONSTRUCT NAME	SCORE 2008	SCORE 2010	POINTS DEVIATED
Supervision	348	¨ 411	+63
Team	à 345	¨ 402	+57
Diversity	364	376	+12
Pay	à 302	à 310	+8
Physical Environment	¨ 377	379	+2
Benefits	373	391	+18
Employment Development	¨ 377	401	+24
Strategic	¨ 386	¨ 414	+28
Quality	¨ 388	387	-1
Internal Communication	à 333	à 360	+27
External Communication	376	394	+18
Job Satisfaction	367	382	+15
Information Systems	**	à 374	**
Employee Engagement	**	397	**

** Constructs new for 2010 survey

Areas of Strength

The Department's strengths lie in the perception employees have according to the following: Supervision, Team, and Strategic. They are discussed below in the order of scores received, from highest to lowest.

- ***Strategic (414):*** This reflects employees' thinking about how the Department responds to external influences that should a play a role in defining the agency's mission, vision, services and products. This implies the ability of the Department to seek out and work with relevant external entities. High Strategic scores indicate that employees view the Department as able to quickly relate its mission and goals to environmental changes and demands.
- ***Supervision (411):*** This provides insight into the nature of supervisory relationships within the Department, including aspects of leadership, the communication of expectations and the sense of fairness that employees perceive between supervisors and themselves. High Supervision scores indicate that employees view their supervisors as fair, helpful, and critical to the flow of work.
- ***Team (402):*** This describes employees' perceptions of the people within the Department with whom they work on a daily basis to accomplish their jobs (the work group or team). Also, it gathers data about how effective employees think their work group is as well as the extent to which the Department supports cooperation among employees. High Team scores indicate that employees view their work groups as effective, cohesive, and open in the opinions of all its members.

Areas of Concern

Areas where TDHCA did not score as high were Pay, Internal Communication, and Information Systems issues as described below from lowest score to highest scores. Note that even in these areas, they were still viewed as more positive than negative.

- ***Pay (310)***: Pay is a common negative perception across most, if not all, state agencies. This category addresses perceptions of the overall compensation package offered by the Department. It describes how well the compensation package "holds up" when employees compare it to similar jobs in other organizations.
- ***Internal Communication (360):*** This construct captures the flow of communication within the Department from the top down, bottom up, and across divisions. It addresses the extent to which communication exchanges are open and candid and move the Department toward goal achievement.
- ***Information Systems (374):*** This construct provides insight into whether computer and communication systems enhance employees' ability to get the job done by providing accessible, accurate, and clear information. The construct addresses the extent to which employees feel that they know where to get needed information, and that they know how to use it once they obtain it.

Strategies for Improvement

The Department will continue to capitalize on the information derived from the 2010 Survey of Organizational Excellence.

Improving Areas of Concern

- § While Pay continues to be the lowest scoring category for the Department this category has improved based on the last survey score. There have been many ways the Department has addressed fair pay to include:
- § Review of all pay actions for equity among similar positions.
- § Providing each Division Director with equity reports for the division and an equity report for Department positions.
- § A Department-wide classification audit was conducted by the State Auditor's Office to determine misclassifications for the Department. There were only 8 positions that needed to be reclassified as part of this audit. The Department requires that employee classifications be reviewed during each employee annual performance review to ensure that position classifications are appropriate.
- § The Department participated in a National Housing Organization Compensation Survey. This survey allows the Department to review salaries of other similar positions in comparison to Department salaries.

Enhancing Strengths

- § The Department is committed to instilling a culture of diversity, transparency, professionalism, and integrity. The Department will continue to analyze organizational development through review of program organizational structure to ensure that processes and program goals and objectives are being met with the most streamlined measures and are functioning effectively and efficiently.
- § The Department will continue to have open communications with staff and will promote an environment that allows employees to improve their skills and abilities through continuing education, external training, in-house training, and other training resources as needed.

TDHCA GOALS, OBJECTIVES, AND STRATEGIES AND THE ASSOCIATED OUTCOME, EFFICIENCY, EXPLANATORY, AND OUTPUT MEASURES

Goal 1.
To increase and preserve the availability of safe, decent, and affordable housing for very low, low, and moderate income persons and families.

Objective 1.
Make loans, grants, and incentives available to fund eligible housing activities and develop/preserve single and multifamily units for very low, low, and moderate income households.

Outcome Measures
1. Percent of Households/Individuals of Very Low, Low, and Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
2. Percent of Households/Individuals of Very Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
3. Percent of Households/Individuals of Low Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
4. Percent of Households/Individuals of Moderate Income Needing Affordable Housing That Subsequently Receive Housing or Housing-related Assistance
5. Percent of Multifamily Rental Units Benefiting Very Low, Low and Moderate Income Households

Strategy 1.
Provide federal mortgage loans, through the department's Single Family Mortgage Revenue Bond (MRB) Program and Mortgage Credit Certificate Program, which are below the conventional market interest rates to very low, low, and moderate income homebuyers.

Efficiency Measures
1. Average Loan Amount per Household Assisted through the First Time Homebuyer Program without Down Payment Assistance
2. Average Loan Amount per Household Assisted through the First Time Homebuyer Program the Down Payment Assistance
3. Average Amount per Household Assisted the Mortgage Credit Certificate Program

Explanatory Measures
1. Number of Households Assisted through the First Time Homebuyer Program without Down Payment Assistance
2. Number of Households Assisted through the Down Payment Assistance Program
3. Number of Households Assisted through the Mortgage Credit Certificate Program

Output Measures
1. Number of Households Assisted with Single Family Mortgage Revenue Bond Funds

Strategy 2.
Provide federal housing loans and grants through the HOME Investment Partnership (HOME) Program for very low and low income families, focusing on the construction of single family housing in rural areas of the state.

Efficiency Measures
1. Average Amount per Household for Single Family New Construction Activities
2. Average Amount per Household for Single Family Rehabilitation Activities
3. Average Amount per Household Assisted with Mortgage Financing and Homebuyer Assistance Funds
4. Average Amount per Household Receiving Tenant-based Rental Assistance

Explanatory Measures
1. Number of Households Assisted through Single Family New Construction Activities
2. Number of Households Assisted through Single Family Rehabilitation Activities
3. Number of Households Assisted through Mortgage Financing/Homebuyer Assistance
4. Number of Households Assisted through Tenant-based Rental Assistance
5. Number of Single Family Contract Administration Reviews
6. Number of HOME Single Family Technical Assistance Visits, E-mail, and Calls
7. Number of HOME Single Family Workshops and Trainings Provided

Output Measures
1. Number of Households Assisted with Single Family HOME Funds

Strategy 3.
Provide state housing loans and grants through the Housing Trust Fund for very low and low income households.

Efficiency Measures
1. Average Amount per Household for Bootstrap Activities
2. Average Amount per Household for Non-Bootstrap Activities

Explanatory Measures
1. Number of Households Assisted through Bootstrap Activities
2. Number of Households Assisted through Non-Bootstrap Activities

Output Measures
1. Number of Single Family Households Assisted through the Single Family Housing Trust Fund Program

Strategy 4.
Provide federal rental assistance through Section 8 certificates and vouchers for very low income households.

Efficiency Measures
1. Average Administrative Cost per Household for Housing Choice Voucher Program

Output Measures
1. Number of Households Assisted through Statewide Housing Assistance Payments Program

Strategy 5.
Provide federal tax credits to develop rental housing for very low and low income households.

Efficiency Measures
1. Average Amount of Annual Tax Credits per Household for New Construction Activities
2. Average Total Development Costs per Household for New Construction Activities
3. Average Amount of Annual Tax Credits per Household for Rehabilitation Activities
4. Average Total Development Costs per Household for Rehabilitation Activities

Explanatory Measures
1. Number of Households Assisted through New Construction Activities
2. Number of Households Assisted through Rehabilitation Activities

Output Measures
1. Number of Households Assisted through the Housing Tax Credit Program

Strategy 6.
Provide federal housing loans and grants through the HOME Investment Partnership (HOME) Program for very low and low income families, focusing on the construction of multifamily housing units in rural areas of the state.

Efficiency Measures
1. Average Amount per Household for Multifamily New Construction Activities
2. Average Amount per Household for Multifamily Rehabilitation/Acquisition Activities

Explanatory Measures
1. Number of Households Assisted through Multifamily New Construction Activities
2. Number of Households Assisted through Multifamily Rehabilitation/Acquisition Activities
3. Number of Multifamily Contract Administration Reviews
4. Number of HOME Multifamily Technical Assistance Visits, E-mail, and Calls
5. Number of HOME Multifamily Workshops and Trainings Provided

Output Measures
1. Number of Households Assisted with Multifamily HOME Funds

Strategy 7.
Provide state housing loans and grants through the Housing Trust Fund for very low and low income families, focusing on the construction of multifamily housing units.

Efficiency Measures
1. Average Amount per Household for Multifamily New Construction Activities
2. Average Amount per Household for Multifamily Rehabilitation Activities

Explanatory Measures
1. Number of Households Assisted through HTF New Construction Activities

2. Number of Households Assisted through HTF Rehabilitation Activities
3. Number of Awards such as Capacity Building and Predevelopment Loans

Output Measures
1. Number of Multifamily Households Assisted through the Housing Trust Fund Program

Strategy 8.
Provide federal mortgage loans through the department's Mortgage Revenue Bond (MRB) program for the acquisition, restoration, construction and preservation of multifamily rental units for very low, low and moderate income families.

Efficiency Measures
1. Average Amount of Bond Proceeds per Household for New Construction Activities
2. Average Total Development Costs per Household for New Construction Activities
3. Average Amount of Bond Proceeds per Household for Rehabilitation/Acquisition Activities
4. Average Total Development Costs per Household for Rehabilitation Activities

Explanatory Measures
1. Number of Households Assisted through New Construction Activities
2. Number of Households Assisted through Rehabilitation Activities

Output Measures
1. Number of Households Assisted through the Multifamily Mortgage Revenue Bond Program

Goal 2.
Promote improved housing conditions for extremely LI, VLI, and low income households by providing information and technical assistance.

Objective 1.
Provide information and technical assistance regarding affordable housing resources and community support services.

Outcome 1.
Percent of Information and Technical Assistance Requests Fulfilled within Established Time Frames

Strategy 1.
Provide information and technical assistance to the public through the Housing Resource Center

Output Measures
1. Number of Information and Technical Assistance Requests Completed
2. Number of Short Term Information and Technical Assistance Requests Completed
3. Number of Long Term Information and Technical Assistance Requests Completed

Objective 2.
Promote and enhance homeownership opportunities along with the development of safe neighborhoods and effective community services for colonia residents and/or residents of LI, VLI, and ELI along the Texas-Mexico border.

Strategy 1.
Assist colonias, border communities, and non-profits through Department programs, Border Field Offices, and Colonia Self-Help Centers.

Output Measures
1. Number of Technical Assistance Contacts and Visits Conducted by Border Field Offices
2. Number of Colonia Residents Receiving Technical Assistance
3. Number of Entities and/or Individuals Receiving Informational Resources

Goal 3.
Improve living conditions for the poor and homeless and reduce cost of home energy for very low income Texans.

Objective 1.
To ease hardships of poverty and homelessness for 16 percent of the population of homeless and very low income persons each year.

Outcome Measures
1. Percent of Persons in Poverty That Received Homeless and Poverty-related Assistance
2. Percent of Emergency Shelters Assisted
3. Percent of Persons Assisted That Achieve Incomes above Poverty Level

Strategy 1.
Administer homeless and poverty-related federal funds through a network of community action agencies and other local organizations so that poverty-related services are available to very low income persons throughout the state.

Efficiency Measures
1. Average Agency Administrative Cost per Person Assisted

Explanatory Measures
1. Total Number of Emergency Shelters
2. Total Number of Persons in Poverty
3. Total Number of Shelters Assisted

Output Measures
1. Number of Persons Assisted through Homeless and Poverty-related Funds
2. Number of Persons Assisted That Achieve Incomes Above Poverty Level
3. Number of Persons Assisted by the Community Services Block Grant
4. Number of Persons Assisted by the Emergency Shelter Grant Program

Objective 2.
To reduce cost of home energy for 6 percent of very low income households each year.

Outcome 1.
Percent of Very Low Income Households Receiving Energy Assistance

Strategy 1.
Administer state energy assistance programs by providing grants to local organizations for energy related improvements to dwellings occupied by very low income persons and general assistance to very low income households for heating and cooling expenses and energy-related emergencies.

Efficiency Measures
1. Average Cost per Household Served
2. Average Cost per Home Weatherized

Explanatory Measures
1. Number of Very Low Income Households Eligible for Energy Assistance

Output Measures
1. Number of Households Assisted through the Comprehensive Energy Assistance Program
2. Number of Dwelling Units Weatherized by the Department

Goal 4.
Ensure compliance with Department of Housing and Community Affairs federal and state program mandates.

Objective 1.
Administer and monitor housing developments and subrecipient contracts to determine compliance with federal and state housing program requirements.

Outcome Measures
1. Percent of Properties Monitored Annually
3. Percent of Properties Monitored by the PMC Division that are in Material Non-compliance

Strategy 1.
Monitor and inspect for federal and state housing program requirements.

Efficiency Measures
1. Average Cost to Monitor a Rental Property

Explanatory Measures
1. Total Number of Developments in the Compliance Monitoring Portfolio
2. Total Number of Units Administered

Output Measures
1. Total Number of Monitoring Reviews Conducted
2. Total Number of Desk Reviews Conducted
3. Total Number of Onsite Reviews Conducted
4. Total Number of Land Use Restriction Agreements Processed

Strategy 2.
Administer and monitor federal and state subrecipient contracts for programmatic and fiscal requirements.

Efficiency Measures
1. Average Cost to Monitor a Contract

Explanatory Measures
1. Number of Contracts Monitored
2. Number of Previous Participation Reviews

Output Measures
1. Total Number of Contract Monitoring Reviews Conducted
2. Number of Single Audit Reviews Conducted

Goal 5.
Protect the public by regulating the manufactured housing industry in accordance with state and federal laws.

Objective 1.
Operate a regulatory system to ensure responsive handling of Statement of Ownership and Location and license applications, inspection reports, and complaints.

Outcome Measures
1. Percent of Applications Processed within Established Time Frames
2. Percent of Consumer Complaint Inspections Conducted within 30 Days of Request
3. Percent of Complaints Resulting in Disciplinary Action
4. Percent of Documented Complaints Resolved within Six Months
5. Recidivism Rate for Those Receiving Disciplinary Action

Strategy 1.
Provide services for Statement of Ownership and Location and licensing in a timely and efficient manner.

Efficiency Measures
1. Average Cost per Manufactured Housing Statement of Ownership and Location Issued

Explanatory Measures
1. Number of Manufactured Homes of Record in Texas

Output Measures
1. Number of Manufactured Housing Statements of Ownership and Location Issued
2. Number of Licenses Issued

Strategy 2.
Conduct inspections of manufactured homes in a timely and efficient manner.

Efficiency Measures

1. Average Cost per Inspection

Explanatory Measures
1. Number of Installation Reports Received
2. Number of Installation Inspections with Deviations

Output Measures
1. Number of Routine Installation Inspections Conducted
2. Number of Non-routine Inspections Conducted

Strategy 3.
Process consumer complaints, conduct investigations, and take administrative actions to protect general public and consumers.

Efficiency Measures
1. Average Cost per Complaint Resolved
2. Average Time for Complaint Resolution (Days)

Explanatory Measures
1. Number of Jurisdictional Complaints Received

Output Measures
1. Number of Complaints Resolved

Strategy 4.
Provide for the processing of occupational licenses, registrations, or permit fees through TexasOnline. Estimated and nontransferable.

Goal 6.
Indirect administrative and support costs.

Objective 1.
Indirect administrative and support costs.

Strategies
1. Central Administration.
2. Information Resource Technologies.
3. Operations and Support Services.

Part 1: Technology Assessment Summary

· Provide a brief description of the planned technology solutions that respond to the key factors that will affect the agency. Consider how those solutions align with the statewide technology goals reflected in the State Strategic Plan for Information Resources *(Advancing Texas Technology).*

Throughout the FY 2011-2015 time period, TDHCA will focus on the following technology initiatives in support of Department objectives:

§ Continued and frequently extensive enhancement projects for the Department's custom systems.
§ Quarterly upgrades of the Mitas Automated Accounting and Loan Servicing systems.
§ Frequent upgrades of the HAPPY Housing Pro Section 8 System.
§ Web site enhancements to provide customers easier access to information.
§ Maintenance of PeopleSoft Financials.
§ Participation in the statewide ERP project, dependent on Comptroller's Office timelines.
§ Continued technical support for Department employees and external customers, including supporting the expanded use of Internet technologies, such as webinars, to communicate with customers.
§ IT security and disaster preparedness.

· Provide agency descriptions related to each statewide technology goal listed below. The criteria for these descriptions appear after each goal and are labeled 1.a, 1.b, 2.a, and so forth.

Statewide Technology Goal 1

Strengthen and Expand the Use of Enterprise Services and Infrastructure

1.1 Enhance Capabilities of the Shared Infrastructure
- Data Center Infrastructure
- Communications Technology Infrastructure
- Statewide Portal Infrastructure

1.2 Leverage Shared Applications
- Enterprise Resource Planning (ERP)
- Email Messaging

1.3 Leverage the State's Purchasing Power
- Product and Services Portfolio Expansion

1.a Describe agency plans to strengthen and/or expand its capabilities through the initiatives described in Statewide Technology Goal 1.

TDHCA currently shares a small data center with the Office of the Comptroller of Public Accounts / Texas Treasury Safekeeping Trust Company. TDHCA plans to continue to operate its data center in an efficient, cost-effectively manner, while concurrently accommodating the agency's growing business application, data, and other technology requirements, until the time that the agency is designated as a data center agency. At that time, the key concern for the agency will be service levels associated with software promotions for the key systems that support agency programs. Currently, TDHCA frequently makes software changes, tests, and schedules after-hours software promotions in the course of a single day. Another important concern will be the potential for increased costs.

In FY 2009 and 2010, TDHCA procured Communications Technology Infrastructure services through DIR to help establish a local area network in the agency's new second Austin office and a wide area network connection between the second office and headquarters. DIR provided excellent customer service throughout this project. TDHCA anticipates strengthening its capabilities in this area by increasing WAN speeds for its nine regional offices across the state.

Regarding Enterprise Resource Planning, TDHCA will continue to support its installation of the Texas Integrated Statewide Accounting System (ISAS) version of PeopleSoft Financials 8.8 until the Texas Project ONE timeline calls for TDHCA conversion to the statewide ERP system. A key concern for TDHCA will be continued support for critical agency-specific customizations needed for financial management of state and federal community affairs and housing programs.

1.b Describe agency plans to strengthen and/or expand its capabilities through other initiatives that leverage enterprise or multi-agency services and infrastructure, including managed services, shared applications, internal consolidation efforts, and procurement strategies.

TDHCA partners with the Texas Department of Rural Affairs by sharing custom business applications that support the Community Development Block Grant Disaster Recovery programs and the Neighborhood Stabilization Program. We will continue to support these applications for the duration of the programs.

Statewide Technology Goal 2
Secure and Safeguard Technology Assets and Information

2.1 Align the State's Approach to Enterprise Security with other State and National Strategies
- State Enterprise Security Plan
- Vulnerability to Cyber Attacks
- Response and Recovery Capabilities

2.2 Integrate Identity Management, Credentialing, and Access Privileges
- Identity Management Services

2.a Provide an update on the agency's progress in implementing strategies to align with the *State Enterprise Security Plan.*

TDHCA maintains a set of security policies that address IT security rules defined in Texas Administrative Code, Title 1, Part 10, §202, Information Security Standards. These security policies are also aligned with the *State Enterprise Security Plan*. Areas addressed include user accounts, network access, Internet and email usage, physical security, network perimeter security, portable devices, encryption, security awareness, separation of test and production environments, personally identifiable information, risk assessments, and reporting.

2.b Describe the agency's identity management strategies in place or planned.

Because of the number of separate TDHCA business applications that agency customers access, combined with separate state and federal systems accessed by TDHCA staff, the agency has not implemented a single identity management system. However, TDHCA has made progress in incorporating most community affairs and housing subrecipient information, at both the organization and individual levels, into the Central Database suite of systems. In July 2010, we plan to launch the new Manufactured Housing System, and MH customer information and accounts will be maintained in that system. Information on many of these customers is maintained separately in PeopleSoft Financials and the Mitas Accounting and Loan Servicing systems. Due to different architectures and requirements, and other critical IT priorities, consolidating identity management between all these systems is not currently feasible.

Identity information is interfaced between PeopleSoft Financials and systems maintained by the Office of the Comptroller of Public Accounts. Identity information is also entered by TDHCA staff into federal systems such as the Disaster Recovery Grant Reporting System and the Integrated Disbursement and

Information System. The challenges associated with moving to a single source for identity management are great, considering the size and number of existing systems and new IT projects at the agency, state, and federal levels.

Statewide Technology Goal 3
Serve Citizens Anytime, Anywhere

3.1 Expand and Enhance Access to Agency Services
- Multi-Channel Access
- Rural Broadband Expansion

3.2 Facilitate Open and Transparent Government
- Best Practices for Information Assets

3.a Describe the agency's plans to expand or enhance access to its services and promote citizen engagement through online services and emerging technologies.

In FY 2009, TDHCA redesigned its Web site. A major goal was to provide easy access to assistance information to Texans in need of community and housing services provided through TDHCA. The Help for Texans feature provides Web site visitors with options to search for rent help, home buyer assistance, utility bill help, weatherization resources, home repair information, and emergency and homeless services throughout the state. TDHCA plans to maintain and improve these online services.

After the planned launch of the new Manufactured Housing System in July 2010, TDHCA plans to enhance the system through a phase two project that involves Texas Online. The goal of the phase two project is to provide MH customers with the ability to submit and pay for Statement of Ownership and Location applications online.

3.b Describe initiatives planned or in process that will facilitate access to agency information and public data.

TDHCA currently publishes an extensive library of information on agency programs and services through its Web site. Through the Web site, it is possible for any visitor to access this information quickly through the Site Search feature or through menus and other navigational elements.

TDHCA also makes online databases available through the Web site, including the Help for Texas feature and the Manufactured Housing "Search Our Database" feature.

Statewide Technology Goal 4
Pursue Excellence and Foster Innovation across the Enterprise

4.1 Link Technology Solutions to Workplace Innovations
- Workplace Productivity and Collaboration

4.2 Pursue Leading-Edge Strategies for Application Deployment
- Cloud Computing
- Specifications, Toolkits, and the Application Marketplace
- Legacy Systems Modernization

4.3 Optimize Information Asset Management
- Best Practices for Managing Digital Information

4.4 Promote the Use and Sharing of Information
- Health Information Exchange
- Statewide Communications Interoperability
- Justice Information System Integration
- Enterprise Geospatial Services

4.a Describe agency plans to implement or enhance workplace productivity and to leverage collaboration tools.

TDHCA is currently exploring a generic, electronic document workflow solution. If we proceed with this project, the goal is to provide a system through which any manually routed forms and documents can be incorporated. The system must integrate with Active Directory and allow for configurable workflows, with no programming required.

4.b Describe agency strategies to develop and deploy applications more efficiently (i.e., through Cloud Computing, Software as a Service, Application Toolkits, Legacy System Modernization).

TDHCA's primary strategy for quickly deploying applications is to build upon existing systems when possible. During FY 2009 and 2010, TDHCA rapidly extended its custom applications to meet technology needs associated with the American Recovery and Reinvestment Act (Recovery Act), Disaster Recovery, and the Neighborhood Stabilization Program (NSP). In less than 12 months, the Department built primarily upon the Central Database platform to implement modules for the following programs and activities:

- Recovery Act Community Services Block Grant Program.
- Recovery Act Contracting Opportunities.
- Recovery Act Homelessness Prevention and Rapid Re-Housing Program.

- Recovery Act Housing Tax Credits Exchange Program.
- Recovery Act Tax Credits Assistance Program.
- Recovery Act Weatherization Assistance Program.
- Community Development Block Grant Disaster Recovery Program for Hurricanes Ike and Dolly.
- General Recovery Act data collection and 1512 reporting.
- Homelessness Housing and Services Program.
- Neighborhood Stabilization Program.

4.c Describe agency strategies to enhance information asset management practices.

TDHCA manages IT assets through a combination of the TDHCA Inventory System and the agency's help desk system (Track It). Once each year, the agency performs a physical inventory of IT assets.

4.d Describe agency practices or plans to enhance the use and sharing of information with agency business partners.

TDHCA plans to continue to maintain and enhance the business applications described in other sections of this strategic plan that are accessed by subrecipients of community affairs and housing programs and Manufactured Housing business partners.

APPENDIX A. DESCRIPTION OF TDHCA'S PLANNING PROCESS

In the course of creating or revising required state or federal documents or other activities that require long-term planning, TDHCA takes into account assessment, analysis, and public input. The Department's planning process centers around forming agency policies and programs on the basis of reliable data analysis, staff expertise, and informed public input from consumers, advocates, housing providers, and legislative members.

In general, the planning process involves the following steps:

1. review of legislative and/or regulatory requirements,
2. development of a timeline,
3. data collection,
4. analysis and policy development,
5. legal and executive review,
6. public comment acceptance and response,
7. board review and approval (if appropriate), and
8. implementation.

The planning process begins with the review of the legislative and/or regulatory requirements by legal staff and the appropriate divisional staff. After the requirements are determined, divisional staff will establish a timeline for the planning process through implementation.

A focused effort is made to collect information required to develop the draft rule or planning document. Appropriate staff is consulted for their expertise and to request any required supporting data. A round table discussion with members of the public may be held to insure that a variety of viewpoints on the relevant issues are obtained. Relevant demographic, economic, and subjective data is also typically assembled from outside sources. This data is obtained from a wide variety of appropriate sources, such as the US Census, Texas State Data Center, Real Estate Center, surveys, interviews, and best practices from other agencies.

The assembled data are then analyzed and used to develop preliminary policies to address the identified need. These policies are developed to be consistent with the goals, objectives, and performance measures as outlined in the TDHCA Plan and reported to the LBB and the Governor's Office of Budget, Planning, and Policy. After the draft policy has been developed, a black-lined rule or plan is drafted to communicate it to all stakeholders. The draft is then reviewed by legal and executive staff, and is also approved by the TDHCA Board. Any outstanding issues are resolved, and the draft rule or planning document (or a summary of the draft) is published in the *Texas Register* for public comment, if applicable. Announcements about the rule revision or document and the public comment period are also sent out over the Department's listserv and by any legislatively required means.

While quantifying the housing needs of Texas is vital to the TDHCA planning process, it is also essential to reconcile the data with local needs to establish regional priorities. Therefore the next phase of planning revolves around dialogue with public officials, consumers and interested parties. All data and resulting conclusions are made available to the public followed by public comment periods and public hearings.

In addition to the many special topic hearings and round tables held each year, TDHCA holds a set of consolidated public hearings annually (Consolidated Hearings) to cover all aspects of the Department's services and the provision of those services. The Consolidated Hearings are held throughout the state in cities selected to reach approximately half of the regions in Texas. The hearings ensure that TDHCA customers have direct contact with agency staff. The discussions at the public hearings focus on the state's affordable housing and community service needs, Department program rules, and Department policies as outlined in the *State of Texas Low Income Housing Plan and Annual Report* and the *State of Texas Consolidated Plan*.

TDHCA strongly encourages public involvement in the Department's policy development process. In addition to public hearings, written comment is accepted by mail, email and fax during the public comment periods. At the close of the public comment period, TDHCA staff reviews public input and develops reasoned responses. All public comment, both written comment and the hearing transcripts, is published on the Department's website or in the planning document with the reasoned responses.

After all information is compiled, policies developed, and public comment is taken, the planning document or rule is finalized. General Department policies are outlined in the *State of Texas Low Income Housing Plan*. Individual programs may have specific documents that govern their activities (i.e., the Qualified Allocation Plan for the Housing Tax Credit Program and the Biennial Plan for the Housing Trust Fund).

Where required by statute or the Board, documents and rules are brought before the Department's Board for approval. The Department's Board meets once a month to review funding and policy recommendations and reports. All Department policies are brought before the Board and are open for public comment at the meeting. The final document or rule is posted for public review seven days before the meeting. Action is taken on the item by the Board. If approved, the policy will be implemented.

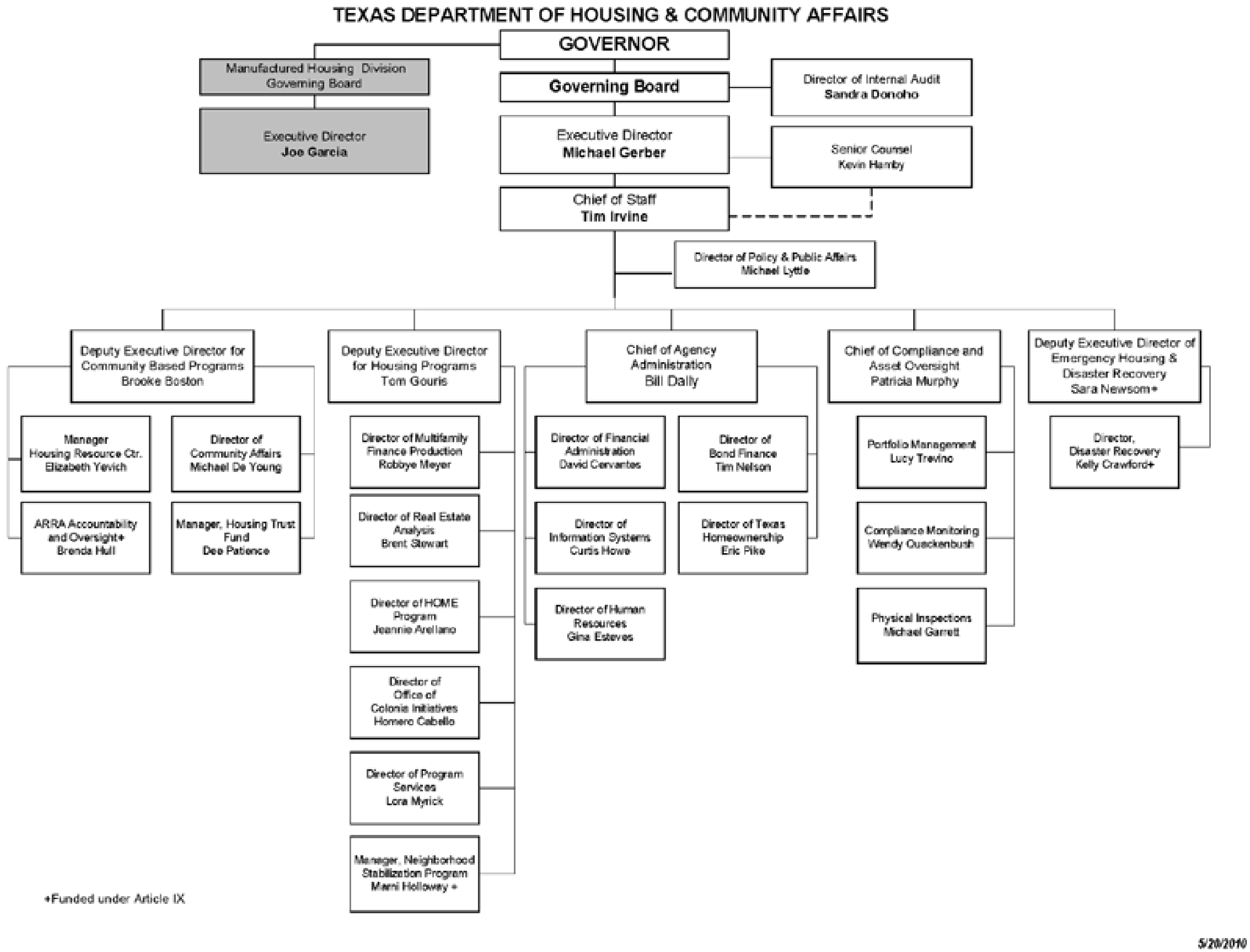
For the programs that are competitive or open to various nonprofit and for-profit entities, the Department holds application and implementation workshops. These workshops are used to inform program customers of the services available from TDHCA, as well as train organizations on the implementation of the programs for which they have successfully applied. These workshops present the public the opportunity to address program policies.

Once the document or rule is approved and in place, TDHCA uses performance measurement to review its effectiveness. The performance measurements are reported to the Legislative Budget Board and in planning documents, such as the State Low Income Housing Plan and Annual Report. Strategies, which are ways to accomplish key objectives, become the basic building blocks for the budgeting and expenditure of state funds. Objectives, strategies, and measures funded in the Legislative Appropriations Request relate specifically to the primary functions or areas of the Department. Department and program effectiveness feeds into the strategic planning process by showing goals that have been met and by showing areas that need additional attention.

Finally, TDHCA uses enterprise risk management as part of the agency's planning process. Risk management identifies and measures critical operational, strategic, and environmental risks. The process involves the following steps: identify key processes, identify risks that threaten key processes, rate severity and probability of each risk, and decide what internal controls can be used to avoid/reduce risk. The results of this assessment are then used to implement risk mitigation. This activity is an important component of strategic planning because it helps to clarify the agency's key processes and ensure that they are successfully maintained.

TDHCA continues to work toward a comprehensive approach to planning, focusing on its missions, goals, and objectives, and establishing meaningful performance measures to report its progress toward those goals and objectives.

APPENDIX B. CURRENT ORGANIZATIONAL CHART



APPENDIX C. FIVE-YEAR PROJECTIONS FOR OUTCOMES

Key Outcome Measures are shown in bold.

1 Increase Availability of Safe/Decent/Affordable Housing	2010	2011	2012	2013	2014	2015
1 Make Loans/Grants/Incentives to Fund/Develop/Preserve Housing						
% of Households/Individuals of Very Low, Low, and Moderate Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance	0.75%	0.74%	0.74%	0.74%	0.74%	0.74%
% of Households/Individuals of Very Low Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance	0.27%	0.27%	0.27%	0.27%	0.27%	0.27%
% of Households/Individuals of Low Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance	2.42%	2.41%	2.41%	2.41%	2.41%	2.41%
% of Households/Individuals of Moderate Income Needing Affordable Housing that Subsequently Receive Housing or Housing-Related Assistance	0.15%	0.15%	0.15%	0.15%	0.15%	0.15%
% of Multi-family Rental Units Benefiting Very Low, Low and Moderate Income Households	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
2 Provide Information and Technical Assistance						
1 Provide Info & Technical Assistance for Housing and Community Services						
% of Short Term and Long Term Information and Technical Assistance Requests Fulfilled Within Established Time Frames	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
3 Improve Poor/Homeless Living Conditions & Reduce VLI Energy Costs						
1 Ease Hardships for 16% of Homeless & Very Low Income Persons Each Year						
% of Persons in Poverty that Received Homeless and Poverty-related Assistance	12.35%	12.35%	12.35%	12.35%	12.35%	12.35%
% of Emergency Shelters Assisted	8.23%	8.23%	8.23%	8.23%	8.23%	8.23%
% of Persons Assisted that Achieve Incomes above Poverty Level	0.07%	0.07%	0.07%	0.07%	0.07%	0.07%
2 Reduce Cost of Home Energy for 6% of Very Low Income Households						
% of Very Low Income Households Receiving Energy Assistance	5.28%	3.81%	3.81%	3.81%	3.81%	3.81%
4 Ensure Compliance with Program Mandates						
1 Monitor Developments and Subrecipient Contracts for Compliance						
% of Properties Monitored Annually	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
% of Properties Monitored by the PMC Division that Are in Material Non-compliance	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%

5 Regulate Manufactured Housing Industry	2010	2011	2012	2013	2014	2015
1 Operate a Regulatory System Ensure Responsive SOL/Licensing/Other						
% of Applications Processed within Established Time Frames	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
% of Consumer Complaint Inspections Conducted within 30 Days of Request	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
% of Complaints Resulting in Disciplinary Action	12.00%	12.00%	12.00%	12.00%	12.00%	12.00%
% of Documented Complaints Resolved within Six Months	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%
Recidivism Rate for those Receiving Disciplinary Action	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%

APPENDIX D. LIST OF MEASURE DEFINITIONS

OUTCOME MEASURE DEFINITIONS

1.1.1 Outcome

Definition: The percentage of households/individuals of very low, low, and moderate income that need housing and subsequently receive housing or housing related assistance represents services provided by the Housing Trust program, the HOME program, the Section 8 program, the Housing Tax Credit program, the Single Family Bond program, and the Multifamily Bond program.

Data Limitations: The Department contracts with local entities to administer its various housing programs. The intake, eligibility review, and actual service are provided at the local level. The reporting of households served is provided by the contracted entity. Reported performance is considered reliable.

Data Source: The number of households served is maintained by each housing program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

Methodology: The percentage of households assisted is based on: (numerator) an actual count of households/individuals using TDHCA's housing programs and (denominator) the most recent census data of Texans who need affordable housing.

Purpose: This measure addresses the extent to which services are provided by all housing programs and calculates the level of service compared to the need. This measure is important because it identifies the total population in need and how many households/individuals the housing programs were able to serve.

1.1.2 Outcome

Definition: The percentage of very low income households receiving housing assistance represents services provided by the Housing Trust program, the HOME program, the Section 8 program, the Housing Tax Credit program, the Single Family Bond program, and the Multifamily Bond program.

Data Limitations: The Department contracts with local entities to administer its various housing programs. The intake, eligibility review, and actual service are provided at the local level. The reporting of households served is provided by the contracted entity. Reported performance is considered reliable.

Data Source: The number of very low income households served is maintained by each housing program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

Methodology: The percentage of households of very low income served with housing or housing related assistance is based on: (numerator) an actual count of households/individuals using TDHCA's housing programs and (denominator) the most recent census data of very low income Texans who need affordable housing.

Purpose: The measure addresses the extent to which services are provided by all housing programs for very low income households and calculates the level of service provided to the very low income population.

1.1.3 Outcome

Definition: The percentage of low income households receiving housing assistance represents services provided by the Housing Trust program, the HOME program, the Section 8 program, the HTC program, the Single Family Bond program, and the MFB program.

Data Limitations: The Department contracts with local entities to administer its various housing programs. The intake, eligibility review, and actual service are provided at the local level. The reporting of households served is provided by the contracted entity. Reported performance is considered reliable.

Data Source: The number of low income households served is maintained by each housing program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.

Methodology: The percentage of low income households served with housing or housing related assistance is based on: (numerator) an actual count of households/individuals using TDHCA's housing programs and (denominator) the most recent census data of low income Texans who need affordable housing.

Purpose: The measure addresses the extent to which services are provided by all housing programs for low income households and calculates the level of service provided to the low income population. This measure is important because it identifies, of the number of low income, how many low income households/individuals the housing programs were able to serve.

1.1.4 Outcome

Definition: The percentage of moderate income households receiving housing assistance represents services provided by the Single Family Bond program.

Data Limitations: The Department contracts with a Master Servicer to maintain data of households served. The intake, eligibility review and actual service is provided by the participating lender. The reporting of households served is also provided by the Master Servicer. Reported performance is considered reliable.

Data Source: The number of moderate income households served is maintained by the Single Family Bond program and reported quarterly. Data is provided by the Master Servicer, entered by staff and maintained in the agency's computer system.

Methodology: The percent of households of moderate income served with housing or housing related assistance is based on: (numerator) an actual count of moderate income households/individuals using TDHCA's housing programs and (denominator) the most recent census data of moderate income Texans who need affordable housing.

Purpose: The measure addresses the extent to which services are provided by the Single Family Bond program, which is the only housing program serving the moderate income population. This measure is important because it identifies, of the number of moderate income, how many moderate income households/individuals the Single Family Bond program was able to serve.

1.1.5 Outcome
Definition: Under the multifamily bond programs, developers/borrowers can designate either 20% of the units in each property at 50% area median family income or 40% of the units at 60% area median family income. It is not possible to determine on a projection basis the overall percentage of units within these categories that will be financed in a given year.
Data Limitations: The number of units available for very low and low income households is reported by the project developer. Performance depends on the allocation of volume cap by state lottery conducted by the Texas Bond Review Board.
Data Source: The number of very low and low income households served is maintained by the Multifamily Bond program and reported quarterly. Data is entered by staff and maintained in the agency's computer system.
Methodology: To calculate the percentage of units financed at the end of the year for any category, divide the number of total units within each category by the number of total units financed.
Purpose: The measure addresses the number of units in a development that have been designated for very low and low income families. This measure is important because it measures how effectively the Multifamily Bond program has been in providing rental units to very low and low income households/individuals.

2.1.1 Outcome
Definition: This measure tracks the percentage of information and technical assistance requests completed within established time frames by the Center for Housing Research, Planning, and Communications.
Data Limitations: No limitations
Data Source: The receipt and response to requests is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The percent of requests completed on time will be based on (numerator) total requests completed by the deadline established and (denominator) the total amount of requests completed.
Purpose: To ensure that the Department is responding to consumer information and technical assistance requests in a timely manner.

3.1.1 Outcome
Definition: The percentage of very low income persons (persons at or below 125% of poverty) receiving assistance divided by the total number of persons at or below 125% of poverty in Texas. Information on the number of persons assisted is submitted to the Department by subrecipients.
Data Limitations: No limitations of data.
Data Source: The percent of very low income persons (at or below 125% of poverty) that received assistance through all Community Services programs as reported in the monthly performance reports submitted to the Department by subrecipients. Subrecipients track the data manually on a daily basis and submit it to the Department in a monthly performance report.

Methodology: Based on the monthly performance reports submitted by subrecipients, the Department determines the percent of very low income persons served by dividing the total number of low income persons (at or below 125% of poverty) by the total number of persons at or below 125% of poverty in Texas: 4,172,890 as per 2000 US Census. Monthly performance information is entered in the Department's database and maintained by the Department.
Purpose: The measure identifies the percent of the very low income population (persons at or below 125% of poverty) assisted by Community Services programs. This measure is important because it identifies the impact Community Services programs have had on the target population.

3.1.2 Outcome
Definition: The percent of emergency shelters assisted is based on the number of shelters/service providers assisted through ESGP funds during the fiscal year. Each project funded through ESGP subrecipients is counted as a shelter assisted.
Data Limitations: No limitations of data.
Data Source: The total number of shelters is determined by counting the number of shelters/services providers included in the ESGP mailing list maintained by the Community Services section. The Department counts each project funded through ESGP subrecipients as a shelter assisted. The Department tracks this information from contract records.
Methodology: The percent of emergency shelters assisted is based on the number of shelters/service providers assisted through ESGP funds during the fiscal year divided by the number of homeless shelters/service providers that exist in Texas.
Purpose: The measure identifies the percent of all homeless shelters/service providers in Texas that receive assistance in a fiscal year. This measure is important because it indicates how effective the program has been in providing assistance to emergency shelters in the State.

3.1.3 Outcome
Definition: The percent of persons assisted in the CSBG program that achieve incomes above 125% of poverty is the number of persons assisted that achieve incomes above 125% of poverty, and maintain that income level for a minimum of 90 days, divided by the total number of persons at or below 125% of poverty in Texas.
Data Limitations: No limitations.
Data Source: Subrecipients report this information in their monthly performance report. The data is entered on the Department's database and maintained by the Department.
Methodology: The percentage of very low income persons (persons at or below 125% of poverty) maintaining that level of income for a minimum of 90 days divided by the total number of persons at or below 125% of poverty in Texas (4,172,890). Information on the number of persons assisted is submitted to the Department by subrecipients.
Purpose: Subrecipients are required to track the number of persons assisted that achieve incomes above 125% of poverty as a result of efforts by the subrecipients.

3.2.1 Outcome

Definition: The percentage of very low income households receiving energy assistance represents all Energy Assistance programs. Information on the number of households assisted is submitted to the Department by subrecipients.

Data Limitations: No limitations of data.

Data Source: The percent of very low income households that received energy assistance through all Energy Assistance programs is based on data reported in the Monthly Funding Financial Performance Reports and the Progress Expenditure/Monthly Fund Request Reports. According to the publication entitled "LIHEAP Home Energy Notebook for Fiscal Year 2001", issued April 7, 2003 to LIHEAP grantees by the Office of Community Services of the US Department of Health and Human Services, the number of income-eligible households for Texas is 1,324,059.

Methodology: The data is entered in an automated system and maintained by the Department. The percent of very low income households receiving energy assistance is calculated by dividing the number of very low income households receiving CEAP or WAP assistance by the most current census data representing the number of households at or below 125% of poverty in Texas (1,324,059 income-eligible households).

Purpose: The measure identifies the percent of the very low income population assisted by Energy Assistance programs. This measure indicates how effectively the Department has provided energy related services to the target population and the impact of the programs statewide.

4.1.1 Outcome

Definition: Measure represents the percentage of Housing Tax Credit (HTC), Affordable Housing Disposition, HOME, Tax-Exempt Bond, Housing Trust Fund, and other affordable housing rental projects monitored annually through on-site, in-depth, or desk reviews of tenant files. Onsite reviews also include a property and unit inspection.

Data Limitations: No limitations of data.

Data Source: Projects are monitored through on-site, in-depth, or desk reviews. Data is gathered from Departmental databases.

Methodology: The percent is derived by dividing the actual number of rental projects monitored by the total number of rental projects required to be monitored in the TDHCA Compliance portfolio.

Purpose: The Compliance section was formed to address long term compliance responsibilities of the various housing programs administered by TDHCA. The measure is important because it identifies the percent of projects monitored. Each program dictates the frequency and type of monitoring.

4.1.2 Outcome

Definition: Measure represents the percentage of Housing Tax Credit (HTC), Affordable Housing Disposition, HOME, Tax-Exempt Bond, Housing Trust Fund, and other affordable housing rental developments monitored that are determined to be in material non-compliance. Material non-compliance is identified through on-site monitoring reviews and in-depth desk reviews.

Data Limitations: No limitations.
Data Source: Information is tracked in Departmental databases.
Methodology: The percent is derived by dividing the total number of rental developments in material non-compliance by the number of rental developments monitored.
Purpose: This measure will report the developments that are in "material non-compliance" status.

5.1.1 Outcome
Definition: The percentage of Statement of Ownership & Location (SOL) and License applications processed within established time frames as opposed to those that are not.
Data Limitations: No limitations of data.
Data Source: Both the Statement of Ownership & Location and Licensing functional areas of the Manufactured Housing Division review a random selection of 25 or more applications (per month) within a reporting period.
Methodology: To obtain the percentage, divide the number of applications that are processed within the required time frame by the total number reviewed by random selection. The percentage is attained by combining the results of the SOL and Licensing functional areas. Information is manually prepared.
Purpose: Applications are processed within established time frames. The time frame for SOL applications is 15 working days; the time frame for Licensing applications is 7 working days. The importance is to measure the ability of the agency to process applications in a timely manner.

5.1.2 Outcome
Definition: The percentage of consumer complaint inspections conducted within 30 days is based on the number of consumer and industry requested inspections completed within 30 calendar days from the date that an inspection is requested.
Data Limitations: No limitations of data.
Data Source: Information is maintained in the Consumer Complaint Tracking System (CCTS).
Methodology: To obtain the percentage, divide the total number of inspections conducted within the required 30 calendar days by the total number of required inspections conducted within the reporting period.
Purpose: Consumer complaints must be addressed as required by the Act. The importance is to measure the ability of the agency to conduct consumer complaint inspections in a timely manner and to comply with the requirements set forth in the Act.

5.1.3 Outcome
Definition: The percentage of complaints that result in disciplinary action, including agreed orders, reprimands, warnings, suspensions, probation, revocation, restitution and/or penalties on which the board or executive director has acted when violations cannot be resolved informally.
Data Limitations: No limitations of data.

Data Source: Information is maintained in the Consumer Complaint Tracking System (CCTS).
Methodology: To obtain the percentage, divide the number of closed complaints with a disciplinary action by the total number of jurisdictional complaints closed.
Purpose: Efforts are made to informally resolve complaints. Violations of manufactured housing standards that cannot be resolved result in disciplinary actions. It is important that the consumers and the manufactured housing industry have an expectation that the agency will ensure fair and effective enforcement of the Act.

5.1.4 Outcome
Definition: The percentage of complaints resolved within a period of 6 months (183 days) or less from the date of receipt as opposed to complaints which take longer than six months to resolve.
Data Limitations: No limitations of data.
Data Source: Information is maintained in the Consumer Complaint Tracking System (CCTS).
Methodology: The number of jurisdictional complaints resolved within a period of six months (183 days) or less from the date of receipt divided by the total number of jurisdictional complaints resolved.
Purpose: Of the number of complaints resolved, the measure identifies those complaints that have been resolved within six months. It is important to ensure the timely enforcement of the Act, which is an agency goal.

5.1.5 Outcome
Definition: The recidivism rate for those receiving disciplinary action is the percentage of offenders who were repeat offenders during the most recent three-year period. A repeat offender is an individual or license holder with two or more disciplinary actions taken by the executive director or board within the current and preceding two fiscal years.
Data Limitations: No limitations of data.
Data Source: Information is maintained in the Consumer Complaint Tracking System (CCTS).
Methodology: To obtain the percentage, calculate the number of individuals or license holders against whom two or more disciplinary actions were taken by the executive director or board within the current and preceding two fiscal years divided by the total number of individuals or license holders receiving disciplinary actions within the current and preceding two fiscal years.
Purpose: The measure is intended to show how effectively the agency enforces its regulatory requirements and prohibitions. It is important that the agency enforce its act and rules strictly enough to ensure that consumers are protected from unsafe, incompetent and unethical practices by the license holder.

OUTCOME, EFFICIENCY, AND EXPLANATORY MEASURE DEFINITIONS

1.1.1.1 Efficiency
Definition: A measure that tracks the average First Time Homebuyer Program loan amount without down payment assistance.
Data Limitations: No limitations
Data Source: The number and amounts of the loans are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The total amount of the loans will be summed and divided by the corresponding number of households.
Purpose: This measure identifies the costs and efficiency of loans without down payment assistance made through the First Time Homebuyer Program.

1.1.1.2 Efficiency
Definition: A measure that tracks the average First Time Homebuyer loan with down payment assistance.
Data Limitations: No limitations
Data Source: The number and amounts of the loans are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The total dollar amount of loans will be summed and divided by the corresponding number of loans.
Purpose: This measure identifies the costs and efficiency of loans with down payment assistance made through the First Time Homebuyer Program.

1.1.1.3 Efficiency
Definition: A measure that tracks the average Mortgage Credit Certificate (MCC) amount.
Data Limitations: There are no data limitations.
Data Source: The numbers and amounts of the MCCs are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The total dollar amount of the MCCs will be summed and divided by the number of MCCs.
Purpose: This measure identifies the cost and efficiency of MCCs.

1.1.1.1 Explanatory
Definition: A measure that tracks the number of households receiving loans without down payment assistance through the First Time Homebuyer Program.
Data Limitations: No Limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of loans without down payment assistance funded through the First Time Homebuyer Program.
Purpose: To track the amount households receiving loans without down payment assistance through the First Time Homebuyer Program.

1.1.1.2 Explanatory
Definition: A measure that tracks the number of households receiving loans with down payment assistance through the First Time Homebuyer Program.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of loans with down payment assistance funded through the First Time Homebuyer Program. Performance is measured when loans are funded.
Purpose: To track the number of households receiving loans with down payment assistance through the First Time Homebuyer Program.

1.1.1.3 Explanatory
Definition: A measure that tracks the number of Mortgage Credit Certificates (MCCs).
Data Limitations: There are no data limitations.
Data Source: The number of MCCs is tracked by the Single Family Finance Production Division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of the issued MCCs.
Purpose: This measure identifies the number of households receiving MCCs.

1.1.1.1 Output
Definition: A measure that tracks the number of households assisted with single family mortgage revenue bond funds.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of households assisted through the single family bond funds. Performance is measured when loans or Mortgage Credit Certificates are funded.
Purpose: To track the total number of households assisted with single family mortgage revenue bond funds.

1.1.2.1 Efficiency
Definition: A measure that tracks the average amount per unit of single family HOME loans/grants for new construction.
Data Limitations: No limitations
Data Source: The number and amounts of the grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The total dollar amount of new construction activities utilizing HOME funds will be totaled and divided by the projected number of units assisted through new construction utilizing HOME funds.
Purpose: This measure identifies the costs associated with new construction activities utilizing HOME funds.

1.1.2.2 Efficiency

Definition: A measure that tracks the average amount per household of loans/grants for rehabilitation utilizing single family HOME funds.

Data Limitations: No limitations

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of rehabilitation utilizing HOME funds will be summed and divided by the projected number of households assisted through rehabilitation utilizing HOME funds.

Purpose: This measure identifies the costs associated with rehabilitation utilizing HOME funds.

1.1.2.3 Efficiency

Definition: A measure that tracks the average amount per household of mortgage financing and homebuyer assistance grants utilizing single family HOME funds.

Data Limitations: No limitations

Data Source: The amounts of the financing and grants and number of units are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of mortgage financing and homebuyer assistance funds awarded utilizing HOME funds will be summed and divided by the projected number of units assisted through financing and homebuyer assistance activities.

Purpose: This measure identifies the costs associated with financing affordable housing utilizing HOME funds.

1.1.2.4 Efficiency

Definition: A measure that tracks the average amount per household of tenant based rental assistance utilizing HOME funds.

Data Limitations: No limitations

Data Source: The numbers and amounts are tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The total dollar amount of tenant based rental assistance utilizing HOME funds will be summed and divided by the projected number of households assisted through tenant based rental assistance utilizing HOME funds.

Purpose: This measure identifies the costs associated with tenant based rental assistance utilizing HOME funds.

1.1.2.1 Explanatory

Definition: A measure that tracks the projected number of households assisted utilizing single family HOME funds for new construction.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of projected households assisted utilizing HOME funds for new construction. Performance is measured when contracts are awarded.

Purpose: To track the number of households assisted utilizing HOME funds for new construction.

1.1.2.2 Explanatory

Definition: A measure that tracks the projected number of households assisted through single family HOME funds for rehabilitation.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of projected households assisted through HOME funds for rehabilitation. Performance is measured when contracts are awarded or loans are funded.

Purpose: To track the number of households assisted through HOME funds for rehabilitation.

1.1.2.3 Explanatory

Definition: A measure that tracks the projected number of households assisted through single family HOME funds for mortgage financing and homebuyer assistance.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of projected households assisted through HOME funds for mortgage financing and homebuyer assistance. Performance is measured when contracts are awarded.

Purpose: To track the number of households assisted through HOME funds for mortgage financing and homebuyer assistance.

1.1.2.4 Explanatory

Definition: A measure that tracks the projected number of households assisted through HOME tenant based rental assistance.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: The number will be a count of projected households assisted through HOME tenant based rental assistance. Performance is measured when contracts are awarded.

Purpose: To track the number of households assisted through HOME tenant based rental assistance.

1.1.2.5 Explanatory

Definition: A measure that tracks the actual number of reviews conducted by HOME Division staff.

Data Limitations: No limitations

Data Source: The data is maintained in the Department's database.

Methodology: The number will be a count of actual number of contract administration reviews, including environmental, draw, setup and amendments conducted by HOME Division staff.
Purpose: This measure identifies the number of reviews conducted by the HOME Division staff in administering a contract.

1.1.2.6 Explanatory
Definition: A measure that tracks the number of technical assistance visits, e-mail messages, and phone calls handled by the HOME Division.
Data Limitations: No limitations
Data Source: Staff tracks the total number of visits, e-mails and phone calls related to technical assistance in the division's database.
Methodology: The number will be a count of actual technical assistance visits, e-mail messages and phone calls supported by staff to contract administrators or those seeking to apply for funding.
Purpose: This measure identifies the number of technical assistance visits, e-mail messages and phone calls provided by the HOME Division staff.

1.1.2.7 Explanatory
Definition: A measure that tracks the actual number of workshops and trainings provided through the HOME Division.
Data Limitations: No limitations
Data Source: The total number of workshops and trainings is tracked by department staff.
Methodology: The number will be an actual count of workshops and trainings provided through the HOME Division. This will include application, implementation, and any other workshops or trainings provided by HOME Division staff for the HOME program.
Purpose: This measure identifies the number of workshops and trainings provided through the HOME Division staff for the purposes of administering a HOME contract.

1.1.2.1 Output
Definition: A measure that tracks the projected number of households assisted through HOME funds in the single family finance division.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of projected households assisted through HOME funds. Performance is measured when contracts are awarded.
Purpose: To track the amount of households assisted through single family HOME funds.

1.1.3.1 Efficiency
Definition: A measure that tracks the average amount per unit of loans/grants for single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.
Data Limitations: No limitations

Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The total dollar amount of loans/grants utilizing the Housing Trust Fund will be summed and divided by the projected number of households assisted through new construction utilizing the Housing Trust Fund.
Purpose: This measure identifies the costs associated with the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.

1.1.3.2 Efficiency
Definition: A measure that tracks the average amount per unit of loans/grants for single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.
Data Limitations: No limitations
Data Source: The numbers and amounts of the loans/grants are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The total dollar amount of loans/grants for rehabilitation utilizing the Housing Trust Fund will be summed and divided by the projected number of households assisted utilizing the Housing Trust Fund.
Purpose: This measure identifies the costs associated with the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.

1.1.3.1 Explanatory
Definition: A measure that tracks the projected number of households assisted through the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of projected households assisted through the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund. Performance is measured when loans are funded.
Purpose: To track the number of households assisted through the single family owner-builder (Bootstrap) program utilizing the Housing Trust Fund.

1.1.3.2 Explanatory
Definition: A measure that tracks the projected number of households assisted through the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of projected households assisted through the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund. Performance is measured when loans are funded.
Purpose: To track the number of households assisted through the single family non owner-builder (non-Bootstrap) program utilizing the Housing Trust Fund.

1.1.3.1 Output
Definition: A measure that tracks the projected number of households assisted through the HTF program.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of projected households assisted through HTF funds. Performance is measured when loans are funded or at time of award depending on the specific type of assistance.
Purpose: To track the amount of households assisted through single family HTF funds.

1.1.4.1 Efficiency
Definition: The average cost per household served represents an average of the local operators' payments and TDHCA administrative expenditures.
Data Limitations: No limitations
Data Source: Expenditures are tracked through the Department's financial automated system.
Methodology: The average cost per household served is the sum of local operators' payments and TDHCA administrative expenditures divided by the total number of active contracts as of September 1 plus new contracts added over the course of the year.
Purpose: The measure identifies the efficiency in costs to provide Section 8 services to a very low income household.

1.1.4.1 Output
Definition: The number of very low income households receiving rent supplements represents the total number of households participating in the Section 8 certificate program and the Housing Choice Voucher program.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number will be a count of projected households assisted through Section 8 tenant based rental assistance. The performance figure reported for the first quarter represents the total number of households receiving Section 8 assistance as of September 1. Subsequent quarters report only new contracts executed for the reporting period.
Purpose: To track the amount of households assisted through Section 8 tenant based rental assistance.

1.1.5.1 Efficiency
Definition: A measure that tracks the projected average amount of annual credits per low income unit of new construction utilizing the Housing Tax Credit program.
Data Limitations: Federal regulations establish the amount and value of tax credits available.
Data Source: The projected number of low income units and amount of credits for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of total new construction tax credits awarded by the number of restricted units to be newly constructed. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.
Purpose: This measure identifies the subsidy associated with developing affordable housing units and measures the efficiency of allocating tax credits.

1.1.5.2 Efficiency
Definition: A measure that tracks the average total development costs per unit of new construction utilizing the Housing Tax Credit program.
Data Limitations: Information is based on preliminary estimates by the applicants.
Data Source: The projected total number of units in the development and total development costs for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the sum of total new construction development costs by the number of restricted units to be newly constructed. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.
Purpose: This measure identifies the total development costs associated with developing affordable housing units. Although useful to track, this measure is outside of the Department's control.

1.1.5.3 Efficiency
Definition: A measure that tracks the projected average amount of credits per rehabilitated and acquired low income unit utilizing Housing Tax Credits.
Data Limitations: Federal regulations establish the amount and value of tax credits available.
Data Source: The projected number of low income units and amount of credits for rehabilitation and acquisition is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the sum of total annual rehabilitation tax credits awarded by the number of restricted units to be rehabilitated. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.
Purpose: This measure identifies the subsidy associated with rehabilitating and acquiring affordable housing and measures the efficiency of allocating tax credits.

1.1.5.4 Efficiency
Definition: A measure that tracks the average total development costs per rehabilitated and acquired unit utilizing Housing Tax Credits.
Data Limitations: Information is based on preliminary estimates by the applicants.
Data Source: The total development costs and the projected total number of units in the development are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the sum of total rehabilitation development costs by the number of restricted units to be rehabilitated. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.
Purpose: This measure identifies the total development costs associated with rehabilitating and acquiring affordable housing.

1.1.5.1 Explanatory
Definition: A measure that tracks the projected number of low income new construction units assisted through the Housing Tax Credit program.
Data Limitations: Federal regulations establish the amount of tax credits available.
Data Source: The projected number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all units to be newly constructed as proposed in awarded applications. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.
Purpose: To track the number of new construction units assisted through the Housing Tax Credit program.

1.1.5.2 Explanatory
Definition: A measure that tracks the projected number of low income rehabilitation and acquisition units assisted through the Housing Tax Credit program.
Data Limitations: Federal regulations establish the amount of tax credits available.
Data Source: The projected number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all units to be rehabilitated as proposed in awarded applications. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.

Purpose: To track the number of rehabilitation and acquisition units assisted through the Housing Tax Credit program.

1.1.5.1 Output
Definition: A measure that tracks the projected number of low income units financed through the multifamily division utilizing Housing Tax Credits.
Data Limitations: No limitations
Data Source: The number of units is tracked by the division. Data is entered by staff and maintained in the agency’s computer system.
Methodology: This figure will be calculated as the sum of all units to be newly constructed or rehabilitated as proposed in awarded applications. This calculation will include both 9% and 4% Housing Tax Credit awards. 9% credit activity will be considered at the time the Board approves the award. 4% credit activity will be considered at the time the bond transaction closes. At the close of the fiscal year, this data will be updated to accurately reflect any awards that will not actually be utilized due to problems with the transaction.
Purpose: To track the total amount of multifamily units assisted utilizing the Housing Tax Credit program.

1.1.6.1 Efficiency
Definition: A measure that tracks the projected average amount or loans/grants per low income unit of new construction utilizing HOME multifamily funds.
Data Limitations: No limitations
Data Source: The projected number of low income units and amount of funds utilized for new construction is tracked by the division. Data is entered by staff and maintained in the agency’s computer system.
Methodology: This figure will be calculated by dividing the amount of HOME multifamily new construction funds awarded by the corresponding number of restricted units to be newly constructed. This figure will not include Operating Grants or Predevelopment Loans.
Purpose: This measure identifies the loan/grant amount associated with developing housing units and measures the efficiency of utilizing HOME multifamily funds.

1.1.6.2 Efficiency
Definition: A measure that tracks the projected average amount per low income unit of rehabilitation and acquisition utilizing HOME multifamily funds.
Data Limitations: No limitations
Data Source: The projected number of low income units and amount of funds utilized for rehabilitation and acquisition is tracked by the division. Data is entered by staff and maintained in the agency’s computer system.
Methodology: This figure will be calculated by dividing the amount of HOME multifamily rehabilitation/acquisition funds awarded by the corresponding number of units to be rehabilitated or acquired. This figure will not include Operating Grants or Predevelopment Loans.

Purpose: This measure identifies the amount associated with the rehabilitation and acquisition of affordable housing units and measures the efficiency of utilizing HOME multifamily funds.

1.1.6.1 Explanatory
Definition: A measure that tracks the projected number of households assisted utilizing multifamily HOME funds for new construction.
Data Limitations: No limitations
Data Source: The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units awarded HOME multifamily funds for new construction activities. This figure will not include Operating Grants or Predevelopment Loans.
Purpose: To track the number of households assisted utilizing HOME funds for new construction.

1.1.6.2 Explanatory
Definition: A measure that tracks the projected number of households assisted utilizing multifamily HOME funds for rehabilitation and acquisition.
Data Limitations: No limitations
Data Source: The projected number of units is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units awarded HOME multifamily funds for rehabilitation or acquisition activities. This figure will not include Operating Grants or Predevelopment Loans.
Purpose: To track the number of households assisted utilizing HOME multifamily funds for rehabilitation and acquisition.

1.1.6.3 Explanatory
Definition: A measure that tracks the actual number of reviews conducted by HOME Division staff.
Data Limitations: No limitations
Data Source: The data is maintained in the Department's database.
Methodology: The number will be a count of the actual number of contract administration reviews, including environmental, draw, setup and amendments conducted by HOME Division staff.
Purpose: This measure identifies the number of reviews conducted by the HOME Division staff in administering a contract.

1.1.6.4 Explanatory
Definition: A measure that tracks the number of multifamily technical assistance visits, e-mail messages and phone calls provided by HOME Division staff.
Data Limitations: No limitations

Data Source: Staff tracks the number of multifamily technical assistance visits, e-mail messages and phone calls related to multifamily technical assistance in the division's database.
Methodology: The number will be a count of actual multifamily technical assistance visits, e-mail messages and phone calls supported by staff to contract administrators or those seeking to apply for funding.
Purpose: This measure identifies the number of multifamily technical assistance visits, e-mail messages and phone calls provided by the HOME Division staff.

1.1.6.5 Explanatory
Definition: A measure that tracks the actual number of multifamily workshops and trainings provided through the HOME Division.
Data Limitations: No limitations
Data Source: The total number of multifamily workshops and trainings is tracked by Department staff.
Methodology: The number will be an actual count of multifamily workshops and trainings provided through the HOME Division. This will include application, implementation, and any other workshops or trainings provided by HOME Division staff for the HOME program.
Purpose: This measure identifies the number of multifamily workshops and trainings provided through the HOME Division staff for the purposes of administering a HOME contract.

1.1.6.1 Output
Definition: A measure that tracks the projected number of households assisted through the multifamily division utilizing HOME funds.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units awarded HOME funds for rental development activities by the MF Division. This figure will not include CHDO Operating Grants or Predevelopment Loans.
Purpose: To track the total amount of multifamily units assisted utilizing HOME funds.

1.1.7.1 Efficiency
Definition: A measure that tracks the projected average loan/grant amount per low income unit of Housing Trust Fund (HTF) multifamily new construction.
Data Limitations: No limitations
Data Source: The projected number of low income units and amount of funds is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the sum of all funds awarded for new rental development activities by the total number of estimated units as represented in applications to be newly constructed.
Purpose: This measure identifies the average costs associated with developing affordable multifamily housing units and measures the efficiency of awarding HTF monies.

1.1.7.2 Efficiency

Definition: A measure that tracks the average loan/grant amount per low income unit of Housing Trust Fund (HTF) multifamily rehabilitation and acquisition.

Data Limitations: No limitations

Data Source: The projected number of low income units and amount of funds is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the sum of all funds awarded for rehabilitation rental development activities by the total number of estimated units as represented in applications to be rehabilitated.

Purpose: This measure identifies the costs associated with rehabilitating and acquiring affordable multifamily housing units and measures the efficiency of awarding HTF monies

1.1.7.1 Explanatory

Definition: A measure that tracks the projected number of multifamily households assisted through new construction activities using the Housing Trust Fund (HTF) program.

Data Limitations: No limitations

Data Source: The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all restricted units planned to be developed through new construction.

Purpose: To track the number of multifamily households assisted through new construction activities using the HTF program.

1.1.7.2 Explanatory

Definition: A measure that tracks the projected number of multifamily households assisted through rehabilitation and acquisition activities using the Housing Trust Fund (HTF) program.

Data Limitations: No limitations

Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of all restricted multifamily units planned to be rehabilitated.

Purpose: To track the number of multifamily households assisted through rehabilitation and acquisition using the HTF program.

1.1.7.3 Explanatory

Definition: This measure tracks the awards using HTF that are not tracked by other performance measures including capacity building and predevelopment loans.

Data Limitations: No limitations

Data Source: The number of awards is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated as the sum of awards using HTF that are not captured in other performance measures. This will include, but is not limited to, capacity building and predevelopment loans.

Purpose: To track the awards made with HTF that are not tracked by other existing performance measures.

1.1.7.1 Output
Definition: A measure that tracks the projected number of multifamily households assisted through the multifamily division utilizing the Housing Trust Fund (HTF) program.
Data Limitations: No limitations
Data Source: The number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units planned to be developed by applicants awarded funds for rental developments.
Purpose: To track the total amount of multifamily units assisted utilizing the HTF program.

1.1.8.1 Efficiency
Definition: A measure that tracks the projected average amount of bonds per low income unit of Mortgage Revenue Bond (MRB) new multifamily construction.
Data Limitations: No limitations
Data Source: The projected number of low income units and amount of bonds for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the total value of mortgage revenue bonds awarded by the number of units to be newly constructed.
Purpose: This measure identifies the average amount of bonds associated with developing affordable housing and measures the efficiency of awarding multifamily MRB funds. Although useful to track, this measure is outside of the Department's control.

1.1.8.2 Efficiency
Definition: A measure that tracks the projected average total development costs per unit of Mortgage Revenue Bond (MRB) new multifamily construction.
Data Limitations: Information is based on preliminary estimates by the applicants.
Data Source: The projected total number of units in the development and total development costs for new construction is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the sum of total development costs estimated in applications by the number of units to be newly constructed.
Purpose: This measure identifies the costs associated with developing affordable housing units.

1.1.8.3 Efficiency
Definition: A measure that tracks the projected average bond amount per low income unit of multifamily Mortgage Revenue Bond (MRB) rehabilitation and acquisition.
Data Limitations: No limitations
Data Source: The projected number of low income units and amount of bonds is tracked by the division. Data is entered by staff and maintained in the agency's computer system.

Methodology: This figure will be calculated by dividing the total value of mortgage revenue bonds awarded by the number of units to be rehabilitated.
Purpose: This measure identifies the average amount of bonds associated with rehabilitating and acquiring affordable housing and measures the efficiency of awarding multifamily MRB funds.

1.1.8.4 Efficiency
Definition: A measure that tracks the projected average total development costs per unit of multifamily Mortgage Revenue Bond (MRB) rehabilitation and acquisition.
Data Limitations: Information is based on preliminary estimates from the applicants.
Data Source: The projected total number of units in the development and amount of total development costs is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated by dividing the sum of total development costs estimated in applications by the number of units to be rehabilitated.
Purpose: This measure identifies the total development costs amount associated with rehabilitating and acquiring affordable housing units.

1.1.8.1 Explanatory
Definition: A measure that tracks the projected number of households assisted through new construction activities utilizing the multifamily Mortgage Revenue Bond (MRB) program.
Data Limitations: No limitations
Data Source: The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units to be newly constructed as proposed in awarded applications.
Purpose: To track the number of households assisted through new construction units assisted utilizing multifamily MRB program.

1.1.8.2 Explanatory
Definition: A measure that tracks the projected number of households assisted through rehabilitation and acquisition activities utilizing the multifamily Mortgage Revenue Bond (MRB) program.
Data Limitations: No limitations
Data Source: The projected number of households is tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units to be rehabilitated as proposed in awarded applications.
Purpose: To track the number of households assisted through rehabilitation and acquisition activities utilizing the multifamily MRB program.

1.1.8.1 Output
Definition: A measure that tracks the projected number of low income units financed through the multifamily division utilizing mortgage revenue bond funds.

Data Limitations: No limitations
Data Source: The number of units is tracked by the division for each separate program. Data is entered by staff and maintained in the agency's computer system.
Methodology: This figure will be calculated as the sum of all restricted units to be newly constructed or rehabilitated as proposed in awarded applications.
Purpose: To track the total amount of low income multifamily units assisted utilizing mortgage revenue bond funds.

2.1.1.1 Output
Definition: A measure tracking the number of information and technical assistance requests completed by the Center for Housing Research, Planning, and Communications.
Data Limitations: No limitations
Data Source: The requests are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number of requests received is a total of the requests entered into the division database.
Purpose: To track the consumer information and technical assistance requests received and fulfilled.

2.1.1.2 Output
Definition: A measure tracking the number of short term (completed by phone) information and technical assistance requests completed by the Center for Housing Research, Planning, and Communications.
Data Limitations: No limitations
Data Source: The requests are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number of short term requests received is a total of the short term requests entered into the division database.
Purpose: To track the short term consumer information and technical assistance requests received.

2.1.1.3 Output
Definition: A measure tracking the number of long term (completed by email or mail) information and technical assistance requests completed by the Center for Housing Research, Planning, and Communications.
Data Limitations: No limitations
Data Source: The requests are tracked by the division. Data is entered by staff and maintained in the agency's computer system.
Methodology: The number of long term requests received is a total of the long term requests entered into the division database.
Purpose: To track the long term consumer information and technical assistance requests received.

2.2.1.1 Output
Definition: The number of technical assistance visits is based on actual on-site technical assistance visits, telephone calls and written and electronic correspondence conducted by the field office staff. Technical assistance visits includes: meeting with local governments (cities & counties) staff and nonprofits providing agency information on programs and services more specifically providing detailed technical assistance in implementing and managing Office of Colonia Initiatives and other Department programs; follow-up on contract compliance measures with the Bootstrap Loan Program and Colonia Self-Help Centers; and general interview sessions with individuals to provide referral services to other office and agencies available to address issues of concern.
Data Limitations: No limitations.
Data Source: Actual technical assistance contacts and visits are reported by staff.
Methodology: On-site visits, e-mails and telephone calls are manually tracked by staff and maintained in the Department's database.
Purpose: The purpose of the measure is to identify the level technical assistance provided to nonprofit organizations and units of local government. This measure is important because it identifies the effectiveness of the program and compliance with legislative mandates.

2.2.1.2 Output
Definition: The number of Colonia residents receiving assistance annually through the Colonia Self-Help Centers. This includes the following types of assistance: housing rehabilitation, new construction, surveying and platting, construction skills training, tool library access for self-help construction, housing finance; credit and debt counseling, infrastructure constructions and access, and capital access for mortgages, and other activities which provide direct assistance and/or benefit to Colonia residents.
Data Limitations: Deviation from targeted performance could occur if participation of Colonia residents is lower than expected or with changes in available resources.
Data Source: Actual assistance provided.
Methodology: The Self Help Centers will provide a quarterly report on the assistance provided. This data will be maintained in the Department’s records.
Purpose: This measure is important because it identifies the effectiveness of the program in providing assistance to Colonia residents with a wide array of services.

2.2.1.3 Output
Definition: The number of persons and nonprofit or other organizations attending training/lectures, calling and/or receiving written or electronic information and the number of publications distributed promoting homeownership opportunities along the Texas-Mexico border through the Office of Colonia Initiatives.
Data Limitations: Deviation from targeted performance could occur if participation of Colonia residents is lower than expected.
Data Source: Actual persons receiving services.
Methodology: Information is manually tracked by staff.
Purpose: The Office of Colonia Initiatives is responsible for implementing the Texas Bootstrap Loan Program and Colonia Self-Help Center Program and provides technical

assistance through the Border Field Offices. The Office of Colonia Initiatives is also responsible for the promotion of the Colonia Contract for Deed Conversion Program and the Colonia Model Subdivision Program to individuals and nonprofits.

3.1.1.1 Efficiency
Definition: The average agency administrative cost per person assisted represents personnel costs, operating costs, capital expenditures and indirect expenditures as identified in the LAR. The Department's fiscal section calculates expenditures related to personnel, operations, capital items, and indirect costs.
Data Limitations: A possible limitation could be limitations on obtaining expenditure data for the reported period.
Data Source: The total number of persons served is gathered from the subrecipients' monthly performance reports.
Methodology: The efficiency measure is determined by dividing the total administrative expenditure of Community Service funds by the total number of clients served in Community Service programs.
Purpose: The purpose of the measure shows the efficiency in costs to administer the program.

3.1.1.1 Explanatory
Definition: Figure represents the estimated number of emergency shelters in Texas.
Data Limitations: There is no accurate way to count the actual number of emergency shelters in Texas.
Data Source: The estimated number of emergency shelters is based on the total number of entities on the ESGP mailing list less those entities that do not represent shelters.
Methodology: Number is estimated.
Purpose: The purpose of the measure is to identify the number of emergency shelters available to assist homeless individuals.

3.1.1.2 Explanatory
Definition: Figure represents the most recent census data.
Data Limitations: Information is collected every ten years.
Data Source: Information is obtained from the most recent census data.
Methodology: Number is actual.
Purpose: The purpose of the measure identifies the number of persons at or below 125% of poverty (4,172,890) and identifies the number of persons in need.

3.1.1.3 Explanatory
Definition: Measure relates to the number of shelters assisted through ESGP funds.
Data Limitations: No limitations on data.
Data Source: The Department tracks information from contract records. Assistance to a shelter is reported only once a year during the quarter the contract is initiated.
Methodology: Performance reported is the actual number. The Department counts each project funded through ESGP contractor as a shelter assisted.

Purpose: The purpose of this measure is to identify the number of shelters the program is able to assist.

3.1.1.1 Output
Definition: This measure tracks the number of persons assisted through homeless and poverty related programs.
Data Limitations: A possible limitation could be subrecipients failing to submit required reports on a timely basis.
Data Source: Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the information to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.
Methodology: Performance reported is actual number.
Purpose: The purpose of the measure is to identify the number of persons at or below 125% of poverty assisted by all Community Services programs.

3.1.1.2 Output
Definition: Measure relates to the number of persons assisted that achieve incomes above 125% of poverty level for a minimum of 90 days.
Data Limitations: A possible limitation could be subrecipients failing to submit required reports on a timely basis.
Data Source: The number of persons achieving incomes above 125% of poverty is reported in the subrecipients' monthly performance reports. Subrecipients are required to track the number of persons assisted that achieve incomes above the poverty level as a result of efforts by the subrecipients. Subrecipients report this information in their monthly performance report. The data is entered on the Department database and maintained by the Department.
Methodology: Performance reported is actual number.
Purpose: The purpose of the measure is to identify the number of persons the program has helped to achieve incomes above the poverty level.

3.1.1.3 Output
Definition: This measure tracks the number of persons assisted through the Community Services Block Grant Program.
Data Limitations: A possible limitation could be subrecipients failing to submit required reports on a timely basis.
Data Source: Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the information to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.
Methodology: Performance reported is actual number.
Purpose: The purpose of the measure is to identify the number of persons at or below 125% of poverty assisted through the Community Services Block Grant Program in order to gauge impact of that program.

3.1.1.4 Output
Definition: This measure tracks the number of persons assisted through the Emergency Shelter Grant Program.
Data Limitations: A possible limitation could be subrecipients failing to submit required reports on a timely basis.
Data Source: Subrecipients track the data on a daily basis, incorporate it in a monthly performance report, and electronically submit the information to the Department. The monthly performance report information is entered in the Department database and maintained by the Department.
Methodology: Performance reported is actual number.
Purpose: The purpose of the measure is to gauge the impact of the program in serving the needs of homeless persons and persons at-risk of homelessness.

3.2.1.1 Efficiency
Definition: The average cost per household served is calculated based on the number of households assisted by CEAP and WAP from the Monthly Funding Performance Report from subrecipients and the administrative expenditures report from TDHCA Budget and Accounting section.
Data Limitations: Performance reports received past the due date from subrecipients could result in incomplete data. Increase or decrease in funding could create a variance in the targeted goal.
Data Source: The average cost per household served is calculated based on the number of households assisted by CEAP and WAP from the subrecipient Monthly Funding Performance Report divided by the administrative expenditures as reported by TDHCA Budget and Accounting Section.
Methodology: Calculations are based on the total administrative expenditures including indirect cost for the Energy Assistance section divided by the total number of households served.
Purpose: The measure identifies the average administrative cost to provide service to a household.

3.2.1.2 Efficiency
Definition: The statewide average cost to weatherize a home includes the cumulative cost of labor, materials, and program support for all completed units in the state divided by the number of completed units.
Data Limitations: Increase or decrease in funding could create a variance in the targeted goal.
Data Source: Monthly expenditures and performance reports are entered by subrecipients through the Department's online reporting system.
Methodology: Calculations are based on the cumulative cost of labor, materials, and program support for all completed units in the state divided by the number of completed units.
Purpose: The measure identifies the average cost to perform weatherization on a home.

3.2.1.1 Explanatory

Definition: The number of very low income households income-eligible for energy assistance in Texas is determined based on the maximum eligibility limit of 125% of the Federal OMB poverty guidelines.

Data Limitations: No limitations.

Data Source: According to the publication entitled LIHEAP Home Energy Notebook for Fiscal Year 2001, issued on April 7, 2003 (via transmittal no. LIHEAP-IM-2003-7) to LIHEAP grantees by the Office of Community Services of the US Department of Health and Human Services, the number of very income-eligible households for LIHEAP grantees by the Office of Community Services of the US Department of Health and Human Services, the number of very income-eligible households for Survey (CPS) 1999-2001.

Methodology: Data represents an actual number.

Purpose: The purpose of the measure is to identify the eligibility population of the state. It is important because it identifies the level of need in the state.

3.2.1.1 Output

Definition: The number of households assisted through the Comprehensive Energy Assistance Program (CEAP) represents the number of unduplicated households receiving services under the four program components, consisting of co-pay, elderly/disabled Energy Crisis Program, and the heating and cooling systems components. Each of these program components provides stand-alone services. A household may be assisted by more than one component depending on needs.

Data Limitations: Targeted performance could be impacted by changes in funding levels, the price of energy and extremes in temperature.

Data Source: Monthly expenditures and performance reports are entered by subrecipients through the Department's online reporting system.

Methodology: Number is actual.

Purpose: The LIHEAP program provides direct financial assistance for energy needs of low income persons through the Comprehensive Energy Assistance Program (CEAP). The measure is important because it identifies the effectiveness of the CEAP program through the number of households receiving CEAP.

3.2.1.2 Output

Definition: The number of dwelling units weatherized is based on Monthly Progress Expenditure/Monthly Fund Request Reports submitted to the Department by the weatherization subrecipients.

Data Limitations: Targeted performance could be impacted by changes in funding levels.

Data Source: Monthly expenditures and performance reports are entered by subrecipients through the Department's online reporting system. Performance data from these reports is entered in an automated system and maintained by the Department. Performance figures represent an unduplicated number of weatherization units from the Department's DOE and LIHEAP Weatherization programs.

Methodology: The performance number reported represents the actual number of dwelling units weatherized.

Purpose: The WAP program provides residential weatherization and other cost-effective energy-related home repair to increase the energy efficiency of dwellings owned or occupied by low-income persons. The measure is important because it identifies the effectiveness of the program through the number of homes receiving weatherization services.

4.1.1.1 Efficiency
Definition: The average cost to monitor a rental development includes the resources needed to provide determination of program compliance and effectiveness of rental programs.
Data Limitations: No limitations.
Data Source: Expenditure data is maintained in the Department's automated information systems.
Methodology: The average cost is derived by dividing the total budgeted cost for rental development monitoring activities by the number of rental developments monitored.
Purpose: The measure identifies the average cost to monitor a rental development.

4.1.1.1 Explanatory
Definition: The total number of rental developments in the TDHCA compliance monitoring portfolio. This number represents the portfolio for which the Portfolio Management and Compliance division is responsible. This includes developments monitored by on-site file review, desk review, a combination of onsite and desk reviews, or other compliance activities depending on program requirements. Program development totals vary throughout the year.
Data Limitations: No limitations.
Data Source: Program totals are maintained by the Department's databases.
Methodology: Figure represents actual number of developments in the compliance monitoring portfolio.
Purpose: The measure provides the total number of housing developments in the compliance monitoring portfolio.

4.1.1.2 Explanatory
Definition: Total number of housing units in the multi and single family rental developments monitored by the Department. The total number includes both restricted and unrestricted units. Units under construction as well as units available for lease are included in the total.
Data Limitations: No limitations.
Data Source: Unit totals are maintained by the Department's databases.
Methodology: Figure represents actual number of units constructed or rehabilitated.
Purpose: The measure provides information of the total rental units monitored by the Department.

4.1.1.1 Output
Definition: Measure represents the number of both onsite and desk reviews conducted under rental monitoring programs.
Data Limitations: No limitations.
Data Source: The data is gathered by program from Department data bases.

Methodology: Number is actual.
Purpose: The measure meets statutory and agency requirements.

4.1.1.2 Output
Definition: Measure represents the number of desk reviews conducted under rental programs. In addition to on-site reviews, monthly, quarterly, and-or annual compliance reporting is required. These reports are a vehicle for measuring overall and ongoing compliance with rent, income, and other controls and requirements. The frequency in the number of reports is determined by program requirement, and may vary depending on the level of compliance. Desk reviews conducted also include the review of Fair Housing Sponsor Reports, substantial construction certification reviews, construction inspection reviews, and other reviews.
Data Limitations: No limitations.
Data Source: The data is gathered by program from Department data bases.
Methodology: Number is actual.
Purpose: The measure meets statutory and agency requirements.

4.1.1.3 Output
Definition: Measure represents the number of on-site, in-depth desk reviews (done in lieu of on-site reviews for projects with 10 or less units), and 8609 inspections conducted under rental programs. The reviews provide the best measure of program compliance and effectiveness of affordable housing programs. The frequency of reviews is either statutorily or agency required, therefore the number meets or exceeds the specific program requirement.
Data Limitations: No limitations.
Data Source: The data is gathered by program from Department databases.
Methodology: The number reported is the actual number of reviews performed.
Purpose: The measure meets statutory and agency requirements.

4.1.1.4 Output
Definition: Measure represents the number of application-related instruments processed, including Land Use Restriction Agreements, and amendments.
Data Limitations: No limitations.
Data Source: The data is gathered by program from Department databases.
Methodology: Number is actual.
Purpose: The measure meets statutory and agency requirements.

4.1.2.1 Efficiency
Definition: The average cost to monitor a contract includes the resources needed for effective contract monitoring.
Data Limitations: No limitations.
Data Source: Expenditure data is maintained in the Department’s automated information systems.

Methodology: The average cost is derived by dividing the total budgeted cost for contract monitoring administration activities by the number of contracts subject to monitoring.
Purpose: The measure identifies the average cost to monitor a contract.

4.1.2.1 Explanatory
Definition: The total number of contracts monitored by Portfolio Management and Compliance. This number represents the portfolio of contract responsibility, whether or not a contract is processed and/or monitored through desk or onsite reviews, or other contract administration activities depending on program requirements. Measure includes contracts for all activities, including Single Family Rehabilitation; Tenant Based Rental Assistance, Rental Housing Development, Down-Payment Assistance, and other types of contract activity.
Data Limitations: No limitations
Data Source: Data on contracts administered is maintained in the Department's database.
Methodology: Figure represents actual number of contracts monitored.
Purpose: The measure provides the total number of active contracts administered.

4.1.2.1 Output
Definition: Measure represents the number of onsite reviews, desk reviews, and single audit reviews conducted as part of contract monitoring in Portfolio Management and Compliance.
Data Limitations: No limitations.
Data Source: The data is gathered from Department data bases.
Methodology: Number is actual.
Purpose: The measure meets statutory and program requirements.

4.1.2.2 Output
Definition: The number of desk reviews conducted of Federal and State grant sub-recipients. Single Audits are required annually if the federally mandated expenditure threshold is exceeded as defined by OMB Circular A-133. OMB Circular A-133 defines which single audit reports must be submitted to the pass-through agency. These reports are used to measure overall and ongoing compliance with program requirements, financial accountability of Federal and State grants and the overall internal controls of the sub-recipient.
Data Limitations: No limitations.
Data Source: The data is gathered from Department data bases.
Methodology: Number is actual.
Purpose: The measure meets statutory and program requirements.

5.1.1.1 Efficiency
Definition: The average cost to the Department of the processing of a Statement of Ownership and Location (SOL) application based on total funds expended and encumbered during the reporting period for the issuance of manufactured housing SOLs. Cost includes department overhead, salaries (permanent and temporary personnel), supplies, travel,

postage, and other costs directly related to SOLs , including document review, handling, proofing, and notification.
Data Limitations: No limitations of data.
Data Source: Information is obtained from either a management report from the Department's Financial Administration Division or USAS.
Methodology: To obtain the average, divide the total funds by the total number of SOLs issued in a reporting period.
Purpose: The measure shows the efficiency in costs to issue a SOL.

5.1.1.1 Explanatory
Definition: The number of Manufactured Homes of record in Texas represents the total number of manufactured homes with an existing record in the official manufactured housing database that is maintained by the department.
Data Limitations: No limitations of data.
Data Source: Automated compilation through the Department’s Tracking System.
Methodology: Actual number.
Purpose: The measure represents the total number of manufactured homes in Texas for which the Department has an ownership and location record.

5.1.1.1 Output
Definition: The total number of manufactured housing Statements of Ownership and Location (SOL) issued for which a fee is charged (includes SOLs issued as a result of changes in ownership, location, lien information, election, and use).
Data Limitations: No limitations.
Data Source: Data is computer generated (Department's Tracking System) reports and accounting receipts.
Methodology: Number is actual.
Purpose: This measure identifies the total number of SOLs issued in a reporting period. It is important because it shows the workload associated with issuing SOLs.

5.1.1.2 Output
Definition: The total number of manufactured housing licenses issued to qualifying applicants (applicant types broker, installer, manufacturer, retailer, retailer/broker, retailer/broker/installer, retailer/installer, salvage rebuilder and salespersons). The number calculated includes reprints of and revisions to existing licenses.
Data Limitations: No limitations.
Data Source: Data is computer generated through the Licensing Tracking System.
Methodology: Number is actual.
Purpose: This measure identifies the total number of licenses issued in a reporting period. It is important because it shows the workload associated with issuing licenses.

5.1.2.1 Efficiency
Definition: The average cost to the Department of each inspection based on the total funds expended and encumbered during the reporting period to conduct or attempt inspections,

including both installation and non-routine inspections. Cost includes department overhead, salaries (permanent and temporary personnel), supplies, travel; postage, and other costs directly related to the enforcement of the inspection function.

Data Limitations: No limitations.

Data Source: Data is obtained from either a management report from the Department's Financial Division or USAS, Installation Tracking System and the Travel Database.

Methodology: To obtain the average, divide the total funds expended by the total number of routine and non-routine inspections (completed and/or attempted) within the reporting period.

Purpose: The measure identifies the cost efficiency to perform or attempt an inspection.

5.1.2.1 Explanatory

Definition: The total number of installation reports received within a reporting period. Installation reports are received from lenders, retailers, installers, consumers, and other sources.

Data Limitations: No limitations.

Data Source: Source: Installation Tracking System.

Methodology: Actual number.

Purpose: The measure provides information on the total number of installation reports received.

5.1.2.2 Explanatory

Definition: The total number of installation inspections with deviations documented. An inspector may list several violations on a single installation inspection, but it only accounts for one reported deviation.

Data Limitations: No limitations.

Data Source: Source: Installation Tracking System.

Methodology: Actual number.

Purpose: The measure provides information on the total number of installation inspections with deviations. The importance of this measure is to ensure that homes are installed in a safe manner to prevent injury to consumers and the general public.

5.1.2.1 Output

Definition: The total number of routine inspections conducted to inspect the anchoring and support systems of manufactured homes (includes reviewing installation report for completeness, inspecting stabilizing devices to confirm that the installer used approved materials, inspecting the home for proper installation, and verifying that the installer is licensed with TDHCA). Unsuccessful attempted inspections (identified as skirted, not accessible, unable to locate, or no unit at location) are not included in the number reported.

Data Limitations: No limitations.

Data Source: Collection of data is based on the Installation Tracking System.

Methodology: Number is actual.

Purpose: The measure identifies the total number of inspections performed (attempted inspections are not included) in a reporting period. It is important because it shows the workload for inspections and confirms that the Department meets the statutory requirement to inspect at least 25 percent.

5.1.2.2 Output
Definition: The total number of special/complex inspections performed upon request from the public, other regulated entities, or as part of a complaint investigation. Special inspections consist of, but are not limited to the following: consumer complaints, habitability, permanent foundations, SAA, and retailer monitoring.
Data Limitations: No limitations.
Data Source: Collection of data is based on the Inspector's Travel Voucher Database.
Methodology: The number is retrieved from the Travel Voucher Database by generating a report which lists the inspections conducted within the reporting period.
Purpose: The measure identifies the total number of inspections performed in a reporting period. It is important because it identifies inspections that result from unusual or special circumstances.

5.1.3.1 Efficiency
Definition: The average cost to the Department to resolve a complaint based on the total funds expended and encumbered during the reporting period for complaint processing, investigation, and resolution divided by the number of complaints resolved. Cost includes department overhead, salaries (permanent and temporary personnel), supplies, travel, postage, subpoena expenses, and other costs directly related to the agency’s enforcement function.
Data Limitations: No limitations.
Data Source: Data is obtained from either a management report from the Department’s Financial Administration Division or USAS and the Consumer Complaint Tracking System.
Methodology: To obtain the average, divide the total funds expended by the total number of resolved complaints within the reporting period. Non-jurisdictional complaints (closed as DISJ) are not included in this measure.
Purpose: The measure identifies the efficiency in costs for resolving a complaint.

5.1.3.2 Efficiency
Definition: The average length of time to resolve a jurisdictional complaint, for jurisdictional complaints resolved during the reporting period. The number of days to reach a resolution is calculated from the initial date of receipt of a consumer complaint to the date closed.
Data Limitations: No limitations.
Data Source: Data is obtained from the Consumer Complaint Tracking System.
Methodology: The total number of calendar days per jurisdictional complaint resolved, summed for all complaints resolved during the reporting period, that elapsed from receipt of a request for agency intervention to the date upon which final action on the complaint was taken (numerator) is, divided by the number of complaints resolved during the reporting period (denominator). The calculation excludes complaints determined to be non-jurisdictional of the agency's statutory responsibilities.

Purpose: The measure tracks the average number of days spent to resolve a complaint. The measure is important because it shows how efficient the division has been in resolving complaints.

5.1.3.1 Explanatory
Definition: The total number of complaints received in a reporting period that are within the agency's jurisdiction of statutory responsibility.
Data Limitations: No limitations.
Data Source: The number is retrieved from the Consumer Complaint Tracking System.
Methodology: Actual number.
Purpose: The measure provides information on the total number of jurisdictional complaints. This measure is important to determine the division's workload.

5.1.3.1 Output
Definition: The total number of complaints resolved during the reporting period upon which final action was taken by the board or the Department through informal and formal means. Non-jurisdictional complaints (closed as DISJ) are not included in this measure.
Data Limitations: No limitations.
Data Source: Data is maintained in the Consumer Complaint Tracking System.
Methodology: Actual number.
Purpose: The measure shows the workload associated with resolving complaints. The measure is important because it also identifies consumer problems.

APPENDIX E. WORKFORCE PLAN

INTRODUCTION

Each state agency is required to conduct a strategic planning staffing analysis and develop a workforce plan that follows guidelines developed by the State Auditor. This workforce plan addresses the agency's critical staffing and training needs, including the need for experienced employees to impart knowledge to their potential successors pursuant to Section 2056.002, Government Code.

AGENCY OVERVIEW

This section describes the mission, strategic goals, objectives, and business functions of the agency. Potential changes to these items over the next five years are also discussed.

TDHCA Mission

To help Texans achieve an improved quality of life through the development of better communities.

TDHCA Philosophy

Customers

- § Advocacy: The Department will actively encourage, support, and promote an improved quality of life for extremely low, very low, low, and moderate income Texans.
- § Service: The Department will be responsive to every constituent request and provide every customer with prompt, courteous service.
- § Partnership: The Department will foster an atmosphere that is conducive to encouraging and forming public and private partnerships that are responsive to the needs of extremely low, very low, low, and moderate income Texans.
- § Equity: The Department will establish processes for the public's full participation in programs and the fair allocation of resources.
- § Respect: The Department believes in the worth of all persons and their need for decent, safe, and affordable housing.

Operations

- § Integrity: The Department will conduct business openly, free of bias, and according to the highest ethical and professional standards.
- § Accountability: The Department will be answerable and responsive to the Texas Legislature, external customers/consumers, and its various funding sources.
- § Efficiency: The work of the Department will be accomplished in the most direct, cost-effective manner.
- § Leveraging: Each program will encourage public and private sector participation and the use of additional resources to maximize economic impact.
- § Diversity: The Department recognizes the need for a diverse working environment. The Department will strive to continue to recruit and retain a diverse workforce to reflect the diversity of Texas.

Staff

- § Quality: Department staff will be committed in providing extraordinary services to its customers and employees in the work they perform.
- § Creativity: Department staff will continually seek innovative methods for performing work in their respective fields.
- § Respect: The Department recognizes that its employees are the critical element in accomplishing its mission and goals. Therefore, it pledges to support their continued professional development and provide opportunities for reward based on their performance. In doing so, it also pledges to promote a collaborative and positive work environment for all employees.

TDHCA's Goals, Objectives, and Strategies to Fulfill its Mission

Goal 1.

To increase and preserve the availability of safe, decent, and affordable housing for very low, low, and moderate income persons and families.

Objective 1. Make loans, grants, and incentives available to fund eligible housing activities and preserve/create single and multifamily units for very low, low, and moderate income households.

Strategy 1. Provide federal mortgage loans, through the department's Mortgage Revenue Bond (MRB) Program, which are below the conventional market interest rates to very low, low, and moderate income homebuyers.

Strategy 2. Provide federal housing loans and grants through the HOME Investment Partnership (HOME) Program for very low and low income families, focusing on the construction of single family housing in rural areas of the state through partnerships with the private sector.

Strategy 3. Provide state housing loans and grants through the HTF for very low and low income households.

Strategy 4. Provide federal rental assistance through Section 8 certificates and vouchers for very low income households.

Strategy 5. Provide federal tax credits to develop rental housing for very low and low income households.

Strategy 6. Provide federal housing loans and grants through the HOME Investment Partnership (HOME) Program for very low and low income families, focusing on the construction of multifamily housing units in rural areas of the state through partnerships the private sector.

Strategy 7. Provide state housing loans and grants through the HTF for very low and low income households.

Strategy 8. Provide federal mortgage loans through the department's Mortgage Revenue Bond (MRB) program for the acquisition, restoration, construction and preservation of multifamily rental units for very low, low and moderate income families.

Goal 2. Promote improved housing conditions for extremely LI, VLI, and low income households by providing information and technical assistance.

Objective 1. Provide information and technical assistance regarding affordable housing resources and community support services.

Strategy 1. Provide information and technical assistance to the public through the Center for Housing Research, Planning, and Communications.

Objective 2. Promote and enhance homeownership opportunities along with the development of safe neighborhoods and effective community services for colonia residents and/or residents of LI, VLI, and ELI along the Texas-Mexico border.

Strategy 1. Provide technical assistance to colonias through field offices.

Goal 3.

Improve living conditions for the poor and homeless and reduce cost of home energy for very low income Texans.

Objective 1. To ease hardships of poverty and homelessness for 16 percent of the population of very low income persons each year.

Strategy 1. Administer homeless and poverty-related funds through a network of community action agencies and other local organizations so that poverty-related services are available to very low income persons throughout the state.

Objective 2. To reduce cost of home energy for 6 percent of very low income households each year at or below 125 percent of poverty

Strategy 1. Administer state energy assistance programs by providing grants to local organizations for energy related improvements to dwellings occupied by very low income persons and general assistance to very low income households for heating and cooling expenses and energy-related emergencies.

Goal 4. Ensure compliance with Department of Housing and Community Affairs federal and state program mandates.

Objective 1. Administer and monitor housing developments and subrecipient contracts to determine compliance with federal and state program requirements.

Strategy 1. Monitor and inspect for federal and state housing program requirements.

Strategy 2. Administer and monitor federal and state subrecipient contracts for programmatic and fiscal requirements.

Goal 5. Protect the public by regulating the manufactured housing industry in accordance with state and federal laws.

Objective 1. Operate a regulatory system to ensure responsive handling of Statement of Ownership and Location and license applications, inspection reports, and complaints as follows: 25 percent installation inspections; 97 percent of applications within established timeframes; and 99 percent of consumer complaint inspections within 30 calendar days of a request.

Strategy 1. Provide services for Statement of Ownership and Location and licensing in a timely and efficient manner.

Strategy 2. Conduct inspections of manufactured homes in a timely and efficient manner.

Strategy 3. Process consumer complaints, conduct investigations, and take administrative actions to protect general public and consumers.

Strategy 4. Provide for the processing of occupational licenses, registrations, or permit fees through TexasOnline.

Core Business Functions

TDHCA business functions can be broadly grouped into three categories: providing housing and community services assistance, regulating the manufactured housing industry, serving as an informational resource. To ensure the success of the Department's efforts in these areas, a variety of supporting functions are required. These support areas include financial administration, human resources, information systems, portfolio management and compliance, policy and public affairs, purchasing, and real estate analysis.

Housing and Community Services Assistance

Types of housing and community services assistance include:

- housing assistance for individual households (homebuyer mortgage and down payment, home repair, and rental payment assistance);
- funding for the development of apartments (new construction or rehabilitation of rental units);
- energy assistance (utility payments or home weatherization activities);
- assistance for homeless persons and emergency relief for individuals or families in crisis poverty (transitional housing, energy assistance, home weatherization, health and human services, child care, nutrition, job training and employment services, substance abuse counseling, medical services, and other emergency assistance); and
- capacity building assistance (training and technical assistance, assistance with operating costs, and predevelopment loans to help local housing organizations develop housing).

Manufactured Housing Activities

TDHCA's Manufactured Housing Division is an independent entity within TDHCA. It is administratively attached, but it has its own Board of Directors. This division administers the Texas Manufactured Housing Standards Act. The act ensures that manufactured homes are well-constructed, safe, and installed correctly; that consumers are provided fair and effective remedies; and that measures are taken to provide economic stability for the Texas manufactured housing industry. Services of the Manufactured Housing Division include issuances of SOL research; training and license issuances to individuals for manufactured housing manufacturing, retailing, rebuilding, installations, broker, or sales; records and releases on tax and mortgage liens; installation inspections; consumer complaints; and federal oversight under a cooperative agreement with HUD.

Information Resources

TDHCA is an informational resource for individuals, federal, state, and local governments, the Legislature, community organizations, advocacy groups, housing developers, and supportive services providers. Examples of information provided includes: general information on TDHCA activities, application and implementation technical assistance, housing need data and analysis, and direct consumer information on available assistance statewide. This information is provided through a myriad of communication methods: a 1-800 phone line, publications and guidebooks, via email and the TDHCA website, public hearings, trainings and workshops, planning roundtables, field offices, mass mailings, television, radio, and print media, speaking engagements, and conferences.

In all of its activities, TDHCA strives to promote sound housing policies; promote leveraging of state and local resources; prevent discrimination; and ensure the stability and continuity of services through a fair, nondiscriminatory, and open process.

Anticipated Changes to the Mission, Strategies, and Goals over the Next Five Years

The Department does not anticipate any significant changes of the mission, strategies and goals over the next five years.

CURRENT WORKFORCE PROFILE (SUPPLY ANALYSIS)

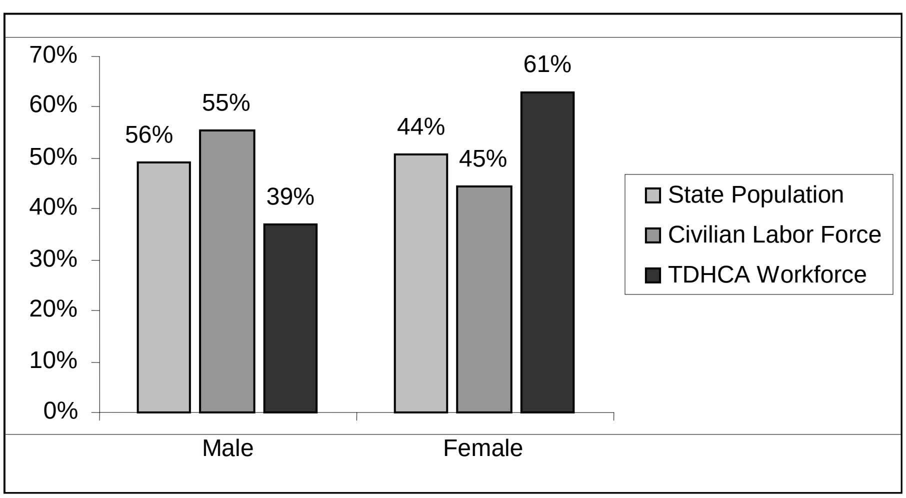
This section describes the agency's current workforce by assessing whether current employees have the knowledge, skills, and abilities needed to address critical business issues in the future.

Full Time Equivalents

As of May 1, 2010, TDHCA had a total headcount of 339 employees. The agency is authorized to have 314 total full-time equivalents (cap FTEs). Additionally, TDHCA was allocated funds for the Community Development Block Grant (CDBG) disaster recovery program as part of the disaster relief efforts after Hurricane Rita, Katrina, and Ike and also received American Recovery and Reinvestment Act (Recovery Act). As part of the CDBG and Recovery Act funding the agency has had to hire additional temporary staff per Article IX "federally funded" rule. . The Department budgeted for 65 full-time temporary FTEs. As of May 1, 2010 39 out of the 65 temporary FTEs were hired to assist with the CDGG and Recovery Act programs and will count for EEO reporting purposes only and do not count against agency's FTE cap of 314.. These temporary FTEs will be part of TDHCA for at least the next biennium or until federal disaster funds and Recovery Act funds are expended.

Gender / Race

The following charts profile TDHCA's workforce and include both full-time and part-time regular and temporary employees. The TDHCA workforce is comprised of 39 percent males and 61 percent females. As shown in the table below, the TDHCA workforce has a higher representation of female workers than the state population.



TDHCA's Workforce

As of April 30, 2010 the Department's workforce comprised of the following:

	Caucasian Males	Caucasian Females	African-American Males	African-American Females	Hispanic Males	Hispanic Females	Other Males	Other Females	Total Males	Total Females
Officials	11	8	0	0	3	2	0	0	14	10
Professionals	38	72	7	26	26	54	3	11	74	163
Para Professionals	0	5	1	2	1	6	0	0	2	13
Technicians	26	6	4	0	9	3	0	0	39	9
Administrative Support	3	5	1	3	0	4	0	0	4	12
Total	78	96	13	31	39	69	3	11	133	207

TDHCA is dedicated to ensuring quality in the workforce and specifically targets recruitment resources that reach out to the workforce in the under-represented EEO categories to generate a larger applicant pool to achieve the EEO goals of the state.

Percent of Workforce Eligible to Retire

Of the current 339 employees, there are 19 employees or 6 percent who are currently eligible to retire under the "Rule of Eighty". Thirteen of these employees are from the Manufactured Housing Division.

Within the next biennium there will be 13 additional employees eligible to retire under the "Rule of Eighty". The division that will be impacted with retirees in the next biennium will be the Financial Administration Division which will have five employees eligible for retirement. There will be a total of 10 percent of employees eligible for retirement now and within the next biennium.

Management is aware of the impact that retirees will have on the Department within the next biennium and is continually looking at methods to replace these skills and knowledge through:

- Employee Development
- Mentoring
- On-the-job training
- Leadership Development
- Succession Planning
- Cross divisional training

Projected Employee Turnover Rate over the Next Five Years

In FY2009 the turnover rate for TDHCA was at its lowest point in comparison to the previous turnover rates. As shown by the chart below, TDHCA's turnover rates have historically been under the state turnover rates and have fluctuated.

According to the State Auditor's Office Turnover Report for Fiscal year 2009, the statewide turnover rate for full-time and part-time classified employees at state agencies was 14.4 percent. This does not include interagency transfers since the state does not consider this to be a loss to the state. Excluding involuntary separations and retirements, the fiscal year 2009 statewide turnover rate was 8.1 percent. This rate, which is often considered more of a true turnover rate because it reflects preventable turnover, also decreased since fiscal year 2008.

In FY2009 the turnover rate for TDHCA was at its lowest point in comparison to the previous turnover rates. As shown by the chart below, TDHCA's turnover rates have historically been under the state turnover rates and have fluctuated. Employee turnover can be both negative and positive. Negatives include the associated costs of turnover, such as training and orientation of new employees, recruitment and selection of new employees, leave payout to departing employees, and lower productivity in the workplace during the time that a position is vacant and during the time that a new employee is learning the job. However, some turnover will always occur and is normal to any organization.

The Department's particular weaknesses have been in the turnover of Compliance Monitors within the Compliance and Asset Oversight Division. Compliance Monitors must travel at least 60 to 75 percent within the State of Texas and it is believed that much of the turnover is due to the amount of travel associated with the position.

Historical Employee Turnover Rates

Entity	FY2005	FY2006	FY2007	FY2008	FY2009
Statewide Turnover	16.9%	15.8%	17.4%	17.3%	14.4%
TDHCA Turnover	12.9%	10.4%	6.8%	8.4%	6.9%

Source: SAO Classified Employee Turnover Report FY2009. Turnover rates exclude interagency transfers.

Workforce Skills Critical to the Mission and Goals of the Agency

Due to the complexity and sheer volume of regulations associated with the many funding programs the Department oversees, a depth of experience and skills are critical to accomplish the mission and goals of the Department that include:

- Mortgage and loan management
- Environmental science
- Underwriting
- Asset Management
- Emergency Response and Management
- Contract Management
- Building Inspection

Other critical skills the Department's workforce needs in order to effectively accomplish its business functions and provide a high level of customer service include:

- Leadership and management skills
- Project management, quality oversight, and evaluation
- Analysis/research/planning/problem solving
- Financial management, financial analysis, and accounting expertise
- Auditing skills
- Knowledge of the legislative system
- Knowledge of the housing market industry
- Mentoring and coaching
- Marketing
- Multi-lingual
- Outreach and technical assistance
- Computer skills ranging from entry level data entry to highly skilled information systems programmers and database administrators
- Customer service skills
- Investigative/inspection related knowledge
- Sophisticated oral and written communication skills
- Legal analysis

Use of Consultants

To effectively achieve its mission, TDHCA will continue to use consultants and contract workers in areas where their unique skills and experience represents the most effective use of the State's resources. Two divisions that expect the greatest ongoing use of consultants are Information Systems, and Bond Finance.

ISD

TDHCA's Information Systems Division makes limited, targeted use of consultants for approved capital budget projects and software development support. In the current biennium, the Department has employed one contract developer to assist in the support of PeopleSoft Financials 8.8 and one contract developer to help support the Community Affairs Contract System and the Housing Contract System.

Bond Finance

Bond Finance uses the following types of consultants:

- Bond Counsel – A nationally recognized law firm or firms experienced in the issuance of mortgage revenue bonds.
- Financial Advisor **–** Typically an investment banking firm experienced in issuance of mortgage revenue bonds.
- Master Servicer/Administrator – A financially sound bank or trust company experienced in tax compliance review and loan servicing for tax-exempt single family mortgage revenue bond programs.

- Disclosure Counsel – A law firm experienced in securities laws particularly as it relates to disclosure of information by securities issuers to the private markets.
- Rating Agencies – A national rating agency which analyzes bond issues and assigns a rating to them to indicate to prospective bondholders the investment quality of the issue.
- Interest Rate Swap Advisor – Primarily monitors interest rate swaps used to hedge single family mortgage revenue bonds.
- Guaranteed Investment Contract Broker – Provides reinvestment services for single family mortgage revenue bond issues, single family commercial paper issues, and/or multifamily mortgage revenue bond issues.

FUTURE WORKFORCE PROFILE (DEMAND ANALYSIS)

This section describes the Department's future business and staffing outlook. This analysis helps to identify trends, future influences, and challenges for the agency's business functions, new and at-risk business, and workforce composition.

Expected Workforce Changes Driven by Factors such as Changing Missions, Goals, Strategies, Technology, Work, Workloads, and Work Processes

Expected Workforce Changes

- The Information Systems Division anticipates challenges in managing risks associated with potential ISD employee turnover. The rate of systems change associated with new programs has been especially high in FY 2010, leaving less time for cross training, documentation, and contingency planning. This combined with a legacy application development environment that houses critical applications such as the HR System, but has an extremely limited pool of qualified programmers, makes planning for turnover an important management priority.
- The HOME Division expects a continued high level of activity under TCAP for the next year. Management is implementing a number of changes and improvements in the administration of the HOME Program which may necessitate an increased workload during the next year as these changes are implemented.
- The Homeownership Division anticipates that the growth in size and scope of the Texas First Time Homebuyer Program and the Texas Mortgage Credit Program could result in the need for additional staff.
- The Compliance Division has seen significant changes within the last two years to the utility allowance regulations for the housing tax credit program. These changes new require the Department to review the allowance on an annual basis for certain methodologies and for every methodology, review if the owner wants to switch, which could result in the need for additional staff.
- The Disaster Recovery Division is currently developing a staffing plan to accommodate the needs of the Dolly and Ike Disaster Recovery Programs. The plan will cover staffing needs for contract management, technical assistance,

monitoring and oversight, quality assurance and the cross-functional divisional relationships necessary for the administration of these programs. Employees with experience in CDBG programs as well as single family, multifamily, and other affordable housing programs are sought to fill the positions.

- The Human Resources Division anticipates additional requests for technical compensation support, general support, and information distribution due to the increase of temporary staff and employment opportunities.

Future Workforce Skills Needed

In addition to those skills described above in the “Workforce Skills Critical to the Mission and Goals of the Agency” section it is expected that the following skills will also be needed:

- The Bond Finance Division may need to bring some specialized functions in-house over the next several years that the Department currently relies upon consultants to complete. Those tasks may require new staff and new skill sets.
- The Legal Services Division is called upon to provide increasingly complex transactional documentation skills and assist in developing increasingly detailed and complex rules, as new programs continue to emerge in response to federal legislative changes and new strategic directions. Both require significant real estate experience, detailed knowledge of state and federal laws, plus exceptional drafting skills. As more asset resolution and enforcement issues are brought forward, additional capabilities in contested case proceedings, loan restructurings, and bankruptcy matters are required.
- The Housing Trust Fund has a current and future need for data analysis and programming skills.
- The Neighborhood Stabilization Program has a current and future need for additional skills in the management of longer-term subrecipient contracts.
- The Human Resources Division anticipates needing to build strong overall HR knowledge, including HR certification; compensation skills; recruitment skills; the ability to administer HR programs effectively (strategically and assisting with development of programs); and skills in becoming an effective change agent for the Department.
- Many of the program areas have ongoing needs for expertise in data management and reporting.

Anticipated Increase or Decrease in the Number of Employees Needed to Do the Work

Anticipated Increases:

- The Homeownership Division anticipates the addition of at least one staff person to assist with processing and issuing Mortgage Credit Certificates, in order to efficiently process the workload and its continued growth.

- The HOME Division is currently seeking to fill two full time positions. Due to the myriad of housing activities performed under the HOME Program, employees with experience in federal or other affordable housing program administration are needed to fill these positions. The HOME Division also anticipates utilizing a temporary employee or intern for a short period of time to assist with the high volume of work under TCAP.
- The Energy Assistance Division has received increased funding from LIHEAP and as a result, four new staff persons will be paid from that funding.
- The Bond Finance Division anticipates the possible addition of one staff person to handle specialized data analysis.
- The Compliance & Asset Oversight Division anticipates the need for more staff if the volume of utility allowance reviews for the housing tax credit program continues or increases. Additionally, due to the Recovery Act requirement that the Department perform asset management for properties funded through the Tax Credit Exchange program and TCAP, the Compliance Divisions anticipates that the Department will need additional staff to perform these functions. Those new staff members will have a similar but different skill set than the existing compliance monitors.
- The Real Estate Analysis Division anticipates an increase in the number of employees needed to underwrite an expanding pipeline of multifamily transactions as a result of stimulus funding; these transactions are expected to continue to increase over the next few years.
- The Legal Services Division anticipates the need for at least one additional lawyer, two additional paralegals, and potentially additional legal staff for disaster recovery.
- The Disaster Recovery Division anticipates an increase in the immediate future in number of division employees. This staffing plan will be implemented in 2010 and will likely be in force through 2012 or 2013.
- The Human Resources Division anticipates the need for one additional temporary staff member due to the increase in additional staff at the Department.

Anticipated Decreases:

- The Financial Administration Division anticipates a decrease in temporary positions currently supporting the ongoing efforts related to HERA, the Recovery Act, and Disaster Recovery.
- The Recovery Act funding for Weatherization ends in March of 2012. At that time, the current staff within the Energy Assistance Division that is paid from Recovery Act will be reduced. Additionally, it is anticipated that that funding from LIHEAP will decrease by 2012 and those staff paid from those funds will be reduced as well.
- As the Neighborhood Stabilization Program contract terminates in March, 2013, there potentially will be a reduction of the number of employees required, depending on HUD guidance at that time regarding use of NSP program income.

- Due to the completion of federal reporting on the Recovery Act by February 2013, the staff of the Recovery Act Accountability & Oversight Office will decrease to zero.
- The Disaster Recovery Division anticipates a reduction in staff occurring as temporary DR programs begin to wind down, likely in mid to late 2013, barring any future disaster events in Texas that are federally funded.

Anticipated Use of Consultants

- The Recovery Act Accountability & Oversight Office anticipates the possible use of consultants for the following Recovery Act programs: Weatherization Training Academy, Weatherization Monitoring and Inspections, Weatherization Auditors and Assessors, and TCAP/Exchange Asset Management.
- Based on projected growth in applications and data supporting the mission of the agency, the Information Systems Division anticipates a need to maintain the continued use of one consultant for PeopleSoft support and, depending on Central Database expansion for new programs, one consultant to augment Java software development efforts.
- The Homeownership Division anticipates the continued use of a large number of consultants utilized in conjunction with the structuring and pricing of bond transactions that fund the Texas First Time Homebuyer and Texas Mortgage Credit Programs.
- The Bond Finance Division anticipates the continued use of a number of consultants, including advisors to provide us with financial advice, non-financial advisors to help us market our debt transactions, legal advisors to assist in the documentation of our debt transactions, and service providers to assist us in meeting our tax compliance requirements.
- The Compliance & Asset Oversight Division anticipates the continued use of outside contractors for Uniform Physical Condition Standards Inspections and is considering the possibility of outsourcing some of the asset management of properties funded through the Tax Credit Exchange program and TCAP.
- The Legal Services Division anticipates the use of an outside administrative law judge in addition to possible increases in the use of outside counsel. Additionally, the Division is considering the development of a relationship with one or more law firms to assist with document preparation overflow.
- The HOME Division anticipates the possible use of one or more service providers to assist in the administration of HOME Program funding to rural areas of the state where local municipalities have not requested HOME Program funding.
- The Disaster Recovery Division anticipates the use of one or more service providers to assist in providing technical assistance and performing set ups and draws to the Dolly and Ike funding subrecipients. Other providers may be contemplated for compliance of multifamily properties and outsourcing underwriting of multifamily projects.

- The Housing Resource Center anticipates the use of one or more consultants for extensive external research or research used for reports, such as studies on rural housing or the Analysis of Impediments to Fair Housing report.
- The Housing Trust Fund anticipates the use of one or more consultants to provide technical assistance and capacity building for rural housing providers in the Rural Housing Expansion Program. This program provides rural nonprofit organizations, municipalities and counties the capacity building, training, and funds needed to create affordable housing in their communities.

GAP ANALYSIS

Anticipated surplus or shortage of employees/ skills:

Due to the changing workforce of the Department it is anticipated that there may be a shortage of the following personnel and/or skills:

- The Bond Finance Division may experience a shortage related to the specialized data analysis personnel and associated skill sets.
- The Legal Services Division anticipates a shortage in qualified real estate professionals, specifically those skilled and versed in HUD and LIHTC issues.
- The Information Systems Division has a continued need for employees with expertise in Java and the specific Java framework used at TDHCA, Oracle, APPX, PeopleSoft, Mitas, and network and technical support.
- The Disaster Recovery Division anticipates a shortage of CDBG and HUD-based housing program experience among potential employees. Broad economic downturns have created a surplus of private sector experience, but applicable public sector experience remains in short supply.

STRATEGY DEVELOPMENT

This section describes strategies for workforce transition.

Specific Goals to Address Workforce Competency Gaps or Surpluses

To plan for TDHCA's future workforce needs, the following goals have been developed.

Gap	**Retain and attract the right person for the job.**
Goal	To attract and retain a competent well-trained workforce.
Rationale	· Over 10 percent of TDHCA's workforce is projected to be eligible to retire by the end of FY13. In addition, shortage of certain workers in the labor market will make filling some positions difficult. As experienced TDHCA employees retire or as employees otherwise leave, TDHCA must be ready to either fill these vacancies with existing staff or aggressively recruit from the outside. · The Department must be able to retain existing employees, especially those with institutional knowledge, skills, and experience. The Department must also develop those

	employees with interest and ability to learn new skills and develop leadership skills in order to be prepared to advance into critical positions. The Department must also be prepared to recruit external candidates with the necessary skills needed.
Action Steps	· Conduct an assessment of risk of TDHCA regarding the potential loss of knowledge, particularly in areas of loss due to retirement of key positions. · Identify positions that should be targeted for succession planning, determine critical competencies and skills needed for those positions, and consider how to develop staff for theses position and how to aggressively recruit for these positions. · Provide employee training to develop critical skills needed. · Develop and provide cross/rotational training for employees who are seeking new challenges. · Create training and development plans for employees to assume higher level positions as vacancies occur. · Establish recruitment resources that market specific to the housing industry, attend career fairs at colleges and universities, use the Work in Texas database to recruit applicants, and continue to have TDHCA job fairs in an effort to recruit and achieve a diverse qualified pool of applicants. · Encourage management to identify recruitment resources, organizations, colleges, and university to establish and applicant pool of individuals with the critical skills needed for their positions. · Continue the Department's summer internship program and encourage management to recruit individuals that are interested in public service with hands on experience with the Department's programs and to serve as a good source of potential employees when vacancies occur. · Continue to market TDHCA's compensation package to ensure that applicants and candidates are informed about state benefits. · Encourage employees to pursue professional certification(s) in their areas of employment. · Continue to conduct the Organizational Excellence Survey to determine trends in employee satisfaction and address areas or trends that could be affecting employee turnover · Continue to provide staff with flex hours, compressed workweek schedules, telecommuting and other avenues to balance work and family needs. · Continue to provide staff with a relaxed dress code. · Develop a formal Employee Recognition and Awards Program.

	· Determine positions with high turnover rates and implement more aggressive recruitment and retention strategies for these positions. · Promote the Wellness Program.

Gap	**IS staff with advanced technology skills needed to maintain the Department's continually advancing computer systems and programs.**
Goal	To provide the Department with technology that will increase efficiency of information for customers and staff, increase customer satisfaction, and provided streamlining of technology based programs
Rationale	Training is needed to stay current with emerging technology. There are increased requests for changes to IT systems to betters serve our customers and staff
Action Steps	· Continue to develop IT staff by providing ongoing training. · Determine anticipated changes needed to systems and allow for training and staff development of new technologies. · Cross functional training of IT staff. · Develop plans for future needs of the Department web-based programs.
Gap	**Employees with skills needed to work with and manage others in a diverse environment.**
Goal	To employ staff who can function in a diverse work environment.
Rationale	As the workforce continues to change there is an increase in multi-generational and diverse backgrounds entering the workforce. Employees will need to be able to work with and manage people with differing opinions and work ethics.
Action Steps	· Offer speakers and training on a variety of topics to promote a work environment that is inclusive and continues to develop a strong diverse workforce. · Conduct team building retreats. · Continue to celebrate multi-cultural events at the Department to promote diversity and an opportunity for staff to participate in these events. · Regularly review Department demographics. · Continue to provide the opportunity for staff to participate on committees such as the Events Planning Committee, Wellness Committee and as other committees are formed.

Gap	**Managers with the skills needed to lead, communicate effectively, resolve conflict, mentor, and develop staff.**
Goal	To recruit and develop employees with strong management skills and lead their staff in a time of a change and challenges.
Rationale	The Department has had an increase in funding which has created the need for temporary staff and an increased workload of all staff in a fast-paced environment. Managers need to be able to lead their staff during this time of changes and challenges.
Action Steps	· Continue to send employees in team lead, project management, and management positions to the Governor's Center for Management Development and provide information on trainings for leadership and management workshops. · Identify critical skills needed for key management positions and provide training opportunities, rotational/cross functional training. · Encourage management to mentor employee with the potential and desire for leadership roles.

APPENDIX F. SURVEY OF ORGANIZATIONAL EXCELLENCE RESULTS AND UTILIZATION PLANS

Employees' Attitudes and Possibilities for Change

In February of 2010, TDHCA participated in the Survey of Organizational Excellence sponsored by the University of Texas. This survey forms the basis of the following observations concerning TDHCA's strengths and weaknesses according to the employees of the Department. The very high response rate of 93 percent indicates that employees have an investment in the Department, want to see the Department improve, and generally have a sense of responsibility to the Department.

In reviewing the following sections, the following scoring categorizations are useful:

§ Scores of 375 or higher indicate areas of substantial strength.

§ Scores above 350 indicate employees perceive the issue more positively than negatively.

§ Scores below 350 indicate employees perceive the issue more negatively than positively.

§ Scores below 300 indicate areas of concern for the Department. They should receive immediate attention. No items in the TDHCA survey scored below the 300 range.

In comparison to the 2008 Survey or Organizational Excellence the Department scores improved. The chart below shows the comparison of scores for 2008 versus 2010. All the scores increased in 2010 with the exception of one score (Quality) that decreased by one point.

Score Legend

¨	3 highest scores
à	3 lowest scores

CONSTRUCT NAME	SCORE 2008	SCORE 2010	POINTS DEVIATED
Supervision	348	¨ 411	+63
Team	à 345	¨ 402	+57
Diversity	364	376	+12
Pay	à 302	à 310	+8
Physical Environment	¨ 377	379	+2
Benefits	373	391	+18
Employment Development	¨ 377	401	+24
Strategic	¨ 386	¨ 414	+28
Quality	¨ 388	387	-1
Internal Communication	à 333	à 360	+27
External Communication	376	394	+18
Job Satisfaction	367	382	+15
Information Systems	**	à 374	**
Employee Engagement	**	397	**

** Constructs new for 2010 survey

Areas of Strength

The Department's strengths lie in the perception employees have according to the following: Supervision, Team, and Strategic. They are discussed below in the order of scores received, from highest to lowest.

- ***Strategic (414):*** This reflects employees' thinking about how the Department responds to external influences that should a play a role in defining the agency's mission, vision, services and products. This implies the ability of the Department to seek out and work with relevant external entities. High Strategic scores indicate that employees view the Department as able to quickly relate its mission and goals to environmental changes and demands.
- ***Supervision (411):*** This provides insight into the nature of supervisory relationships within the Department, including aspects of leadership, the communication of expectations and the sense of fairness that employees perceive between supervisors and themselves. High Supervision scores indicate that employees view their supervisors as fair, helpful, and critical to the flow of work.
- ***Team (402):*** This describes employees' perceptions of the people within the Department with whom they work on a daily basis to accomplish their jobs (the work group or team). Also, it gathers data about how effective employees think their work group is as well as the extent to which the Department supports cooperation among employees. High Team scores indicate that employees view their work groups as effective, cohesive, and open in the opinions of all its members.

Areas of Concern

Areas where TDHCA did not score as high were Pay, Internal Communication, and Information Systems issues as described below from lowest score to highest scores. While Pay is the lowest score, it is still viewed as more positive than negative.

- ***Pay (310)***: Pay is a common negative perception across most, if not all, state agencies. This category addresses perceptions of the overall compensation package offered by the Department. It describes how well the compensation package "holds up" when employees compare it to similar jobs in other organizations.
- ***Internal Communication (360):*** This construct captures the flow of communication within the Department from the top down, bottom up, and across divisions. It addresses the extent to which communication exchanges are open and candid and move the Department toward goal achievement.
- ***Information Systems (374):*** This construct provides insight into whether computer and communication systems enhance employees' ability to get the job done by providing accessible, accurate, and clear information. The construct addresses the extent to which employees feel that they know where to get needed information, and that they know how to use it once they obtain it.

Strategies for Improvement

The Department will continue to capitalize on the information derived from the 2010 Survey of Organizational Excellence.

Improving Areas of Concern

- ***Pay***: While Pay continues to be the lowest scoring category for the Department this category has improved based on the last survey score. There have been many ways the Department has addressed fair pay to include:
- Review of all pay actions for equity among similar positions.
- Providing each Division Director with equity reports for the division and an equity report for Department positions.
- A Department-wide classification audit was conducted by the State Auditor's Office to determine misclassifications for the Department. There were only 8 positions that needed to be reclassified as part of this audit. The Department requires that employee classifications be reviewed during each employee annual performance review to ensure that position classifications are appropriate.
- The Department participated in a National Housing Organization Compensation Survey. This survey allows the Department to review salaries of other similar positions in comparison to Department salaries.

Enhancing Strengths

- The Department is committed to instilling a culture of diversity, transparency, professionalism, and integrity. The Department will continue to analyze organizational development through review of program organizational structure to ensure that processes and program goals and objectives are being met with the most streamlined measures and are functioning effectively and efficiently.
- The Department will continue to have open communications with staff and will promote an environment that allows employees to improve their skills and abilities through continuing education, external training, in-house training, and other training resources as needed.

APPENDIX G. HISTORICALLY UNDERUTILIZED BUSINESS PLAN

GOAL

The Texas Department of Housing and Community Affairs strives to provide procurement and contracting opportunities for all businesses, with efforts to maximize inclusion of minority and women owned businesses.

OBJECTIVE

The Department shall make a good faith effort to maximize the award of goods and services to HUBs in all facets of contracting, subcontracting, and purchases. Through all reasonable means, the Department strives to award procurement and subcontracting opportunities to minority and women owned businesses.

STRATEGY

The following programs have been developed and are part of TDHCA’s good faith effort to achieve these goals:

- HUB Orientation/Assistance Package
- Actively participate in Economic Opportunity Forums (EOFs) enhancing the vendor knowledge of procurement opportunities at the Department.
- Utilization of the Electronic State Business Daily web-site provides opportunity to all HUBs and HUB subcontractors to acquire and participate in the Department's bid opportunities.
- Multiple Awards of single requisitions to enhance HUB vendor participation.
- Specifications, delivery dates, and guidelines are reasonable and concise.
- Ensuring that specifications and terms and conditions reflect the actual needs.
- Inclusion of contractors with reference list of Certified HUBs for subcontracting opportunities.
- Ensuring subcontracting plans are appropriately and accurately included in services and commodities contracts of which the value exceeds $100,000. Evaluation of the contractor compliance with subcontracting plans as applicable in contracts of $100,000 or greater.

OUTPUT MEASURES

Table I. HUB Goals and TDHCA Performance

Category	TDHCA Performance		TDHCA Goals for 2010
	2008	**2009**	
Heavy Construction	N/A	N/A	N/A
Building Construction	N/A	N/A	N/A
Special Trades Contracts	N/A	N/A	20.0%
Professional Services Contracts	17.2%	38.2%	15.0%
Other Services Contracts	55.8%	32.5%	25.0%
Commodities Contracts	81.4%	91.7%	25.0%
Grand Total HUB Participation	55.5%	44.0%	

Table II. TDHCA Performance – Fiscal Year 2008

Category	**TDHCA Performance**		**Percentage Spent With HUBS**	**Statewide Goal**
	Total Dollar Amount Spent	**Total Dollar Amount Spent With HUBS**		
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trades Contracts	N/A	N/A	N/A	57.2%
Professional Services Contracts	272,217.00	46,970.00	17.2%	20.0%
Other Services Contracts	2,050,397.00	1,145,388.00	55.8%	33.0%
Commodities Contracts	376,244.00	306,617.00	81.4%	12.6%
Grand Total Expenditures	2,698,859.00	1,498,976.00	55.5%	

Table III. TDHCA Performance – Fiscal Year 2009

Category	**TDHCA Performance**		**Percentage Spent With HUBS**	**Statewide Goal**
	Total Dollar Amount Spent	**Total Dollar Amount Spent With HUBS**		
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trades Contracts	N/A	N/A	N/A	57.2%
Professional Services Contracts	268,686.00	102,900.00	38.2%	20.0%
Other Services Contracts	1,911,702.00	622,659.00	32.5%	33.0%
Commodities Contracts	494,934.00	454,225.00	91.7%	12.6%
Grand Total Expenditures	2,675,322.00	1,179,784.00	44.0%	

EXTERNAL/INTERNAL ASSESSMENT

TDHCA continues to increase the use of HUBs through education of staff on procurement policy rules and procedures; through aggressively recruiting and educating prospective HUB businesses; assisting HUBs with the state HUB Certification program; and participation in EOFs with other state entities, local and federal entities and elected officials. Through participation in these Forums, TDHCA has developed new vendor relationships and continues to pursue new avenues for HUB participation. TDHCA has established and strives to exceed the previous year’s goals for procurement from HUB and subcontracting of HUB vendors.

APPENDIX H. LIST OF ABBREVIATIONS

AAA	Local Area Agencies on Aging
ADA	Americans with Disabilities Act
AGI	Annual Gross Income
AHNS	Affordable Housing Needs Score
AMFI	Area Median Family Income
AMGI	Area Median Gross Income
AMI	Area Median Income
ARRA/Recovery Act	American Recovery and Reinvestment Act of 2009
ATWAC	Aging Texas Well Advisory Committee
BRB	Texas Bond Review Board
CAA	Community Action Agency
CAO	Compliance and Asset Oversight Division
CAP	Community Action Program
CAPER	Consolidated Annual Performance Report
CDB	Central Data Base
CDBG	Community Development Block Grant
CDC	Community Development Corporation
CEAP	Comprehensive Energy Assistance Program
CFD	Contract for Deed
CFR	Code of Federal Regulations
CHDO	Community Housing Development Organization
CMTS	Compliance Monitoring and Tracking System
CNFP	Community Food and Nutrition
CoC	Continuum of Care
COG	Council of Governments
CPA	Texas Comptroller of Public Accounts
CRCG	Community Resource Coordination Groups
CSBG	Community Services Block Grant
DADS	Texas Department of Aging and Disability Services
DAW	Disability Advisory Workgroup
DFPS	Department of Family & Protective Services
DHHS	US Department of Health and Human Services
DOE	U.S. Department of Energy
DOT	US Department of Transportation
EEO	Equal Employment Opportunity
ELI	Extremely Low Income
DPPA	Division of Policy and Public Affairs
ESGP	Emergency Shelter Grants Program
Fannie Mae	Federal National Mortgage Association.
FEMA	Federal Emergency Management Agency
Freddie Mac	Federal Home Loan Mortgage Corporation
FTE	Full Time Employee
FTHB	First Time Homebuyer Program
FY	Fiscal Year
GR	General Revenue
HBA	Homebuyer Assistance Program
HBAR	Homebuyer Assistance with Rehabilitation Program
HERA	Housing and Economic Recovery Act of 2008

HFA	Housing Finance Authority
HOME	HOME Investment Partnerships Program
HOPWA	Housing Opportunities for Persons with AIDS
HQS	Housing Quality Standards
HRC	Housing Resource Center
HTF	Housing Trust Fund
HUB	Historically Underutilized Business.
HUD	U.S. Department of Housing and Urban Development
ICC	Interagency Coordinating Commission for Building Healthy Families
IDIS	HUD's Integrated Disbursement and Information System
IS	Information Systems
LAN	Local Area Network
LAR	Legislative Appropriation Request
LBB	Legislative Budget Board
LI	Low Income
LIHEAP	Low Income Home Energy Assistance Program
LIHTC	Low Income Housing Tax Credit (Federal)
LURA	Land Use Restriction Agreement
MCC	Mortgage Credit Certificate
MFB	Multifamily Bond
MI	Moderate Income
MMHR	Texas Department of Mental Health and Mental Retardation
MOU	Memorandum of Understanding
MRB	Mortgage Revenue Bond
MSA	Metropolitan Statistical Area
NIMBY	Not In My Backyard
NOFA	Notice of Funding Availability
NOHP	Nonprofit Owner-Builder Housing Program
NSP	Neighborhood Stabilization Program
OCI	Office of Colonia Initiatives
PHA	Public Housing Agency
PIAC	Promoting Independence Advisory Committee
PITI	Principal, Interest, Taxes, and Insurance
PJ	Participating Jurisdiction
QAP	Qualified Allocation Plan
RAF	Regional Allocation Forecast
RFP	Request For Proposals
RFQ	Request for Qualifications
RHD	Rental Housing Development
Section 8 Program	Statewide Housing Assistance Payments Program
SFY	State Fiscal Year
SHC	Colonia Self-Help Centers
SLIHP	State Low Income Housing Plan and Annual Report
SOA	State Auditor's Office
SOL	Statement of Ownership and Location
SOP	Standard Operating Procedure
TANF	Temporary Assistance for Needy Families
TCAP	Texas Credit Assistance Program
TDHCA	Texas Department of Housing and Community Affairs
TDRA	Texas Department of Rural Affairs
TFPTF	Texas Foreclosure Prevention Task Force

THN	Texas Homeless Network
TML	Texas Municipal League
TSAHC	Texas State Affordable Housing Corporation
TSDC	Texas State Data Center
TSEHP	Texas Statewide Homebuyer Education Programs
VLI	Very Low Income
WAN	Wide Area Network
WAP	Weatherization Assistance Program

HOUSING RESOURCE CENTER

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve the submittal of an application to the U.S. Department of Housing and Urban Development for Rental Assistance Vouchers for Non-Elderly Persons with Disabilities.

> RESOLVED, that the Executive Director and his designees be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to apply to the U.S. Department of Housing and Urban Development for Rental Assistance Vouchers for Non-Elderly Persons with Disabilities and to do all things they may deem necessary or advisable to effectuate the foregoing.

Background

In April 2010, U.S. Department of Housing and Urban Development (HUD) released the Final Notice of Funding Availability (NOFA) for Rental Assistance for Non-Elderly Persons with Disabilities. The NOFA allows the Department, as a Public Housing Authority that administers Housing Choice Vouchers, to apply for 100 vouchers for Persons with Disabilities. Some portion of the 100 vouchers can be used for persons transitioning from health related institutions, such as nursing homes, into the community and some will serve persons with disabilities on the current Housing Choice Voucher waiting list.

The Department has solicited ongoing feedback regarding its application for these rental vouchers from the Disability Advisory Workgroup. That group met on this issue in June 2009 after a Draft NOFA was released by HUD and in May 2010 the DAW met specifically to provide feedback on the Department's application submission. The Department has also been coordinating on this application with the Department of Aging and Disability Services (DADS) and the Department of State Health Services (DSHS).

The Department already collaborates closely with DADS to administer our current 60 Project Access Vouchers that are used to transition people from nursing homes that need affordable housing. Part of the 100 vouchers being requested by the Department would allow the Department to serve additional households in need of affordable housing currently residing in nursing homes and other health care institutions. The Department has also been collaborating with DSHS to include in the application housing vouchers for individuals transitioning from State Hospitals. Supportive services for those transitioning from institutions will be provided by either DADS or DSHS to ensure the successful transition of the individual from the institution into the community. The application is due to HUD on July 7, 2010.

Staff recommends the Department be authorized to apply to the U.S. Department of Housing and Urban Development (HUD) for Rental Assistance for Non-Elderly Persons with Disabilities.

HOUSING RESOURCE CENTER

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Authorize staff to issue a Request for Proposals for a Comprehensive Analysis of Rural and Farmworker Housing in Texas.

> RESOLVED, that the Executive Director and his designees be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to proceed to prepare and publish a Request for Proposals for a Firm to conduct a Comprehensive Analysis of Rural and Farmworker Housing in Texas and to negotiate and approve a contract with one or more successful proposals.

Background

The Department is requesting to procure a Firm to provide a comprehensive housing study of rural Texas, to include a comprehensive study of farmworker housing in Texas. The Department recognizes the importance and need for affordable housing in rural Texas. In addition, the Department recognizes the unique challenges of affordable housing for farmworkers in Texas. The Department will use this report to assist with program planning and it will be shared with the community to demonstrate need and provide recommendations for the creation of affordable housing in rural Texas and for farmworkers in Texas.

Elements of the analysis will include:

- Outreach to a wide spectrum of rural and farmworker stakeholders.
- Rural Texas socioeconomic and demographic analysis.
- Rural Texas housing supply and demand analysis to include farmworker housing.
- Analysis of affordable housing developer capacity.
- Identification of regulatory and statutory barriers.
- Identification of best practices.
- Recommendations to increase the development and availability of affordable housing in rural Texas and for farmworkers.

In Chapter 2306 of the Government Code, specifically §2306.259 Affordable Housing Research and Information Program, the Department is required to establish a research and information program. In the Department's appropriations for the 2010-2011 biennium, the Legislature provided for $240,000 in funding earmarked for these activities, of which a portion (estimated to be $40,000) will be used as the funding source for this study. An announcement of the proposed RFP for a comprehensive housing study of rural Texas will be posted on the TDHCA website and in the *Texas Register*.

Staff recommends approval of the RFP as proposed for the comprehensive housing study of rural Texas and authorization of the Executive Director to negotiate and approve a contract for services in accordance with the RFP.

TEXAS HOMEOWNERSHIP DIVISION

BOARD ACTION REQUEST
JUNE 28, 2010

Recommended Action

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

Background

Invitations to originate mortgage loans were recently sent out to our existing lender network and other interested lenders for participation in recently released MRB Program 77. Additionally, lender invitations were sent out earlier this year for participation in Mortgage Credit Certificate Program 75. To date, approximately 65 lending institutions with over 250 branch offices located throughout the state have signed documents to participate in one or both of the programs. At any time, new mortgage lenders interested in participating in an existing program are allowed to complete documentation for consideration and approval.

In an effort to maintain a well trained and knowledgeable lender network, seven lender trainings were recently conducted with Bank of America staff for MRB Program 77 in various cities throughout the state. Additionally, a series of internet based trainings were also offered for those lenders unable to attend the live trainings. With the release of MCC Program 75, TDHCA staff also conducted a series of webinar lender trainings.

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

PARTICIPATING LENDER LIST	
Affiliated Bank	Liberty Mortgage
Allied Home Mortgage Corp.	Mission Mortgage of Texas, Inc.
Amarillo National Bank	National Bank
AmCap Mortgage	Nations Reliable Lending, LLC
Amegy Bank	Network Funding, L.P.
AmericaHome Key, Inc.- Flagstone Lending	Nova Financial Investment Corp. (Nova Home Loans)
Ameri-Pro Funding, Inc. dba Land Mortgage	Patriot Mortgage Company
American National Bank	Platinum Home Mortgage Corp.
American State Bank	Prime Lending, a Plains Capital Company
Ashton Woods Mortgage	Premier Nationwide Lending (NTFN, Inc.)
Bank of America	Prospect Mortgage
Calvert Mortgage Company	Pulte Mortgage
Capstar Lending, LLC	Rocky Mountain Mortgage Company
City Bank Mortgage	Ryland Mortgage Company
Coastal Bend Mortgage, Inc. dba Global Mortgage Group	Security State Bank
Colonial Savings, F.A./Colonial National Mortgage	Sente Mortgage
Community Development Corporation of Brownsville	Service First Mortgage Co., (SFMC, LP)
Cornerstone Mortgage Company	Shelter Mortgage
DHI Mortgage Co., Ltd.	Standard Pacific Mortgage, Inc.
Elite Financing Group, LLC	Summit Funding, Inc.
Envoy Mortgage	Supreme Lending
Falcon International Bank	SWBC Mortgage
First Community Bank	Texas Loan Star, Inc.
First Continental Mortgage Co.	The Lending Partners, LLC
First National Bank El Paso	TXL Mortgage Corporation
First National Bank Texas dba First Community Mortgage	U.S. Bank Home Mortgage
First Priority Financial, Inc.	Universal American Mortgage Company
Homeway Mortgage	ViewPoint Bankers Mortgage
Houstonian Mortgage Group, Inc.	Wells Fargo Home Mortgage
HIS Mortgage, LLC	Willow Bend Mortgage
imortgage.com	WR Starkey Mortgage, LLP
Interlinc Mortgage	
JP Morgan Chase Home Finance	
K. Hovanian American Mortgage, LLC	

HOUSING RESOURCE CENTER
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve publication in the *Texas Register* of a notice proposed amendments to the Texas Administrative Code (TAC) regulations, related to the Section 8 Housing Choice Voucher, Project Access Program.

The following provisions are recommended for revision:
Title 10. Part 1. Chapter 5. Subchapter H, Section 8 Housing Choice Voucher Program, §5.801 Project Access Initiative

> **RESOLVED,** that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed to cause to be published in the *Texas Register* for public comment the proposed revisions to 10 TAC Chapter 5, Subchapters H, §5.801 Project Access Initiative, in the form presented to this meeting, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable.

Background

Project Access was originally a housing voucher pilot program developed by HUD, the U.S. Department of Health and Human Services (HHS), and the Institute on Disability at the University of New Hampshire. The goal of the pilot program was to assist low-income non-elderly persons with disabilities to transition from institutions into the community by providing access to affordable housing and necessary supportive services. The Department applied for the pilot program and received 35 Section 8 housing vouchers from HUD in 2001. After the expiration of the HUD pilot program in 2003, the Department elected to continue the program in recognition of housing need and expressed public interest and has continued to operate the program since that time with periodic increases in the number of Project Access vouchers. Currently, the Department works closely with the Texas Department of Aging and Disability Services in outreach and identification of program participants. The number of Project Access vouchers administered by the Department increased from 50 to 60 in January 2010. The PHA Plan presented to the Board of Directors today proposes an increase for the 2011 Annual Public Housing Agency (PHA) Plan from 60 to 100 vouchers.

Changes to the rule include an administrative correction that reinserts two definitions for the Project Access Program, including the definition of an At-Risk Applicant. In addition, the Department has received feedback from the Disability Advisory Workgroup and the Promoting Independence Advisory Committee that some portion of the Project Access vouchers, which historically have been utilized for only non-elderly, should be made available to serve persons with disabilities over the age of 62. In tandem with the draft PHA Plan suggesting an increase in vouchers from 60 to 100, the Department is using this opportunity to designate that 20 percent of Project Access vouchers be permitted for use for persons of any age, including persons over the age of 62, due to the great need for affordable housing among this aging population transitioning out of institutions. Fifty seven percent of the nursing facility population that chooses to relocate back into the community is over the age of 60, according to the Texas Department of Aging and Disability Services. With this rule change, 80 percent of the vouchers will continue to be reserved for those under the age of 62, the population historically served by the Project Access program.

Upon approval by the Board, the draft proposed rules will be published in the *Texas Register* and released to the public for comment. The public comment period will extend from approximately July 30, 2010 through August 30, 2010. A final recommendation for the adoption of the proposed rules will be presented to the Board in October 2010.

Attachment A
Preamble and Rule

§5.801 Project Access Initiative
The Texas Department of Housing and Community Affairs proposes amendments to 10 TAC Chapter 5, Subchapters H, §5.801, Project Access Initiative. Project Access was originally a housing voucher pilot program developed by HUD, the U.S. Department of Health and Human Services (HHS), and the Institute on Disability at the University of New Hampshire. The goal of the pilot program was to assist low-income non-elderly persons with disabilities to transition from institutions into the community by providing access to affordable housing and necessary supportive services. The Department applied for the pilot program and received 35 Section 8 housing vouchers from HUD in 2001. After the expiration of the HUD pilot program in 2003, the Department elected to continue the program in recognition of housing need and expressed public interest and has continued to operate the program since that time with periodic increases in the number of Project Access vouchers. Currently, the Department works closely with the Texas Department of Aging and Disability Services in outreach and identification of program participants. The number of Project Access vouchers administered by the Department increased from 50 to 60 in January 2010. The PHA Plan presented to the Board of Directors on June 28, 2010 proposed an increase for the 2011 Annual Public Housing Agency (PHA) Plan from 60 to 100 vouchers.

The changes to the rule include an administrative correction that reinserts two definitions for the Project Access Program, including the definition of an At-Risk Applicant. In addition, the department has received feedback from the Disability Advisory Workgroup and the Promoting Independence Advisory Committee that some portion of the Project Access vouchers, which historically have been utilized for only non-elderly, should be made available to serve persons with disabilities over the age of 62. In tandem with the draft PHA Plan suggesting an increase in vouchers from 60 to 100, the Department is using this opportunity to designate that 20 percent of Project Access vouchers be permitted for use for persons of any age, including persons over the age of 62, due to the great need for affordable housing among this aging population transitioning out of institutions. Fifty seven percent of the nursing facility population that chooses to relocate back into the community is over the age of 60, according to the Texas Department of Aging and Disability Services. With this rule change, 80 percent of the vouchers will continue to be reserved for those under the age of 62, the population historically served by the Project Access program.

The public comment period will extend from approximately July 30, 2010 through August 30, 2010. A final recommendation for the adoption of the proposed rules will be presented to the Board in October 2010.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the amended section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections as proposed.

Mr. Gerber has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the rules will be enhanced compliance with formalized policy, all contractual and statutory requirements. There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The amended section will not impact local employment.

The amended section is proposed pursuant to the authority of the Texas Government Code, Chapter 2306, which provides the Department the authority to adopt rules governing the administration of the Department and its programs.

The proposed amended section affects no other code, article or statute.

(a) Purpose. Project Access is a program that utilizes federal Section 8 Housing Choice Vouchers administered by the Department to assist low-income ~~non-elderly~~ persons with disabilities in transitioning from institutions into the community by providing access to affordable housing.

(b) Definitions.
(1) Section 8--The United States Department of Housing and Urban Development Section 8 Housing Choice Voucher Program administered by the Texas Department of Housing and Community Affairs.
(2) At-Risk Applicant--Applicant that meets the following criteria:
- (A) current recipient of Tenant-Based Rental Assistance from the Department's HOME Investments Partnership Program; and
- (B) within 120 days prior to expiration of assistance.

~~(b)~~(c) Regulations Governing Program. All Section 8 Program rules and regulations apply to the program.

(d) Program Design. Twenty percent of Project Access Vouchers will be reserved for persons meeting the Project Access eligibility criteria over the age of 62 at the time of voucher issuance and eighty percent will be reserved for persons meeting the eligibility criteria under the age of 62 at the time of voucher issuance. The number of Project Access Vouchers that correlate with the 20%/80% division will be determined each year in the Departmental PHA Plan.

~~(c)~~(e) Project Access Eligibility Criteria. A Project Access voucher recipient must meet all Section 8 eligibility criteria as well as meet all of the following eligibility criteria:

(1) have a permanent disability as defined in Section §223 of the Social Security Code or be determined to have a physical, mental or emotional disability that is expected to be of long-continued and indefinite duration that impedes one's ability to live independently;

~~(2) be less than 62 years of age at the time of voucher issuance; and~~

~~(3)~~(2) meet one of the following criteria:
- (A) be an At-Risk Applicant and a previous resident of a nursing facility, intermediate care facility, or board and care facility as defined by the U.S. Department of Housing and Urban Development; or
- (B) be a current resident of a nursing facility, intermediate care facility, or board and care facility at the time of voucher issuance as defined by the U.S. Department of Housing and Urban Development.

EXECUTIVE

BOARD ACTION ITEM

June 28, 2010

Recommend Action: Accept Conciliation Agreement as policy and authorize and direct management to carry out its terms and report to the Board.

WHEREAS, Texas Low Income Housing Information Service and Texas Appleseed (the "Complainants") have filed both an Administrative Complaint and a Fair Housing Complaint (the "Complaints") against the State of Texas represented by Texas Department of Rural Affairs as designated grant recipient with the U. S. Department of Housing and Urban Development ("HUD");

WHEREAS, with the direction of the Attorney General and the Office of the Governor, it was deemed that resolution of the Complaints was in the State's best interest and was necessary to enable the State to proceed as expeditiously as possible to secure the second allocation of CDBG disaster recovery funding relating to Hurricanes Ike and Dolly ("Round II Funding");

WHEREAS, in a coordinated effort with the Office of the Governor, the Office of the Attorney General, the Texas Department of Rural Affairs ("TDRA"), and the Texas Department of Housing and Community Affairs (the "Department") conciliation negotiations to resolve the Complaints were entered into,

WHEREAS, the conciliation negotiations resulted in the negotiation and execution of a conciliation agreement, executed on behalf of the State of Texas by the Department and TDRA and executed by the Complainants on May 21, 2010, and approved by HUD on May 26, 2010, (the "Conciliation Agreement"); and

WHEREAS, the Conciliation Agreement resolves the Complaints and, as more fully provided for therein, requires the Department to take specific actions to update its analysis of impediments to fair housing choice and take specific measures with respect to the use of Round II Funding to fulfill the Department's statutory obligation, in connection with the administration of housing programs, to affirmatively further fair housing.;

NOW, THEREFORE, IT IS HEREBY

RESOLVED, that the execution of the Conciliation Agreement for and on behalf of the Department by Michael Gerber, Executive Director, is hereby ratified and accepted, and

FURTHER RESOLVED, that the Executive Director and his designees are hereby authorized, empowered, and directed to take such lawful acts as they or any of them may deem necessary or advisable to carry out and fulfill the requirements of the Conciliation Agreement; and

BE IT FURTHER RESOLVED, that the Board be updated as necessary on the status and impact of the Conciliation Agreement on the Department's programs including the performance of the Disaster Recovery Division to honor the Agreement.

<u>Background</u>

The Texas Low Income Housing Information Service and Texas Appleseed administrative complaint was filed with HUD on October 28, 2009, and their Fair Housing Complaint was filed with HUD on January 21, 2010(an amended filing was made at the request of HUD after the original Conciliation Agreement had been filed). The original filings coincided with the efforts of the Texas Department of Rural Affairs ("TDRA") and this Department's efforts to obtain HUD approval of an amendment to the Ike/Dolly Action Plan relating to the second allocation of Ike/Dolly CDBG funding. The amendment, submitted through TDRA on September 30, 2009, resulted in HUD's letter on November 10, 2009 withholding approval.

The concerns raised in the HUD letter included concerns over the allocation of funds, based on TDRA's damage assessment and allocation model which had been used in lieu of HUD or FEMA/SBA data and concerns over the need to update the analysis of impediments to fair housing choice. Although the complaints were under the aegis of one arm of HUD and the CDBG action plan was under the aegis of another arm of HUD, there was clear linkage. It was concluded, based on discussion with the very high level HUD officials, that the allocation issues and the fair housing allegations needed to be resolved in order for the plan amendment to move forward.

The team of the Governor's Office, the Attorney General's Office, TDRA, and the Department, with in depth support and involvement of the leadership of the affected councils of governments, successfully resolved this wide range of issues and has paved the way for the orderly updating of the analysis of impediments to fair housing choice, the conciliated resolution of the complaints, the allocation of CDBG Ike/Dolly Round II funds, and moving ahead with the Action Plan amendment.

A summary and a copy of the full Conciliation Agreement are attached.

This is a summary document and does not purport to be comprehensive. It does not constitute legal advice and should not be relied upon as such. Key Points Under the Conciliation Agreement

1. The Conciliation Agreement was the effort of a multi-month negotiation and now is signed by the parties and HUD has approved the agreement. It achieves:

    - Resolution and dismissal of the fair housing complaints against the State;
    - The ability to move forward promptly with an Action Plan amendment that will enable the State and its subrecipients to access the second round of Ike/Dolly CDBG disaster recovery funds; and

Specific measures that the State has undertaken to carry out with these CDBG disaster recovery funds to ensure that they are handled in a manner that meets the federal requirement to affirmatively further fair housing.

The Action Plan amendment for Ike/Dolly Round II funds was posted for public comment. Public hearings were held on Friday, May 21st, and Wednesday, May 26th. Public comment was considered and addressed, the Action Plan amendment was provided to the TDRA Board for approval on June 2, 2010, and submitted to HUD on that date.

2. The State is required by federal law to use HUD funds in a manner that affirmatively furthers fair housing ("AFFH"). Complying with the obligation to AFFH requires that the State develop and update as needed an analysis of impediments to fair housing choice ("AI"). The State's AI was last updated in 2003. It will be updated again in two phases. Phase I will include all of the areas eligible to receive CDBG disaster recovery funds for recovery from hurricanes Ike and Dolly, including the entitlement jurisdictions within those areas. Phase II will be the balance of the State. Phase I of the AI will be carried out and accepted by HUD as expeditiously as possible, at the latest, by January 1, 2011.

3. What AFFH entails is not entirely clear. HUD admits it is not statutorily defined, but one national housing advocacy group described it as programs that "promote diverse, inclusive communities."

4. AFFH in the Fair Housing Planning Guide:

    - Conduct an analysis to identify impediments to fair housing choice within the jurisdiction

- Take appropriate actions to overcome the effects of any impediments identified through the analysis

- Maintain records reflecting the analysis and actions taken in this regard.

5. Key matters agreed to in the Conciliation Agreement:

    - At least 55% of all Ike/Dolly funds – including Round I and Round II funds – will be used for housing. This will likely require the COGs to coordinate their programs to achieve this overall requirement. There are some dedicated programs that result in certain regions exceeding the 55% housing target, allowing for some flexibility in other regions.

    - 55% of all funds benefit those with low to moderate incomes. Again the State working with the COGS will coordinate efforts from region to region to make sure the State as a whole achieves this requirement.

    - Once Phase I of the AI is updated, it will be used for unexpended Round II funds and any reallocated Round I.

    - There will be an ability for COGS to bring forward locally identified high priority projects that would not otherwise move ahead without Round II funds prior to the Phase I AI being completed. TDRA will use a consultant acceptable to the Complainants to review the infrastructure projects for consistency with AFFH. For housing programs, TDHCA would be required to affirm that any referred program was consistent with the Conciliation Agreement programs. Each agency would provide the reviewed applications that were deemed to AFFH to the Complaints. After forwarding, Complainants would have up to 10 days to object or be deemed to have waived objection. Programs not objected to could move ahead and be provided a "safe harbor" that they are providing AFFH. Programs objected to would need to wait until Phase I of the updated AI was in place to determine if they are consistent with the AI.

    - There will be training on AFFH in general and, once Phase I is complete, training on the specific impediments and recommendations.

    - Subrecipients will be required to post on a centralized electronic bulletin board notices of any meetings in which they will be considering or taking action on matters relating to the administration of these hurricane recovery funds. This will be in addition to, not in lieu of, their required open meetings postings.

    - There will be a committee to create standard recipient award targets to provide consistent benefits from one area to the next. This committee will be made up of COG representatives, two housing advocates and TDHCA staff. There will be latitude for adjustments for cost of housing, AMFI, and other identified regional differences.

- One-for-one replacement of hurricane destroyed/damaged public housing. This impacts Galveston, Harris and Orange Counties and includes a $100 million set aside for these programs.

- Land Use Restriction Agreements ("LURAs") will be required for multi-family developments or single family units built in groups of 20 by a single developer. A ten year affordability period is required for every multifamily deal and for 20 single family rental units that are constructed by one developer. The affordability period will be required to be included in a LURA that will, by its terms, provide for a private right of action to enforce the LURA directly against the development owner. These units will also be required to accept Section 8 vouchers for the 10 years.

- Each program in the Methods of Distribution ("MODs") for Round II funds (other than those brought forward as specially identified local priorities that were cleared through a "no objection" process) will need to be informed by the update Phase I of the AI. That does not mean that every dollar must go to an AFFH issue, but even infrastructure programs will need to be assessed to ascertain how they are addressing identified impediments as recommended in the AI and helping to promote diverse more inclusive communities overall. In the non-housing world, this could include ways that the community can have greater access to services, improved communities (flood protection) and other related issues

6. There are other targeted programs including:

    - $18 million for assistance for relocation and buyout for LMI victims in FEMA designated "high risk" areas and areas of high minority and poverty concentration.

    - $500,000 for assistance to obtaining clear title.

    - $6 million for a pilot demonstration of rapid housing recovery programs in three designated areas.

    - A request to HUD for housing choice vouchers for up to 2500 eligible households for a moving to opportunity program. This would be at $1 million per year for five years and administered by public housing authorities, permitting renters to move to higher opportunity areas.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office of FHEO, Region VI
801 Cherry Street, Unit #45
Suite 2500
Fort Worth, TX 76102
Phone 1-888-560-8913 Fax (817) 978-5876
www.hud.gov

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EXECUTIVE DIRECTOR

VIA ELECTRONIC MAIL AND REGULAR MAIL

Barbara Deane
Assistant Attorney General
Office of the Attorney General
P. O. Box 12548
Austin, Texas 78711

Dear Ms. Deane:

SUBJECT: HUD Case Nos. 06-10-0410-8 and 06-10-0410-9
Texas Low Income Housing Information Service and Texas Appleseed v The State of Texas, by and through The Texas Department of Rural Affairs and The Texas Department of Housing and Community Affairs

HUD has approved the attached Conciliation Agreement between the Texas Low Income Housing Information Service and Texas Appleseed ("Complainants"), and the State of Texas, by and through the Texas Department of Rural Affairs and the Texas Department of Housing and Community Affairs ("Respondent"). Complainants originally filed administrative complaints (the "Complaints") with HUD containing allegations that the State's use of federal funds violated Sections 804 and 808 of the Civil Rights Act of 1968, as amended. HUD rejected the claim under Section 808 for lack of jurisdiction and Complainants re-filed under Section 804, as well as Section 109 of the Housing and Community Development Act of 1974, as amended. The Agreement has been corrected to replace citation to Section 808 with citation to Section 109.

The Conciliation Agreement notes that HUD in approving the Agreement was "making a finding that that the terms and conditions of this Agreement adequately address all issues urged in the Complaints, including, without limitation, the substantive and legal issues." The allegations in the Complaints have not been investigated by HUD, and in this approval, HUD is acknowledging that Complainants and Respondent have resolved their dispute, that Complainants and Respondent believe that the Conciliation Agreement resolves the issues raised in the Complaints, and that the provisions of the Agreement will adequately vindicate the public interest.

Retaliation is a violation of the Fair Housing Act. Section 818 of the Act makes it unlawful to retaliate against any person because he or she has filed a housing discrimination complaint; is associated with a complainant; has counseled or otherwise assisted any person to file such a complaint; or has provided information to HUD during a complaint investigation. Section 818 also protects complainants against retaliatory acts that occur after a complainant has withdrawn, settled, or conciliated a housing discrimination complaint. Any person who believes that he or she has been a victim of retaliation for any of the reasons listed above may file a housing discrimination complaint with HUD within one (1) year of the date on which the most

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

Michael Gerber
EXECUTIVE DIRECTOR

May 21, 2010

Mr. Garry Sweeney
Fair Housing Director, Region VI
FORT WORTH REGIONAL OFFICE
U.S. Department of Housing and Urban Development
Southwest Office
801 Cherry St., Unit 45, Suite 2500
Fort Worth, TX 76102

Dear Mr. Sweeney:

Enclosed for your review and approval on behalf of the U. S. Department of Housing and Urban Affairs are three (3) fully executed copies of the Conciliation Agreement regarding Case No. 06-10-0410-8 (Title VIII) and Case. No. 06-10-0410-9 (Section 109). Please execute all three (3) copies, retain one for your files, and return the other two (2) to us so that we may retain one and provide one to the Complainants' counsel.

We believe that this agreement fully addresses the concerns that have been raised, resolves fully the matters raised in the complaints, and forms a constructive path for the expeditious delivery of these important disaster recovery funds. Please do not hesitate to contact me if you require anything further in this regard.

Respectfully,

Michael Gerber
Executive Director

cc (w/att.): Deputy Assistant Secretary Yolanda Chavez
Charles S. "Charlie" Stone
John Henneberger
Madison Sloan

United States Department of Housing and Urban Development
Case No. 06-10-0410-8 (Title VIII)
Case No. 06-10-0410-9 (Section 109)

Texas Low Income Housing Information Service,
Complainant

Texas Appleseed,
Complainant

v.

The State of Texas, by and through
The Texas Department of Rural Affairs and
The Texas Department of Housing and Community Affairs,
Respondent

CONCILIATION AGREEMENT

Approved by the Assistant Secretary for Fair Housing and Equal Opportunity on behalf of the United States Department of Housing and Urban Development

Effective Date: May 25, 2010

I. PARTIES, DEFINITIONS, AND STATEMENT OF FACTS

A. Parties and Issues in Controversy

Complainants:

Texas Low Income Housing Information Service
508 Powell Street
Austin, Texas 78703-5122
john@texashousing.org

Texas Appleseed
1609 Shoal Creek, Suite 201
Austin, Texas 78701
msloan@texasappleseed.net

Representing Complainants:

Michael Allen, Esq.
RELMAN, DANE, & COLFAX, PLLC
1225 19th Street, N.W., Suite 600
Washington, D.C. 20036-2456
Phone: (202) 728-1888
Fax: (202) 728-0848
E-mail: mallen@relmanlaw.com

Respondent:

State of Texas, by and through:

Texas Department of Rural Affairs
Charlie Stone
Executive Director
Texas Department of Rural Affairs
1700 North Congress Avenue, Suite 220
Austin, Texas 78711
E-mail: charlie.stone@tdra.state.tx.us

Texas Department of Housing and Community Affairs
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
P.O. BOX 13941
Austin, TX 78711-3941

(512) 475-3800
E-mail: michael.gerber@tdhca.state.texas.us

Representing Respondent:

Barbara Deane
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
P. O. Box 12548
Austin, Texas 78711
E-mail: barbara.deane@oag.state.tx.us

Issues in Controversy:

Complainants allege the State has violated 42 U.S.C. §§3604(a), 3604(b), and 42 U.S.C. §§5309 in connection with its administration of funds under P.L. 110-329 (see Complaints). HUD understands and agrees that the execution of this agreement does not confer upon HUD any additional rights or obligations beyond those specified in Public Law 110-329 and the August 14, 2009 issue of the Federal Register. The regular (non-disaster, annual) allocation of CDBG funds to the State of Texas is in no way delayed or otherwise affected by the execution of this agreement. Nothing herein constitutes a finding or admission of any fact or noncompliance by the State of Texas, TDHCA or TDRA.

B. **Definitions**

For purposes of this Conciliation Agreement, the following terms shall have the meanings indicated below:

1. "Agreement" means this Conciliation Agreement.

2. "AFFH" means, as the context may indicate, either affirmatively furthering fair housing or to affirmatively further fair housing.

3. "Amendment" means the amendment to the State's Action Plan submitted by the State to HUD on September 30, 2009 describing the proposed use of an additional $1.7 billion made available under P.L. 110-329.

4. "CDBG" means Community Development Block Grant.

5. "Complaints" means HUD Case No. 06-10-0410-8 and 06-10-0410-9, submitted to HUD by Texas Low Income Housing Information Service on December 1, 2009, deemed filed by HUD on January 21, 2010, and joined by Texas Appleseed as a Complainant on February 7, 2010, the amendment thereto filed with HUD by Texas Low Income Housing Information Service and Texas Appleseed on April 27, 2010, and the Administrative

Complaint filed with HUD by Texas Low Income Housing Information Service and Texas Appleseed on October 28, 2009. The term "Complaint," as used in this Agreement and when considered in context, refers to the applicable filing that is described in the preceding sentence.

6. "Council of Governments" or "COG" means a regional planning commission or similar regional planning agency as described in Chapter 391, Texas Local Government Code.

7. "FEMA" means the Federal Emergency Management Agency.

8. "HUD" means the U.S. Department of Housing and Urban Development.

9. "Hurricane Block Grant Funds" means \$3.1 billion in supplemental Community Development Block Grant disaster recovery funds allocated by HUD to the State to respond to the needs of Texans affected by The Hurricanes pursuant to Public Law 110-329.

10. "Hurricane Recovery Funds" means any Round I funds that are reallocated during the Term of this Agreement and Round II funds.

11. "LMI" means persons of low or moderate income as defined by HUD for purposes of the Hurricane Recovery Funds.

12. "LURA" means a land use restriction agreement, being a recorded agreement setting forth, among other things, income and rent restrictions applicable to units of affordable rental housing and constituting, with respect to the specific affordable rental housing identified therein, a covenant running with the land.

13. "MODs" means methods of distribution, as provided for in HUD's rules governing the CDBG disaster recovery program.

14. "Program" or "Programs" means any program, programs, or project funded by Hurricane Recovery Funds.

15. "Revised Amendment" means the revised amendment to the State's Action Plan describing the use of Hurricane Recovery Funds to be prepared by the State pursuant to Section II.B. of this Agreement. The Revised Amendment may be submitted to HUD as a series of partial amendments, and this term may refer to the revised amendment as a whole or in part as context may indicate.

16. "Round I" refers to Hurricane Block Grant Funds made available to the State under its Action Plan for CDBG Disaster Recovery Funds pursuant to notice in the *Federal Register* published by HUD on February 13, 2009.

17. "Round II" refers to Hurricane Block Grant Funds allocated to the State pursuant to notice in the *Federal Register* published by HUD on August 14, 2009.

18. "Recipient" means any entity that receives or administers any Hurricane Recovery Funds. The term does not include TDHCA or TDRA, unless the context clearly indicates otherwise.

19. "State" means the State of Texas.

20. "Term of this Agreement" means the period commencing on the Effective Date and ending on the Expiration Date.

21. "TDHCA" means the Texas Department of Housing and Community Affairs.

22. "TDRA" means the Texas Department of Rural Affairs.

23. "The Hurricanes" means Hurricanes Dolly and Ike.

Terms used in HUD regulations and not specifically defined herein have the meanings ascribed to them in such HUD regulations.

C. **Statement of Facts**

Pursuant to Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, Public Law 110-329 (2008), Congress appropriated $6.5 billion in supplemental CDBG funds, of which HUD allocated $3.1 billion in funding to respond to the needs of Texans affected by The Hurricanes. Thereafter, HUD published two notices of allocations, waivers, and alternative grant requirements in the *Federal Register*. The State designated TDRA its lead agency for administration of programs funded under P.L. 110-329. On May 14, 2009, HUD issued a general conditional approval of the State's Action Plan for use of Hurricane Block Grant Funds of approximately $1.3 billion, and supplemental approvals thereof on July 2, 2009, and July 24, 2009.

On September 30, 2009, the State submitted the Amendment describing the proposed use of an additional $1.7 billion made available under P.L. 110-329. By letter of October 28, 2009, to HUD Secretary Shaun Donovan, Texas Low Income Housing Information Service ("TxLIHIS") and Texas Appleseed lodged objections to the Amendment. On November 10, 2009, HUD informed the State that it had determined the Amendment to be "substantially incomplete," and directed the State to revise and resubmit the Amendment within forty-five (45) days.

On December 1, 2009, Complainant TxLIHIS submitted a Complaint to HUD alleging the State had violated 42 U.S.C. §§3604(a), 3604(b) and 3608 in its administration of certain Hurricane Block Grant Funds. HUD deemed that Complaint officially filed on January 21,

2010. Texas Appleseed requested to be added as a Complainant on February 7, 2010. The Complaint was amended on April 27, 2010. HUD accepted the amended Complaint. This amended Complaint alleged violations of 42 U.S.C. §§ 3604(a), 3604(b) and 5309. The allegation under 42 U.S.C. § 3608 was dropped in the amended Complaint.

The Complaints provide the basis for this Conciliation Agreement. The acceptance by HUD of the Complaints does in no way confer upon HUD any additional rights or obligations beyond those specified in Public Law 110-329 and the August 14, 2009 issue of the Federal Register. The regular (non-disaster, annual) allocation of CDBG funds to the State of Texas is in no way delayed or otherwise affected by the execution of this Conciliation Agreement.

D. With the approval of this Conciliation Agreement, the Parties commit themselves to affirmatively furthering fair housing for survivors of The Hurricanes in an expeditious manner.

The Parties commit themselves to honor the terms of this Agreement and to work together to obtain HUD approval of this Agreement; a Revised Amendment that will provide for allocation of funds consistent with this Agreement; an updated AI consistent with the state's needs, the law, and guidance of HUD; and MODs for each COG informed by the applicable AI and respectful to public input and the dignity of people and communities these funds are intended to assist.

II. TERMS OF AGREEMENT

In approving this Agreement as an acceptable conciliation of the Complaints, HUD is making a finding that the terms and conditions of this Agreement adequately address all issues urged in the Complaints, including, without limitation, the substantive and legal issues. To facilitate the efficient delivery of Hurricane Recovery Funds to eligible Texans affected by The Hurricanes, and without admission of liability by the State, TDHCA, or TDRA with respect to the allegations of the Complaints, TDHCA, TDRA and Complainants commit to the following terms:

A. **Analysis of Impediments to Fair Housing ("AI")**

1. **Updated AI.** The State, acting through TDHCA, will update its AI. TDHCA acknowledges that this updated AI must conform to HUD's requirements in effect at the time that it is prepared. The State will develop its updated AI in two phases. Both phases of the development of the updated AI will be done by a qualified consultant or organization with experience in development of Analyses of Impediments. Under phase 1, within one-hundred-twenty (120) days of HUD's approval of this Agreement, plus such reasonable time as may be necessary for a lawful procurement, TDHCA shall produce for public comment a materially complete draft of that portion of its AI covering the areas eligible to receive Hurricane Recovery Funds (including the entitlement

jurisdictions within that area). Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible, while still ensuring a thorough and competent product, produce for public comment a materially complete draft of that portion of its AI covering the balance of the State.

a. With respect to all Round I and Round II activities for which reimbursable activity has already occurred, the applicable Program shall be subject to the AI in effect at the time the reimbursable activity commenced.

b. Phase 1 of the updated AI shall include and provide separately for the identification and analysis of impediments to fair housing in each of the following areas and shall recommend appropriate actions utilizing applicable Hurricane Recovery Funds to overcome the effects of the impediments identified in each area:

   1) The geographic area represented by the Houston-Galveston Area Council (hereafter, "H-GAC"). Phase 1 of the updated AI shall assess, among other factors, any fair housing impediments related to:

      (i) the impact of the hurricane evacuee population within the City of Houston and Harris County; and

      (ii) rebuilding public, assisted, and affordable housing on Galveston Island that was destroyed by The Hurricanes.

   2) The geographic area represented by the South East Texas Regional Planning Commission (hereafter, "SETRPC").

   3) The geographic area represented by the Deep East Texas Council of Governments (hereafter, "DETCOG").

   4) The geographic area represented by the Lower Rio Grande Valley Development Council (hereafter, "LRGVDC"), specifically including impediments to fair housing faced by farmworkers and residents of colonias.

   5) The geographic area represented by the remaining areas eligible as Recipients.

c. After TDHCA produces the draft of phase 1 of the updated AI for public comment, pursuant to Section II.A.1. of this Agreement, the public shall have ten (10) days, pursuant to applicable law, to provide comments on the draft phase 1 of the updated AI. After the close of the public comment period, TDHCA shall submit phase 1 of the updated AI to HUD for review, together with TDHCA's written responses to any public comments as part of the submission, and seek confirmation from HUD that phase 1 of the updated AI complies with federal requirements. TDHCA will timely respond to any questions raised by HUD. TDHCA will copy the Complainants on written responses it provides to HUD in response to HUD's questions under this subparagraph.

d. TDHCA shall appoint an advisory committee to review and provide comment to TDHCA prior to the release of phase 1 of the updated AI and to assist TDHCA with the evaluation of phase 1 of the updated AI and associated work products. This advisory committee may, as deemed necessary by TDHCA, be consulted with respect to the procurement of the consultant to develop the updated AI, which procurement shall be done as expeditiously as possible with the objective that it be completed and accepted by HUD no later than January 1, 2011, but earlier if possible.

e. Notwithstanding any other provision in this Conciliation Agreement, the State, through TDHCA and TDRA, may submit amendments for allocation to Recipients of Hurricane Recovery Funds to the Action Plan during the pendency of HUD's acceptance of phase 1 of the updated AI, and irrespective of any determination by HUD with respect to phase 1 of the updated AI. If HUD has not accepted phase 1 of the updated AI by January 1, 2011, neither TDHCA nor TDRA shall, except as provided by Section II.A.3.5, expend any further Hurricane Recovery Funds until such time as phase 1 of the updated AI has been accepted by HUD.

f. **Phase 2**. Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible produce for public comment a materially complete draft of that portion of its AI covering the balance of the State, Phase 2 must be developed by a qualified consultant or organization with experience in the development of AIs. After TDHCA produces phase 2 of the updated AI for public comment; the public shall have thirty (30) days, pursuant to applicable law, to provide comments. After the close of the public comment period, TDHCA shall submit phase 2 of the updated AI to HUD for review, including written responses to any public comments as part of the submission.

2. **Application of Phase 1 of the Updated AI.** For Hurricane Block Grant Funds for which MODs have been reviewed and approved as of the Effective Date of this Agreement, TDHCA, TDRA, and Recipients may proceed to expend such funds. The Action Plan and MODs that have previously been submitted to and approved by HUD are not subject to the updated AI. Upon HUD's acceptance of phase 1 of the updated AI, TDHCA and TDRA will review the substance and effect of all Programs funded with applicable Hurricane Recovery Funds for consistency with phase 1 of the updated AI. Such Programs shall be funded and undertaken in a manner that affirmatively furthers fair housing consistent with this Agreement and federal law and regulations. TDHCA and TDRA shall require Recipients to review expenditures of Hurricane Recovery Funds to ensure they will be consistent with phase 1 of the updated AI. In the event of noncompliance by a Recipient with its AFFH obligations (as defined by phase 1 of the updated AI), TDHCA or TDRA shall impose progressive sanctions, which TDHCA and

TDRA shall promulgate by rule, up to and including termination of funding to a non-compliant Recipient.

3. **Use of Funds and Planning Activities Prior to the Completion of Production of Phase 1 of the Updated AI.** . Subject to Section 3.5 of this Agreement, TDHCA or TDRA may not expend Hurricane Recovery Funds (except for planning and administrative funds) until the earlier of January 1, 2011 or HUD's acceptance of phase 1 of the updated AI.

3.5 **Expenditures of Round II Funds Prior to the Acceptance of Phase 1 of the Updated AI.** Except as explicitly provided for elsewhere in this Agreement, neither TDHCA nor TDRA shall commit or expend any Hurricane Recovery Funds prior to HUD's acceptance of phase 1 of the updated AI, or January 1, 2011, whichever is earlier, except in cases of locally identified priority Programs that cannot be carried out without Hurricane Recovery Funds. With respect to a non-housing Program that is subject to this Section II.A.3.5, TDRA will, using an independent consultant acceptable to the Complainants, notify Complainants of the Program in question, describe the Program in detail and state explicitly how the Program is consistent with HUD's current Fair Housing Guidance. This notification shall contain the consultant's assessment of how the Program in question will be consistent with the State's and each Recipient's obligation to AFFH. For each housing Program that is subject to this Section II.A.3.5, TDHCA will notify Complainants of the Program in question, describe the Program in detail and state explicitly how the Program is consistent with HUD's current Fair Housing Guidance or this Conciliation Agreement. From the date of notification, Complainants will have ten business days within which to lodge an objection stating how the Program does not comply with HUD's current Fair Housing Guidance or this Conciliation Agreement. Upon mutual consent of the applicable agency and the Complainants, the period may be extended. The applicable agency and the Complainants commit to work together in good faith to resolve and address differences or concerns about such Programs. The Complainants may, while deciding whether to object or not, ask questions to and request clarifications directly from the consultant. In the event of an objection, TDHCA or TDRA will not expend Hurricane Recovery Funds until Complainants withdraw their objection, phase 1 of the updated AI is accepted by HUD or January 1, 2011, whichever is earlier. Complainants are bound by a covenant of good faith and fair dealing with respect to any objection. If Complainants do not timely object, they will be deemed to have waived any objection to the Program. With respect to each allocated area, the amount of money that may be spent under this Section II.A.3.5 is capped at the lesser of 33% the area's total allocation under the Revised Action Plan Amendment or $258 million.

4. **AFFH Training.** TDHCA and TDRA shall provide mandatory training to Recipients on AFFH and civil rights compliance.

   a. TDHCA or TDRA, as appropriate, shall promptly provide mandatory training to each Recipient's designee(s) concerning the Recipient's obligations to AFFH and to comply with civil rights certifications and the reporting requirements required by this Agreement.

   b. Upon HUD's acceptance of phase 1 of the updated AI, TDHCA and TDRA shall conduct additional mandatory training with respect to Hurricane Recovery Funds to review with Recipients the impediments identified in phase 1 of the updated AI, to provide guidance and assistance on how to use phase 1 of the updated AI to inform their recovery activities regarding The Hurricanes, to help prepare them to carry out their responsibilities to AFFH, and to prepare them to meet their compliance requirements in administering their Programs in a manner consistent with this Agreement.

   c. TDHCA and TDRA shall separately approve training curricula for the AFFH training described in this Section II.A.4. of this Agreement after a public notice and comment period of at least fifteen (15) days.

5. **Reporting On AFFH.** TDHCA and TDRA, by rule, shall establish procedures to collect data relevant to actions to AFFH for any Programs and shall require each Recipient to collect and report to TDHCA or TDRA, as applicable, on a quarterly basis, data relevant to actions to AFFH and ensure compliance with civil rights certifications. Upon written request by Complainants, TDHCA or TDRA, as applicable, will make available free of charge and within ten business days, data including but not limited to the following (unless such data can not be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Complainants, and set a date within a reasonable time when the data will be available):

   a. For each Program activity requiring a direct application by an individual or a non-institutional entity: the applicant household's income, the household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the head of the household, the household's familial status, and the presence or non-presence of a household member with a disability.

   b. For each non-housing Program activity directly linked to an individual beneficiary: the beneficiary household's income and that household's income as a percentage of area median family income as defined by HUD, the race and ethnicity of the beneficiaries using census or survey data.

c. For each activity providing housing or housing assistance that is not directly linked to a specific beneficiary: the cost of the housing unit to the applicant and to the occupant, the maximum qualifying household income as a percentage of area median family income as defined by HUD, restrictions regarding the age or familial status of occupants, the presence or non-presence of design or services that make the housing unit accessible to an individual with a disability, and the number of fully accessible units.

d. For each non-housing activity that is identified as principally benefitting low- and moderate-income persons, a description detailing the methodology used for the determination of the LMI benefit that permits an independent evaluation of that determination, including a detailed geographic description of the households benefited with the census geographies used to make the determination or, if other methodology was utilized to make the determination, a clear and complete description of the methodology and data. This description shall include surveys, survey tabulations, correspondence, sampling methodology, and other material documentation on which TDHCA or TDRA, as applicable, has relied in making its LMI certification.

e. TDHCA and TDRA, as applicable, shall collect and maintain, until at least the Expiration Date of this Agreement, all final documents listed in this Section II.A.5. of this Agreement.

f. Final Program applications shall be posted on TDHCA's or TDRA's website, or linked to a single website, as appropriate, from the time of award through a period of six months following the applicable Program's closeout.

g. For purposes of monitoring compliance with this Agreement and applicable law, TDHCA and TDRA agree to provide information to Complainants as follows:

   1. TDCHA and TDRA are each state agencies subject to the Texas Public Information Act, Texas Government Code, Chapter 552 ("Act"). Except as provided herein, nothing in this Agreement shall obligate TDHCA or TDRA to provide any information which it may not lawfully provide or is not required by law to provide. If any information is requested by Complainants that TDHCA or TDRA believes may be excepted from disclosure under the Act, the information may not be withheld unless the procedures and requirements of the Act are followed.

   2. The Complainants acknowledge that the Act does not require TDRA or TDHCA to create new documents, information or reports to respond to information requests under the Act. Should Complainants request documents, information or reports that do not exist or that TDHCA and TDRA do not possess, TDHCA and

TDRA agree to so notify Complainants within the timeframes established under the Act.

3. TDHCA and TDRA shall provide public information requested by Complainants within ten (10) business days of request, unless the applicable agency seeks an opinion from the Attorney General in good faith under the Act, or unless the information can not be produced within such ten business days, in which case the applicable agency shall certify that fact in writing to the Complainants, and set a date within a reasonable time when the information will be available.

4. To the extent Complainants request information that is available in electronic form, TDHCA and TDRA shall provide such information without charge or other fee. TDHCA and TDRA agree to provide such information in the electronic format used by TDHCA or TDRA. TDHCA and TDRA shall, without charge to Complainants, collectively provide Complainants up to 10,000 pages of information that is available only in paper form. When information is kept electronically and in paper form, Complainants have the option to elect the form in which the information that is to be provided.

5. Within thirty (30) days after the Effective Date, and upon written request by the Complainants (which requests shall in no event be more frequent than quarterly during the term of the Agreement),TDHCA and TDRA shall provide Complainants reports containing all data reported in the HUD Disaster Recovery Grant Reporting System with respect to Hurricanes Ike, Dolly and Rita.

B. **Allocation of Funds to Affirmatively Further Fair Housing**

1. **Action Plan Amendment.** TDRA and TDHCA shall prepare a Revised Amendment and submit it to HUD. TDRA and TDHCA acknowledge that prior to such submission they are responsible for satisfying applicable federal statutes and regulations governing public participation, as well as the provisions for public participation as announced in the February 13, 2009, and August 14, 2009 *Federal Registers*.

   After the Revised Amendment is developed by TDRA and TDHCA TDRA and TDHCA shall submit the Revised Amendment to HUD for review. TDHCA and TDRA shall include written responses to any public comments as part of the submission. TDHCA and TDRA shall submit the Revised Amendment to HUD, seeking confirmation that it complies with federal requirements. TDHCA and TDRA will timely respond to any questions regarding the Revised Amendment raised by HUD. TDHCA and TDRA will copy the Complainants on written responses it provides to HUD in response to HUD's questions under this subparagraph.

The Revised Amendment may be submitted to HUD as a series of partial amendments. Subject to applicable federal requirements for public comment, the Revised Amendment (as a whole) shall include the following:

a. **Methods of Distribution.** MODs shall be proposed that describe each Recipients' Programs, including a description of the funding levels, eligibility requirements, intended beneficiaries, and maximum and minimum benefit levels. For each Program listed in a MOD, TDRA and TDHCA, as applicable, shall describe how the Program will address identified impediments and AFFH in accordance with phase 1 of the updated AI. TDHCA and TDRA shall not release Hurricane Recovery Funds for any Program until a MOD as described above is proposed, published for public comment, submitted to the appropriate state agency for review, and thereafter submitted to and approved by HUD. Before any MOD is finalized, it shall be posted on the applicable agency's website so that it may be reviewed for a period of not less than fifteen (15) days for public comment.

b. **LMI Allocation.**

   i. TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds and Program income on Programs to benefit low- and moderate-income persons.

   ii. TDHCA and TDRA may administer a Program directly if, at any point, in TDHCA's or TDRA's sole determination, there is no acceptable provider capable of serving the needs of low- and moderate-income persons residing in the locality or region in a competent and efficient manner.

   iii. TDHCA and TDRA shall regularly report on their websites or link to a single website, and require regular reporting by Recipients, to ascertain and ensure compliance with the requirement in this Section II.B.1.b.

c. **Housing Allocation.** TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds on housing Programs.

d. **Recipient Performance.** TDHCA shall require Recipients to adhere to expenditure performance requirements with respect to the applicable Hurricane Recovery Funds used for housing, and to submit to performance evaluations of their expenditure rates every six months during the term of this Agreement. TDHCA's proposed performance standards shall be set at a level of incremental expenditure to reasonably assure that, within a period of no more than eighteen months from the date of the commencement of the Program, each Recipient will have identified sufficient eligible beneficiaries such that the Recipient will be able to provide reasonable assurance that the Recipient will be able to expend all applicable Hurricane Recovery Funds utilized for housing in compliance with

TDHCA-established benchmarks. TDHCA will require each Recipient to ensure that expenditure of those committed funds is in compliance with TDHCA-established benchmarks. If a Recipient is unable or unwilling to administer its allocated Hurricane Recovery Funds in compliance with TDHCA's benchmarks, the COG in which the Recipient is located will determine, in a manner acceptable to TDHCA, whether the COG or another eligible provider with demonstrated capacity will assume responsibility for the administration of those Hurricane Recovery Funds for the same purposes and for the benefit of the same beneficiaries. If the COG and TDHCA cannot find a mutually agreeable administrator, TDHCA agrees to administer a Program to carry out those responsibilities.

e. TDHCA shall provide the proposed expenditure performance requirements for public review and comment fifteen (15) days before they are approved by TDHCA. TDHCA will provide a written response to any public comment.

f. **Housing Program Guidelines.** TDHCA shall create a task force comprised of representatives of TDHCA and the COGs, that shall in one or more posted public meetings, develop criteria governing all housing Programs to be carried out with Hurricane Recovery Funds. Such recommendations, upon adoption by TDHCA, will direct the available scope of housing activities Recipients may carry out and will be reflected in an amendment. TDHCA must consider these recommendations and approve guidelines which shall include and address but not be limited to:

   i. A list of housing Program activities (including appropriate relocation and buyout activities) from which Recipients may select housing Programs that they will offer;

   ii. The cost and benefit criteria for each housing Program;

   iii. The Program participant eligibility and qualification criteria for each housing Program;

   iv. Housing quality standards for housing funded with Hurricane Recovery Funds;

   v. The priority factors that Recipients must consider in administering their overall housing Program, including prioritization for persons at various income levels, persons with special needs, and relocation Programs;

   vi. An evaluation of the income levels of disaster survivors and the establishment of reasonable guidelines to ensure that the housing needs of low-, very low- and extremely low-income households are assisted with housing in no less than the proportion to their relative percentages of the overall populations which suffered housing damage within the community being served by the Program;

vii. Appropriate outreach and public awareness measures for housing Programs;

viii. The recommendations will provide and allow for objectively determined regional adjustments for these criteria to reflect differences in the costs of delivery for benefits and the economic profile of local target populations.

2. **Housing Initiatives.** Subject to applicable federal requirements for public comment, TDHCA shall establish and fund from Hurricane Recovery Funds the following housing initiatives as part of its Revised Amendment:

   a. **Affordable Rental Housing Program.** Set asides from the Hurricane Block Grant Funds for affordable rental housing Programs administered by TDHCA, sufficient to ensure that TDHCA will meet the mandate of P.L. 110-329, and addressing multifamily rental housing, single family rental housing, and public housing needs arising from The Hurricanes. Such funds relating to affordable multifamily rental housing and owners of 20 or more single family or duplex private rental housing units constructed, repaired, or reconstructed using Hurricane Recovery Funds will be governed by appropriate use restrictions, to be evidenced by duly-recorded LURAs having terms of ten (10) years. TDHCA shall require all owners of affordable multifamily rental housing units and owners of 20 or more single family or duplex private rental housing units receiving assistance under this Program to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

   If, and only if, prior to the execution of the first such LURA applicable to an affordable multifamily property or owner of 20 or more single family or duplex private rental properties constructed, repaired, or reconstructed using Hurricane Recovery Funds, HUD has provided TDHCA written confirmation, in form and substance reasonably acceptable to TDHCA, that TDHCA shall have no responsibility to monitor or enforce any such LURA or the ownership and operation of the property to which it relates after ten (10) years from the date such LURA is executed and recorded, a subsequent ten (10) year period shall be included in the LURA, which shall expressly provide that such additional ten (10) year period shall be enforceable under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto.

b. **One-For-One Replacement.** From TDHCA's affordable housing set aside out of the Hurricane Recovery Funds, no less than $50 million shall be available for use in the City of Galveston for the one-for-one replacement of all family and elderly public housing units damaged or destroyed in Hurricane Ike. Of the remaining funds, no less than $25 million shall be provided for the construction, reconstruction, replacement, or rehabilitation of family and elderly public housing units damaged or destroyed by The Hurricanes, with priority being given to activities which include one-for-one replacement of family and elderly public housing units within a Public Housing Authority jurisdiction, or federally funded farm labor housing.

c. **Disaster Housing Demonstration Program.**. TDHCA shall administer $6 million in Hurricane Recovery Funds for the disaster housing pilot program required by HB 2450 (81st Legislature, regular session). This funding shall be administered with $2 million available in each of the following areas Lower Rio Grande Valley Development Council, Harris County, and Galveston County. TDHCA will publish the criteria under which interested parties may compete to administer such pilot projects.

d. **Title Clearance and Legal Assistance Program.** A title clearance and legal assistance Program funded from Hurricane Recovery Funds at $500,000.

e. **Rebuilding Subsidized Housing.** In furtherance of the objective of restoration of subsidized housing damaged or destroyed by The Hurricanes and to ensure funds are available to address issues identified in phase 1 of the updated AI, TDHCA shall create a Program, to be administered by the appropriate COG, funded at $100 million, for the sole benefit of low- and moderate-income persons with unmet housing needs resulting from The Hurricanes, with priority given to addressing issues identified with public housing and affordable rental housing damaged or destroyed by The Hurricanes. Of this amount, $90 million shall be made available in the Counties of Harris and Galveston, and $10 million shall be made available in the County of Orange. Such Program shall require:

   i. The one-for-one replacement or rehabilitation of all family and elderly public housing units that were damaged or destroyed as a result of The Hurricanes within the local jurisdictions in a manner that affirmatively furthers fair housing in compliance with phase 1 of the updated AI. Twenty million dollars shall be reserved specifically to support the one-for-one replacement of family and elderly public housing damaged or destroyed by The Hurricanes in the City of Galveston. Once all public housing units damaged or destroyed by The Hurricanes in Galveston have been addressed the reservation shall be released for other rental housing activities under this section.

ii. The rehabilitation, reconstruction or construction of single-family and multi-family rental housing units damaged or destroyed by The Hurricanes within the jurisdictions or surrounding regions in a manner that affirmatively furthers fair housing in compliance with phase 1 of the updated AI in sufficient numbers and at appropriate rents to affordably house an equal number of Housing Choice Voucher holders as were living within each jurisdiction at the time of The Hurricanes.

1) TDHCA will work with units of local government in the areas where applicable Hurricane Recovery Funds are to be administered requiring that zoning and permitting in connection with the use of Hurricane Recovery Funds are addressed in a manner which is consistent with AFFH and other applicable laws.

2) TDHCA shall require all Recipients for multifamily and owners of 20 or more units of single family or duplex private rental housing to accept Housing Choice Voucher holders under the same substantive provisions as those in place in the Texas Low Income Housing Tax Credit program established by Internal Revenue Code §42, Texas Government Code, Chapter 2306, and rules and guidelines promulgated by TDHCA relating thereto, for a period of ten (10) years. Such provisions shall be evidenced by duly-recorded LURAs. Furthermore, such housing shall be subject to the same use restrictions as those described in Section II.B.2.a.

f. **Impacted Area Buyout Criteria.** TDHCA shall set aside $18 million of Hurricane Recovery Funds to fund relocation and buyout assistance for low and moderate income victims of The Hurricanes living in FEMA designated "High Risk Areas" and areas of high minority and poverty concentration as approved by TDHCA. These activities will be administered by the COGs under policies developed by TDHCA, and will use relocation counselors and licensed real-estate professionals.

g. **Moving To Opportunity Program.** TDHCA and Complainants shall work together to prepare a request to HUD for an allocation of additional Housing Choice Vouchers, or assistance in developing alternative tenant-based rental assistance for eligible households. Contingent on securing federal appropriations to fully fund Housing Choice Vouchers or equivalent tenant-based rental assistance to assist up to 2,500 eligible households, TDHCA shall propose to establish a Moving to Opportunity Program, funded at $1 million per year for five years and operated by Public Housing Authorities, to permit eligible renter households in areas affected by The Hurricanes to locate alternative rental housing in higher opportunity areas. Such funds shall be expended to provide relocation counseling, security and utility deposits, moving expenses, and reasonable Program administrative expenses under criteria developed by TDHCA.

3. **Tax Issues.** In addition to other requirements described in this Agreement, TDHCA shall prohibit the denial of assistance to applicants who are elderly or disabled based upon an election to defer property tax payments as permitted under Texas law, or to applicants who have property tax debt so long as the applicant has entered or agrees to enter into a plan with the appropriate local taxing authority to pay such taxes. TDHCA shall require contractors for the State, COGs, and Recipients being paid from Hurricane Recovery Funds to properly state these criteria in all public notices and media communications regarding their Programs, and to use a TDHCA-approved disclosure form to inform potential beneficiaries and applicants of their right to enter into a payment plan or defer taxes as provided in Texas law. This disclosure will be in clear language, understandable to a layperson. TDHCA shall approve the proposed disclosure and instructions after a 15 day public comment period.

4. **Ownership.** TDHCA shall provide Recipients with clear instructions concerning the standards that must be used to establish property ownership as provided under Texas Government Code §2306.188, and prohibit Recipients' use of standards that are more onerous than those in Texas Government Code §2306.188. TDHCA shall approve the proposed instructions after a fifteen (15) day public comment period.

5. **Access to Housing for Persons with Disabilities.** TDHCA shall establish clear standards under which all housing constructed or rehabilitated with Hurricane Recovery Funds shall be designed to be visitable by people with disabilities.

   a. TDHCA shall create a task force, appointed in consultation with Complainants, to develop a practical policy for the waiver of requirements allowed under Texas Government Code §2306.514(b) related to new construction and rehabilitation of properties using Hurricane Recovery Funds. No such waiver would be granted where the property being constructed was being built specifically for an applicant with special needs. TDHCA shall provide full consideration to Hurricane Recovery Funds applications for LMI households with special needs and will give such applications funding priority.

   b. Visitibility standards set forth in Texas Government Code §2306.514(b) shall apply to all housing constructed with Hurricane Recovery Funds except if a waiver is granted under Section II.B.5.a. of this Agreement.

   c. TDHCA and TDRA shall establish rules, procedures and funding guidelines requiring their contractors and Recipients to (i) adequately assess the needs of survivors of The Hurricanes with disabilities for funding to be carried out with Hurricane Recovery Funds and (ii) assign the highest funding priority to Programs serving low and moderate income households within this population.

6. **Eligibility.** In the administration of Hurricane Recovery Funds, TDHCA shall prohibit COGs and Recipients from refusing housing assistance to applicants solely on the basis that the applicants were denied assistance by FEMA. TDHCA shall include in each Hurricane Recovery Funds grant contract provisions to require the Recipient to accept reasonable alternative proof of damage from The Hurricanes in the event a homeowner has been denied FEMA assistance. TDHCA will promulgate clear standards to be used for establishing whether an applicant's home is eligible for housing benefits out of Hurricane Recovery Funds because of damage related to The Hurricanes and shall require all COGs and Recipients to adhere to these standards. TDHCA shall issue proposed instructions for compliance with this provision after a 15 day public comment period.

III. REPORTING

TDHCA and TDRA shall increase the accountability and transparency for Hurricane Recovery Funds by posting on their respective websites, or linking to a single website, the HUD-approved updated AI, Revised Amendment, all final MODs, all final Program applications, all project status and fund expenditure reports provided to HUD, and reporting data required in Sections II.A.5 and II.B.1.b.iii of this Agreement.

A. TDHCA and TDRA shall require each Recipient to submit to TDHCA or TDRA, as applicable, all notices of any public hearings or requests for public comment the Recipient may have that relates to the administration of Hurricane Recovery Funds that are provided to such Recipient. TDHCA and TDRA agree to post on their respective websites, or link to a single website, all such notices that TDRA or TDHCA, as applicable, receives from any such Recipient. Such postings will not fulfill the Recipients' responsibility under Chapter 551 of the Texas Government Code.

B. Assistance with Document Location. If TDHCA or TDRA receives a request for information under the Act that the agency does not possess, then in response to the request for information, the applicable agency will, within ten business days, provide the Complainants with a list of governmental bodies that the agency, reasonably and in good faith, believes may have the information.

C. In the event of noncompliance by a Recipient with the applicable terms of this Agreement or with federal law or regulation governing the administration of Hurricane Recovery Funds, TDHCA and TDRA shall by rule provide for the imposition of progressive sanctions, consistent with the requirements of applicable state and federal law, up to and including a termination of funds to that non-compliant Recipient.

IV. OTHER

A. **Withdrawal and Dismissal of Complaints**

Upon the Effective Date of this Agreement, the Complaints will be deemed to have been withdrawn and dismissed without need of any further action by any party and with the express understanding that neither the Complaints nor any issue or allegation urged in such Complaints, that had been urged in any previous version of such Complaints, or that may have been urged in any of the Complaints in connection with the State's administration of the Hurricane Block Grant Funds, may be re-filed, in whole or in part by, on behalf of or at the request of any Complainant.

B. **Miscellaneous Terms**

1. **Notice.** If any legal notice is provided concerning this Agreement, notice shall be given at the following:

For TxLIHIS:

John Henneberger, Co-Director
Texas Low Income Housing Information Service
508 Powell Street
Austin, Texas 78703-5122

For Texas Appleseed:

M. Madison Sloan, Staff Attorney
Texas Appleseed
1609 Shoal Creek, Suite 201
Austin, Texas 78701
msloan@texasappleseed.net

For TDRA:

Charles Stone
Executive Director
Texas Department of Rural Affairs
P. O Box 12877
Austin, Texas 78711
charlie.stone@tdra.state.tx.us

For TDHCA:

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
P. O. Box 13941
Austin, Texas 78711
michael.gerber@tdhca.state.tx.us

Notice shall be sent either electronically or, in compliance with the "mailbox" rule, when sent first class, return receipt required.

2. **Venue.** The parties, and by approving this Agreement HUD, agree that venue for any suit brought by the Department of Justice to enforce the terms of this Agreement should be brought in the federal district court for the Southern, Eastern, or Western District of Texas in which one or more of the defendants in such suit resides or has its principle place of business. Except as otherwise provided in this paragraph, any action to enforce the terms of this Agreement shall be brought in a State District Court for Travis County, Texas.

3. **Headings.** Headings are included solely for the ease of locating subjects and shall not be considered for purposes of interpreting this Agreement, nor do they enlarge or limit any term of this Agreement.

4. **Plural and Gender.** Every singular word may be read as a plural and vice versa. Any reference to gender herein may be read as either masculine, feminine, or neuter and should not be interpreted as a limitation.

5. **Remedies for Breach.** Each party agrees that, in the event of a breach of this Agreement, the harmed party is limited to seeking injunctive relief to compel compliance with this Agreement.

6. **Use of Funds.** Notwithstanding anything contained in this Agreement: (a) the State represents that state law does not prohibit TDHCA and TDRA from entering into this Agreement and complying with its terms; (b) this Agreement applies solely to Hurricane Block Grant Funds and does not and shall not be construed to apply to any other federal funds or to any State funds; (c) State funds may not be used in a manner inconsistent with Texas law, including without limitation, the General Appropriations Act and the Texas Constitution; and, (d) this Agreement shall not control or compel appropriation of any State funds.

7. **Severability.** If any section of this Agreement is determined by a court to be in violation of the laws of the State, federal law or regulation, or against public policy, the remainder of the Agreement shall continue to operate in full force.

8. **Entire Agreement.** This Agreement contains the entire Agreement and understanding between the parties. With respect to this Agreement, no representations, promises, agreements or understandings, written or oral, not herein contained shall be valid or binding unless the same is in writing and signed by the party intended to be bound.

9. **Construction.** This Agreement is the result of conciliation negotiations undertaken in good faith and in that regard the rule of contractual construction that an ambiguous term shall be construed against the drafter shall not be employed.

10. **Review by Counsel.** Each of the Parties represents and warrants to the others that it has had this Agreement reviewed by counsel prior to execution.

11. **Notice and Cure.** An action by Complainants or either of them for breach of this Agreement may not be commenced until and unless TDHCA or TDRA or both, as appropriate, have been given written notice specifying the basis for the assertion of a material breach, a reasonable opportunity to cure, and have failed to cure or take steps to cure.

12. **Force Majeure.** "Force Majeure event" means an event beyond the control of the State, TDHCA, or TDRA which prevents or delays compliance with one or more of their obligations under this Agreement, such events including but not limited to the following:

    a. an act of God (such as, but not limited to, hurricanes, tornadoes, and floods);

    b. war, hostilities (whether war be declared or not), invasion, or embargo;

c. rebellion, revolution, insurrection, or military or usurped power, or civil war;

d. contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly;

e. contamination by any other hazardous materials or substance;

f. riot, commotion, strikes, work stoppages or slowdowns, lock outs or disorder, or

g. acts or threats of terrorism.

Upon the occurrence of a force majeure event a party to this Agreement shall not be considered in breach of this Agreement for failure to perform any obligation hereunder to the extent that such performance is prevented by that force majeure event. Upon occurrence of a force majeure event the party or parties whose performance is affected shall, as promptly as reasonably possible, provide notice of the facts and circumstances to the other parties hereto. The parties will work in good faith to resume performance as soon as is reasonably possible once such force majeure event no longer impairs or affects their ability to do so.

C. **Effective Date and Expiration Date**

The Effective Date of this Agreement is the last date on which it is signed by each signatory for the State and each Complainant, and approved by each signatory for the U.S. Department of Housing and Urban Development. If this Agreement, the Revised Amendment, the updated AI, or the ultimate release of funds based on approved MODS—as each may be amended by agreement of the Parties or by agreement between The State and HUD—are not approved by HUD, this Agreement shall be null and void *ab initio* without need of any further action by any party even if it has been executed by each Complainant, TDHCA and TDRA. The Expiration Date of this Agreement is six (6) months following the date of the close out of the Hurricane Block Grant Funds grant.

D. **Relief for Complainants**

Complainants seek no monetary award of damages. They are, however, entitled to payment of actual and reasonable attorneys' fees and costs in the amount of $120,000.

E. **Monitoring**

Complainants and TDHCA and TDRA agree that HUD shall monitor compliance with the terms and conditions specified in this Agreement. As part of such monitoring, HUD may, upon reasonable notice and at reasonable times, inspect TDHCA's and TDRA's records, examine witnesses and copy pertinent records. TDHCA and TDRA agree to provide their cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

F. **Reporting and Record Keeping**

All required certifications and documentation of compliance with the terms of this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development
Fair Housing Enforcement Center
ATTENTION: CONCILIATION REVIEW
801 Cherry Street, Unit #45, Suite 2500
Fort Worth, Texas 76102

G. **Consequences of Breach**

The parties acknowledge that in the event of an uncured breach of this Agreement, 42 USC §3610(c) will apply.

H. **Signatures**

This Agreement is being signed by TDRA and TDHCA by individuals acting in their official capacity. They have the requisite authority to sign this Agreement on behalf of their respective agencies. These other signatures to this Agreement attest to the approval and acceptance of this Conciliation Agreement by the signatories.

Complainants:

By: ______________________ Date: May ___, 2010
John Henneberger, Co-Director, TxLIHIS

By: ______________________ Date: May 21, 2010
M. Madison Sloan, Staff Attorney,
Texas Appleseed

By: ______________________ Date: May 21, 2010
Michael Allen, Esq.,
Counsel for TxLIHIS and Texas Appleseed

The Texas Department of Housing and Community Affairs:

By: ______________________ Date: May 21, 2010
Name: Michael Gerber
Title: Executive Director

The Texas Department of Rural Affairs:

By: Charles S. Stone Date: May 21, 2010
Name: Charles S. ("Charlie") Stone
Title: Executive Director

APPROVED:

By: Garry L. Sweeney Date: May 25, 2010
Name: Garry Sweeney, Director
Fair Housing and Equal Opportunity
Region VI
U.S. Department of Housing and Urban Development

recent alleged retaliatory act(s) occurred or ended.

Enforcement by the Attorney General. Section 810(c) of the Act provides that whenever HUD has reasonable cause to believe that a respondent has breached a Conciliation Agreement, HUD shall refer the matter to the Attorney General with a recommendation that a civil action be filed on behalf of the complainant. Section 814(b)(2) of the Act authorizes the Attorney General to file a civil action in an appropriate United States District Court for appropriate relief with respect to the breach of a HUD Conciliation Agreement.

If an aggrieved person believes that a respondent has breached a HUD Conciliation Agreement, he or she should promptly report the alleged breach to the HUD Office that investigated the complaint.

Public Disclosure. Section 103.330(b) of HUD's regulations implementing the Act provides that Conciliation Agreements shall be made public, unless the aggrieved person and the respondent request nondisclosure and HUD determines that disclosure is not required to further the purposes of the Act. Notwithstanding a determination that disclosure of an Agreement is not required, HUD may publish tabulated descriptions of the results of all conciliation efforts.

Thank you for your cooperation during the complaint investigation, and during the conciliation process. If you have any questions regarding the Agreement or the information provided in this letter, please contact Thurman G. Miles, Director, Fort Worth FHEO Center, at (817) 978-5900 or 1-888-560-8913, for assistance.

Sincerely,

Garry L. Sweeney
Director
Fort Worth Regional Office of
Fair Housing and Equal Opportunity
Region VI

Enclosure

cc: Texas Department of Rural Affairs
Charlie Stone, Executive Director
1700 North Congress Avenue, Suite 220
Austin, Texas 78711

Texas Department of Housing and Community Affairs
Michael Gerber, Executive Director
P. O. Box 13941
Austin, Texas 78711-3941

None at this time

None at this time

None at this time

None at this time

None at this time

None at this time

BOND FINANCE DIVISION

BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve Resolution No. 10-025 authorizing application to the Texas Bond Review Board for reservation of the 2010 single family private activity bond authority and Resolution No. 10-028 authorizing application to the Texas Bond Review Board to receive unexpended HERA single family private activity bond authority from other issuers.

Background

At the beginning of each new TDHCA single family bond issuance, our Board petitions the Texas Bond Review Board to start the process in the form of a resolution followed by an application to draw down our private activity bond authority, also known as "volume cap". Staff at this time is not seeking nor is the Board giving final approval of a bond program for 2010 with respect to the finance structure, target mortgage rates, timing and size of the issue. Staff will come back to the Board at a later date with a final structure for your review and approval.

Bond Finance is requesting authorization to draw down an amount not-to-exceed $300 million of additional unreserved 2010 volume cap for our single family mortgage revenue bond program.

The Housing and Economic Recovery Act of 2008 (H.R. 3221) provided a temporary increase in the annual private activity bond volume cap for qualified housing issues which must be issued by December 31, 2010. The Department has previously received and allocated $180 million of such cap. IRS rules allow any issuer to assign any portion of their unused cap to another eligible issuer. Therefore, Bond Finance is requesting authorization to receive unused 2008 HERA volume cap from other issuers in an amount not-to-exceed $100 million. The Department will have 12 months to use this cap once it has been issued.

All volume cap will be used for single family mortgage revenue bond and MCC programs.

The chart on the following page outlines TDHCA's available single family cap and intended uses for calendar year 2010.

Sources as of January 1, 2010		
2008 HERA Carryforward	$	90,000,000
2008 General Carryforward		18,365,215
2009 Carryforward		204,387,451
2009 Additional Cap		103,000,000
2010 Cap		208,212,971
2010 Additional Cap - Proposed		300,000,000
2010 Additional HERA Cap - Proposed		100,000,000
Available Cap as of Jan 1, 2010	$	1,023,965,637
Uses through December 31, 2010		
2010A MCC	$	120,000,000
2010B MCC		120,000,000
2010A RMRB (1st Rollout of NIBP)		150,000,000
2010B RMRB (2nd Rollout of NIBP)		150,000,000
2010 Carryforward for Future Transactions		483,965,637
Total Uses	$	1,023,965,637

Note: 2010A SF Refunding (3rd Rollout of NIBP) will not require volume cap

Resolution No. 10-025

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; 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 from time to time (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) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, Section 103 and Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance owner-occupied residences shall be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e) of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act requires the Department, in order to reserve a portion of the State Ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a copy of the certified resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation with respect to qualified mortgage bonds;

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

Section 1 - Applications for Reservation. The Board hereby authorizes Vinson & Elkins L.L.P., as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation for qualified mortgage bonds to be issued and delivered within 180 days after receipt of a "reservation date," as defined in the Allocation Rules, in the maximum aggregate amount of $300,000,000, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of the Reservation.

Section 2 - Authorization of Certain Actions. The Board authorizes the Executive Director, the staff of the Department, as designated by the Executive Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the purposes of this Resolution.

Section 3 - Purposes of Resolution. The Board has expressly determined and hereby confirms that the issuance of the qualified mortgage bonds will accomplish a valid public purpose of the Department by providing for the housing needs of persons and families of low, very low and extremely low income and families of moderate income in the State.

Section 4 - Mortgage Credit Certificate Authority. The Department reserves the right, upon receipt of a Reservation, to convert all or any part of its authority to issue qualified mortgage bonds to mortgage credit certificates.

Section 5 - 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

Section 6 - Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 28th day of June, 2010.

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Chairman, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

Resolution No. 10-028

RESOLUTION AUTHORIZING THE RECEIPT OF 2008 HOUSING ACT VOLUME CAP FROM ONE OR MORE ELIGIBLE ISSUERS; 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 from time to time (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) at prices they can afford; and

WHEREAS, the Housing Assistance Tax Act of 2008, Division C of Pub. L. No. 110-289 (the "2008 Housing Act") authorized a temporary increase in the annual private activity bond volume cap for 2008 ("2008 Housing Act Volume Cap") under Section 146 of the Internal Revenue Code of 1986, as amended (the "Code"), for "qualified housing issues," as defined in the 2008 Housing Act (each a "Qualified Housing Issue"); and

WHEREAS, IRS Notice 2008-79, 2008-40 IRB 815, September 17, 2008 provides that an issuer who has filed a proper carryforward election for 2008 Housing Act Volume Cap may assign any portion of that 2008 Housing Act Volume Cap to another eligible issuer in the state; and

WHEREAS, the Department desires to acquire 2008 Housing Act Volume Cap from one or more eligible issuers in the State of Texas that have filed a proper carryforward election for 2008 Housing Act Volume Cap;

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

Section 1 - Receipt of 2008 Housing Act Volume Cap. The Department is authorized to receive an assignment of 2008 Housing Act Volume Cap in an aggregate amount not to exceed $100,000,000 from one or more eligible issuers in the State of Texas.

Section 2 - Authorization of Certain Actions. The Board authorizes the Executive Director, the staff of the Department, as designated by the Executive Director, and Bond Counsel to take such actions on its behalf as may be necessary to carry out the purposes of this Resolution. The Board further authorizes the Executive Director of the Department to determine the amount of consideration, if any, to be paid to an eligible issuer relinquishing its 2008 Housing Act Volume Cap.

Section 3 - Purposes of Resolution. The Board has expressly determined and hereby confirms that the Department's issuance of one or more Qualified Housing Issues will accomplish a valid public purpose of the Department by providing for the housing needs of persons and families of low, very low and extremely low income and families of moderate income in the State.

Section 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

Section 5 - Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 28th day of June, 2010.

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Chairman, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

BOND FINANCE DIVISION

BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve Resolution No. 10-026 authorizing a range of mortgage interest rates under the First Time Homebuyer Program.

Background

On March 11, 2010, the Board passed Resolution 10-019 approving the Warehousing Agreement, Servicing Agreement, Compliance Agreement and Program Guidelines for Program 77 and authorizing the Department to set interest rates on mortgage loans originated under the program to be no less than 4.99% and no greater than 6.25%. Bonds will be issued later this year to purchase all mortgage backed securities held with the Warehouse Provider.

On May 18, 2010, the Department issued Commitment Lot #1 under Program 77 with an unassisted interest rate of 4.99% and an assisted interest rate of 5.74% with 5 points of down payment assistance in the form of a second lien loan. As of June 15, with a month elapsed, we have $10 million committed in the pipeline, although few of these loans have been for unassisted rates.

In recent months, mortgage interest rates have declined thereby making the Department's authorized interest rate range less attractive. As a result, staff is seeking authorization to reduce the lower band of the interest rate range from 4.99% to 4.50% for our unassisted program enabling our rate to be more competitive and allowing the Department to effectively serve low income borrowers.

Resolution No. 10-026

RESOLUTION APPROVING NEW INTEREST RATE RANGE FOR MORTGAGE LOANS ORIGINATED AND DELIVERED THROUGH WAREHOUSING AGREEMENT; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, on March 11, 2010, the Governing Board (the "Board") of the Texas Department of Housing and Community Affairs (the "Department") adopted Resolution No. 10-019 ("Resolution 10-019") authorizing the execution and delivery of a Warehousing Agreement (the "Warehousing Agreement") with First Southwest Company and PlainsCapital Bank, as warehouse providers, and The Bank of New York Mellon Trust Company, N.A., as custodian (the "Custodian"); and

WHEREAS, pursuant to Resolution 10-019, the Board approved an interest rate range of no less than 4.99% and no greater than 6.25% for mortgage loans that are pooled into mortgage-backed securities and that are purchased by the Custodian under the Warehousing Agreement; and

WHEREAS, in order to more effectively compete with market rate mortgage products, the Board now desires to set a new interest rate range of no less than 4.50% and no greater than 6.25% to be effective from the date of adoption of this Resolution for loans purchased under the Warehousing Agreement and any other warehousing agreement or arrangement entered into by the Department;

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

Section 1 - Approval of Revised Minimum Interest Rate. Effective upon adoption of this Resolution, the interest rate range for mortgage loans originated and delivered through the Warehousing Agreement or any other warehousing agreement or arrangement entered into by the Department shall be no less than 4.50% and no greater than 6.25%.

Section 2 - 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

Section 3 - Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 28th day of June, 2010.

Chairman, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

BOND FINANCE DIVISION

BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve Resolution No. 10-027 authorizing the Department to enter into a backup warehouse agreement to be used in conjunction with the Department's First Time Homebuyer Program.

Background

On March 11, 2010, the Board passed Resolution 10-019 approving the Warehousing Agreement, Servicing Agreement, Compliance Agreement and Program Guidelines for Program 77 and authorized the Department to enter into a Warehousing Agreement with First Southwest Company and PlainsCapital Bank. Under the terms of the Warehousing Agreement, the Department agreed that the maximum total principal amount of certificates required to be warehoused by the Warehouse Providers on any particular date shall not exceed $100 million without the written consent of the Warehouse Providers. In the event the balance of certificates required to be warehoused exceeds $100 million, and the Department is unable to issue bonds to purchase the $100 million in warehoused certificates, staff is requesting authorization to sign a Backup Warehousing Agreement with Greystone & Co., Inc. for an amount not to exceed $200 million to allow additional time to structure and close the bond transaction and to keep the originating and purchasing mortgage loans in the interim. The Back-up Warehousing Agreement will have no collateral posting requirement (the PlainsCapital warehouse agreement required a $5 million collateral posting). On the 25th day of each month, the Department will receive .75% of the outstanding balance of certificates in the warehouse facility during the prior month. The Backup Warehousing Agreement will expire on December 31, 2011.

Staff recommends entering into a Backup Warehouse Agreement with Greystone & Co., Inc. The attached Resolution 10-027 contains the relevant terms and conditions of the Backup Warehouse Agreement.

Resolution No. 10-027

RESOLUTION APPROVING WAREHOUSING AGREEMENT FOR MORTGAGE LOANS FINANCED WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2009C AND RESIDENTIAL MORTGAGE REVENUE BONDS TO BE ISSUED DURING 2010 IN UP TO THREE SERIES; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS RELATING TO THE FOREGOING; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Texas Housing Agency (the “Agency”) or the Department, as its successor, has, pursuant to and in accordance with the provisions of the Act, issued, sold and delivered its Residential Mortgage Revenue Bonds pursuant to the Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987 (as amended by supplemental indentures numbered First through Thirtieth and any amendments thereto, collectively, the “RMRB Indenture”) between the Department, as successor to the Agency, and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the “Trustee”), to implement the various phases of the Agency’s (now the Department’s) single family mortgage purchase program by providing funds to make and acquire qualifying mortgage loans (including participations therein through the purchase of mortgage backed securities (“Mortgage Certificates”) issued and guaranteed by Fannie Mae (“Fannie Mae”), Federal Home Loan Mortgage Corporation (“Freddie Mac”) or Government National Mortgage Association (“Ginnie Mae”)) (referred to herein as “Mortgage Loans”); and

WHEREAS, Section 302 of the RMRB Indenture authorizes the issuance of additional bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves and refunding outstanding bonds or notes issued by the Department under the Act; and

WHEREAS, the Department issued, under the Act and the federal government’s New Issue Bond Program (“NIBP”), its Residential Mortgage Revenue Bonds, Series 2009C (the “Series 2009C Bonds”) pursuant to the RMRB Indenture and the Thirtieth Supplemental Residential Mortgage Revenue Bond Trust Indenture dated as of December 1, 2009 between the Department and the Trustee (the “Thirtieth Series Supplement”); and

WHEREAS, in accordance with the Thirtieth Series Supplement and the provisions of the NIBP, the Department is entitled, on up to three separate dates occurring no later than December 31, 2010, to convert all or a portion of the Series 2009C Bonds previously issued as taxable bonds to tax-exempt bonds and in connection with each such conversion to release a portion of the proceeds of the Series 2009C Bonds held in escrow to be used with the proceeds of a series of tax-exempt Residential Mortgage Revenue Bonds to be issued in connection with the respective conversion (such bonds are referred to in the NIBP and herein as "Market Bonds") to acquire Mortgage Certificates; and

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

WHEREAS, the Governing Board desires to authorize the execution and delivery of a Warehousing Agreement (the "Warehousing Agreement") with Greystone & Co. (the "Warehouse Provider"); and

WHEREAS, the Governing Board has determined that the Warehousing Agreement is a "credit agreement" under Section 1371.001 of the Texas Government Code, as amended;

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

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

ARTICLE I

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1--Authority to Approve Form and Certain Terms of Warehousing Agreement. The Executive Director or the Chief of Agency Administration of the Department are hereby authorized and empowered, in accordance with Chapter 1371, to fix and determine the terms of the Warehousing Agreement, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chairman of the Governing Board or the Executive Director or the Chief of Agency Administration of the Department of the Warehousing Agreement; provided, however, that: (a) the principal amount of Mortgage Certificates that may be purchased under the Warehousing Agreement shall not exceed $200,000,000; (b) the Warehousing Agreement shall terminate on December 31, 2011; (c) the source of payment of the Department's obligations under the Warehousing Agreement shall be limited to the purchase of warehoused loans with the proceeds of bonds issued by the Department for that purpose; (d) the Department's obligations under the Warehousing Agreement shall be unsecured; and (e) the duration of the authority to enter into the Warehousing Agreement shall not extend beyond December 31, 2011.

Section 1.2--Approval, Execution and Delivery of Warehousing Agreement. The authorized representatives of the Department named in this Resolution each are hereby authorized to execute, attest and affix the Department's seal to the Warehousing Agreement and to deliver the Warehousing Agreement to the Warehouse Provider.

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

Section 1.4--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution each are hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative, 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 1.5--Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article I: Chairman or Vice Chairman of the Governing Board, Executive Director or Acting Executive Director of the Department, Chief of Agency Administration of the Department, Director of Bond Finance of the Department, Director of Texas Homeownership of the Department and the Secretary to the Governing Board.

Section 1.6--Submission to the Attorney General of Texas. The Board hereby authorizes the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the authorization of the Warehousing Agreement.

Section 1.7--Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection with the Warehousing Agreement are hereby ratified and confirmed.

Section 1.8--Board Determination. The Governing Board has determined that the Warehousing Agreement is a "credit agreement" under Section 1371.001 of the Texas Government Code, as amended.

ARTICLE II
GENERAL PROVISIONS

Section 2.1--Notice of Meeting. 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 made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

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

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HOME PROGRAM DIVISION

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve a revision to the Tax Credit Assistance Program (TCAP) Policy Supplement allowing for the 75 percent draw to be tied to *the earlier to occur* of 75 percent construction completion and January 14, 2011. Regardless of percentage completion on January 14, 2011, the development owner will be required to submit a draw request for 75 percent of the awarded TCAP Loan amount as supported by expenditure on TCAP eligible costs.

> **WHEREAS**, the Board approved the TCAP Plan, Policy and Policy Supplement on May 21, 2009 and clarified the Policy on October 15, 2009 to allow for the allocation and award of $148,354,769 in TCAP funds, and
>
> **WHEREAS**, HUD Notice CPD-09-03-REV issued May 4, 2009 and revised July 27, 2009 "requires that the state housing credit agency…Demonstrate that all project owners have expended 75 percent of the TCAP funds within two years of the enactment of the Recovery Act (i.e., by February 16, 2011)," therefore it is hereby
>
> **RESOLVED,** that the Executive Director and his designees and each of them be and they hereby are authorized and empowered, for and on behalf of this Department, to revise the Policy Supplement to require the 75 percent draw to be tied to *the earlier to occur* of 75 percent construction completion and January 14, 2011. Regardless of percentage completion on January 14, 2011, the development owner will be required to submit a draw request for 75 percent of the awarded TCAP Loan amount as supported by expenditure on TCAP eligible costs.

Background

The American Recovery and Reinvestment Act of 2009 provides for dedicated funds to assist in the development of properties that had been awarded low income housing tax credits ("LIHTCs") between October 1, 2006, and September 30, 2009. These funds were issued through the U.S. Department of Housing and Urban Development (HUD) under a plan approved by HUD on July 21, 2009 and under an agreement executed by the Department. Through this agreement the Department is able to award $148,354,769 in TCAP funds. All of the funds must be used or returned to HUD by February 16, 2012.

In summer 2009, the Board approved the Plan, Policy, and Policy Supplement ("TCAP Policy") for the administration and distribution of these funds. The Policy Supplement allows for funds to be drawn for eligible costs incurred according to the schedule of funding evidenced in the partnership agreement based upon a maximum of four draws as follows:

(a) 25% of the funds committed at 25% completion of construction;
(b) 50% of the funds at 50% completion of construction;
(c) 75% of the funds at 75% completion of construction; and
(d) 100% of the funds at completion of construction.

The Policy Supplement clearly calls for 75 percent construction completion prior to releasing the 75 percent draw.

HUD Notice CPD-09-03-REV issued May 4, 2009 and revised July 27, 2009 "requires that the state housing credit agency…Demonstrate that all project owners have expended 75 percent of the TCAP funds within two years of the enactment of the Recovery Act (i.e., by February 16, 2011)." Of note, the federal expenditure requirement has been interpreted by HUD to be on a project by project basis rather than an aggregate of the total state TCAP allocation of $148M. Therefore, each TCAP Development must expend and draw 75 percent of their TCAP Loan amount by February 16, 2011.

Delays in closing have been a result of numerous issues including the continued instability in financial markets. The Department solicited applications and approved awards for a third round of funds in April and May of this year. Due to the need for environmental clearance to receive TCAP funding, developments making application must halt or delay start of construction until their environmental clearance is garnered and in some cases until their TCAP Loan closes. As of June 21, 2010, 31 of the 50 TCAP Developments with executed Written Agreements have not closed. In addition, staff has requested and reviewed construction schedules which indicate it is unlikely that many TCAP Developments with a 2009 Tax Credit Award will be 75 percent complete by February 16, 2011. As a result, tying the 75 percent draw to 75 percent completion of construction may result in many developments failing to the meet the February 16, 2011 federal expenditure deadline.

Staff requests a revision to Sections (2)(b)(iii)(2), (2)(c)(iii)(2), and (2)(d)(iii)(2) of the Policy Supplement as follows:

2) Draw Schedule. Funds shall be drawn for eligible costs incurred according to the schedule of funding evidenced in the partnership agreement based upon a maximum of four draws as follows, except as provided in section (8)(a).

(a) 25% of the funds committed under this subsection at 25% completion of construction;

(b) 50% of the funds at 50% completion of construction;

(c) 75% of the funds at the earlier of 75% completion of construction and January 14, 2011. Regardless of percentage completion, a draw request for 75% of the awarded TCAP Loan amount as supported by expenditure on TCAP eligible costs must be submitted on January 14, 2011; and

(d) 100% of the funds at completion of construction.

If a development owner is unable to support the 75% draw with eligible costs already incurred, the owner may lose access to all remaining funds. A requirement to submit the

75 percent draw requests by January 14, 2011 will ensure sufficient time for TDHCA staff to review and approve the draws prior to submitting to HUD through its Integrated Disbursement & Information System (IDIS). Submission through IDIS by February 16, 2011 is required to meet the federal expenditure deadline.

Texas Department of Housing and Community Affairs

SUPPLEMENTAL INFORMATION TO THE BOARD POLICY ON

American Recovery and Reinvestment Act of 2009,

Tax Credit Assistance Program ("the Policy Supplement")

1) **Definitions**. Terms in this Policy that are also defined in 10 TAC §49.3 of the QAP have the same meaning as in the QAP unless redefined herein.

   a) *Annualized Syndication Amount*. The total equity generated from the Award of LIHTC and documented in a tax credit limited partnership agreement divided by ten.

   b) *Award of LIHTC*. The Notice requires a uniform definition of Award of LIHTC for the purposes of committing TCAP funds. An award is defined as an approval by the Department's Governing Board ("Board") of an allocation or determination of Low Income Housing Tax Credits between October 1, 2006, and September 30, 2009, and as may be adjusted based upon the application for funds under this Policy.

   c) *Good Faith Effort.* Attempts by the Applicant to secure final financing commitments from an equity investor and lender (other than program funds from the Department) prior to application as evidenced by term sheets or letters of interest and paid due diligence or commitment fees to lenders or syndicators for due diligence efforts.

   d) *Written Agreement.* (or "Contract"). A contract governing the award of TCAP funds between the Department and Applicant which may include the General Partner as well as the Limited Partner(s).

2) **Additional Requirements of Program Initiatives**

   a) **Credit Pricing Incentive.** This initiative provides a scoring incentive for developments that are able to use the TCAP initiatives in this policy or other attributes of the development to obtain a higher syndication price and thus a greater amount of equity in the development than what was anticipated with the commitments from the Board action in November of 2008 or the original application as applicable and specified herein. In November of 2008 each development was given the opportunity to provide updated syndication commitments to reconcile with the market of falling credit prices.

   b) **Equity Bridge Loan Initiative.** Funds awarded under this subsection are intended to attract additional equity investment or preserve existing equity investment in tax credit developments by increasing the yield potential for top tier investors. The potential yield enhancement is derived from a reduced period of time between the final investment of equity and the realization of tax benefits and savings realized from the interest rate savings on the bridge loan. The yield enhancement should result in stabilization of pricing and could lead to higher pricing if the market expectation of yield is exceeded. The funds awarded under this initiative may be up to one-half of the total equity contribution derived from the Award of LIHTC and are subject to the following criteria.

i) The Department will require a position in the partnership agreement in order to ensure that the investor limited partner's equity pay-in schedule does not at any point result in more funds than are necessary.

ii) Security for the Loan. The Department may require a guarantee from the investor limited partner of repayment of any loan made under this initiative regardless of any event of default or foreclosure on any other obligations entered into by the partnership.

iii) A loan made under this initiative will be structured based on the election made under the Selection Criteria Section of this Policy and in accordance with the following clauses:

1) Closing Date. Closing on funds committed under this subsection must be within six (6) months from the date that the Written Agreement is executed.

2) Draw Schedule. Funds shall be drawn for eligible costs incurred according to the schedule of funding evidenced in the partnership agreement based upon a maximum of four draws as follows, except as provided in section (8)(a).

(a) 25% of the funds committed under this subsection at 25% completion of construction;

(b) 50% of the funds at 50% completion of construction;

(c) 75% of the funds at the earlier of 75% completion of construction and January 14, 2011. Regardless of percentage completion, a draw request for 75% of the awarded TCAP Loan amount as supported by expenditure on TCAP eligible costs must be submitted on January 14, 2011; and

(d) 100% of the funds at completion of construction.

3) Development Period. Completion of Construction and all costs reimbursed by funds committed under this subsection must be incurred prior to the date that the last building of the development is Placed in Service.

4) Interest rate. The interest rate shall be equal to 0% for the entire period during which funds are drawn.

5) Repayment Terms. A payment equal to the Annualized Syndication Amount as documented in the limited partnership agreement shall be made to the Department annually in consecutive years. The final payment shall be no later than December 31 of the 10^{th} year of the credit period. Priority points may be elected for final payments that occur earlier. For example: An Applicant choosing 3/10 of the equity could make payments in years 8, 9, and 10 of the credit period, but would score higher if repayments started in year 6 and ended in year 8.

c) **Permanent Loan Replacement/Equity Risk Reduction Initiative**. Funds awarded under this initiative are intended to reduce the risk to the limited partner and primary lender by replacing a portion or all of the first lien debt with lower cost second lien, non-recourse debt from funds made available under this Policy. By reducing the obligation of the partnership to the first lien lender, the reduced risk of foreclosure or an event of default by the primary lender should have a positive impact on the investor limited partner's and first lien lender's risk assessment of a development and may attract renewed lender and syndicator interest in tax credit developments. The funds awarded under this subsection are subject to the following criteria.

i) Security for the Loan. A lien and deed of trust against the property will be required. The required lien position for funds committed under this section shall be based on the total amount of each source relative to the Department's investment of funds. Additionally, the Department will require a superior position to any other contingent repayment loans regardless of size. A loan made under this initiative may be structured as repayable from cashflow only if the first lien is an FHA or HUD insured mortgage or the Department has an existing MOU with the lender.

ii) Loan Term and Amortization. The loan term shall be parity of term with the first lien lender but shall not have a term of less than 15 years or greater than 40 years. The amortization shall be parity with the first lien but shall not be less than 20 years or greater than 40 years.

iii) A loan made under this initiative will be structured based on the election made under the Selection Criteria Section of this Policy and in accordance with the following clauses:

1) Closing Date. Closing on funds committed under this subsection must be within six (6) months from the date that the Written Agreement is executed.

2) Draw Schedule. Funds shall be drawn for eligible costs incurred based upon a maximum of four draws as follows, except as provided in section (8)(a).

(a) 25% of the funds committed under this subsection at 25% completion of construction;

(b) 50% of the funds at 50% completion of construction;

(c) 75% of the funds at the earlier of 75% completion of construction and January 14, 2011. Regardless of percentage completion, a draw request for 75% of the awarded TCAP Loan amount as supported by expenditure on TCAP eligible costs must be submitted on January 14, 2011; and

(d) 100% of the funds at completion of construction.

3) Development Period. Completion of Construction and all costs reimbursed by funds committed under this subsection must be incurred prior to the date that the last building of the development is Placed in Service.

4) Interest Rate. The interest rate shall be based on a rate required to yield a Debt Coverage Ratio (DCR) within a range of 1.15 to 1.35 but shall not exceed the interest rate on the permanent first lien debt or 5%, whichever is higher.

d) **Tax Credit Replacement Initiative.** Funds awarded under this initiative are intended to replace the syndication proceeds created by an applicant's inability to sell or otherwise utilize a portion of the Award of LIHTC. The returned credits may be a result of a determination by the applicant that a portion of the original or supplemental allocation of credits provided as contingency in anticipation of cost increases which have not materialized. The returned credits may alternatively be a result of the inability to close on a partnership agreement with a limited partner investor after a Good Faith Effort to do so has been made. The funds awarded under this subsection are subject to the following criteria.

i) If the Applicant agrees to return a portion of their Award of LIHTC, they may substitute the gap in equity using a credit price equal to the anticipated price from the syndicator of the remaining credit or if full replacement is anticipated, the lesser of $0.85 per dollar of credit or the anticipated price in the last Board approved analysis (i.e. the later of original underwriting, amendment or additional allocation on November 13, 2008).

ii) Security for the Loan. A subordinate deed of trust against the property will be required.

iii) Loan Term. The term of the loan shall be equal to the 15 year Compliance Period required for the Award of LIHTC.

iv) Additionally, funds committed under this section shall be structured as follows:

1) Closing Date. Closing on funds committed under this subsection must be within six (6) months from the date that the Written Agreement is executed.

2) Draw Schedule. Funds shall be drawn for eligible costs incurred based upon a maximum of four draws as follows, except as provided in section (8)(a).

(a) 25% of the funds committed under this subsection at 25% completion of construction;

(b) 50% of the funds at 50% completion of construction;

(c) 75% of the funds at the earlier of 75% completion of construction and January 14, 2011. Regardless of percentage completion, a draw request for 75% of the awarded TCAP Loan amount as supported by expenditure on TCAP eligible costs must be submitted on January 14, 2011; and

(d) 100% of the funds at completion of construction.

3) Development Period. Completion of Construction and all costs reimbursed by funds committed under this subsection must be incurred prior to the date that the last building of the development is Placed in Service.

4) Interest rate. The interest rate shall be equal to 0%.

5) Repayment Terms. Any loan under this initiative shall be anticipated to be deferred and forgiveness accrued but not granted until at the end of the Term. Notwithstanding the other provisions of the Policy, to the extent that any of the funds requested under this initiative can be anticipated to be repaid over the same term as the primary debt based on the Department's underwriting evaluation, staff shall recommend and the Board may require a loan structured with some repayment. Additionally, any on going cash flow and any proceeds from financial restructuring or sale must be provided as repayment of loan principal at a percentage in parity with any equity provider but not less than ten 10% and in proportion with the Department's investment.

e) **Set-Asides and Regional Allocation.** Funds made available under the Policy shall be subject to the following set-asides and regional allocation:

i) At least 5% of the funds shall be awarded to Developments which are financed through TRDO-USDA and otherwise continue to meet the requirements of 10 TAC §49.7(b)(2). Awards to meet this 5% requirement shall be made in the same manner as prescribed in 10 TAC §49.7 for housing tax credits. Any funds for rehabilitation of an existing §515 Development awarded under this section will also be considered as part of the At-Risk Development Set-Aside as described in the next paragraph.

ii) At least 15% of the funds shall be awarded to Developments awarded under the At-Risk Development Set-Aside and will be deducted from the total funds made available in the Policy prior to the application of the regional formula required under paragraph (iii) of this subsection. Awards to meet this 15% requirement shall be made in the same manner as prescribed in 10 TAC §49.7 for housing tax credits.

iii) Except as otherwise provided herein, the funds made available in the Policy shall be regionally allocated based upon the following table (Table 0), which excludes the funds to meet paragraph (ii) of this subsection. Awards shall be made in similar manner to that prescribed in 10 TAC §49.7 for housing tax credits as applied by the Department.

Table 0. Regional, Rural, and Urban Funding Amounts

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$4,344,197	3.4%	$2,291,537	52.7%	$2,052,659	47.3%
2	Abilene	$2,590,427	2.1%	$1,467,629	56.7%	$1,122,798	43.3%
3	Dallas/Fort Worth	$28,932,205	22.9%	$3,691,363	12.8%	$25,240,843	87.2%
4	Tyler	$4,444,990	3.5%	$2,893,936	65.1%	$1,551,053	34.9%
5	Beaumont	$3,187,599	2.5%	$2,094,137	65.7%	$1,093,463	34.3%
6	Houston	$30,993,097	24.6%	$3,605,180	11.6%	$27,387,917	88.4%
7	Austin/Round Rock	$8,295,464	6.6%	$1,069,201	12.9%	$7,226,263	87.1%
8	Waco	$5,973,227	4.7%	$1,884,930	31.6%	$4,088,297	68.4%
9	San Antonio	$9,002,345	7.1%	$1,534,556	17.0%	$7,467,789	83.0%
10	Corpus Christi	$4,718,289	3.7%	$2,101,631	44.5%	$2,616,658	55.5%
11	Brownsville/Harlingen	$16,014,660	12.7%	$5,133,896	32.1%	$10,880,763	67.9%
12	San Angelo	$2,164,195	1.7%	$832,664	38.5%	$1,331,531	61.5%
13	El Paso	$5,440,858	4.3%	$1,070,292	19.7%	$4,370,565	80.3%
	Total	$126,101,554	100.0%	$29,670,954	23.5%	$96,430,600	76.5%

3) Threshold Criteria. The following Threshold Criteria are mandatory requirements at the time of application submission unless specifically indicated otherwise.

a) Certification that all threshold and scoring under the QAP remain true and contemplated as part of the development;

b) Good Faith Effort Documentation

c) Submission of items impacted by the change in the development costs and financing structure contemplated herein. The Applicant must provide the following updated information using the forms in the 2009 Uniform Application and supplemental application documents:

i) Funding Request [Part C(3)];

ii) Rent schedule reflecting current rent and utility allowances [Vol. 1, Tab 2, Parts B & C];

iii) Annual operating expenses [Vol. 1, Tab 2, Part D];

iv) 30 Year Operating Proforma [Vol. 1, Tab 2, Part D];

v) Development Cost Schedule [Vol. 1, Tab 3, Part A];

vi) Offsite Cost Breakdown [Vol. 1, Tab 3, Part B];

vii) Site Work Costs [Vol. 1, Tab 3, Part C];

viii) Summary of Sources & Uses Costs [Vol. 1, Tab 4, Part A];

ix) Financing Participants [Vol. 1, Tab 4, Part B], Financing Narrative, executed grant/subsidy, debt and equity commitments, and lender proforma;

x) Tax Assessor valuation and tax rates by taxing jurisdiction;

xi) Evidence of Site Control;

xii) Title Commitment;

xiii) Acquisition and/or Rehabilitation Information [Vol, 3, Tab 6];

xiv) Updated Property Condition Assessment ("PCA") meeting the requirements of 10 TAC §1.36, if applicable; and,

xv) Environmental review information as required by the Department in accordance with the National Environmental Policy Act of 1969, as amended (NEPA) and 24 CFR Part 58. NOTE: No TCAP funds may be committed to a project before the completion of the environmental review process. Once an application is submitted for TCAP funds performing a choice-limiting action by an owner may disqualify a development from receiving any federal funds.

4) **Selection Criteria.** The following Selection Criteria may be elected by an Applicant. An Applicant may not change their score or elect to participate in any initiatives not elected at the time of application.

a) Base Points. An Applicant may elect base points equal to the final Department designated points on which the application's original Award of LIHTC was based, less any adjustments resulting from subsequent Board approved amendments.

b) Credit Pricing Incentive. An Applicant may elect points from the table below for a firm syndicator commitment (a commitment which has or is ready to close a partnership agreement subject only to the award of TCAP funds) that reflects a syndication equity and price equal to or greater than the syndication equity and credit price reflected in the Board approved analysis for the additional allocation on November 13, 2008 or for 2009 awards made subsequent to the posting of this Policy Supplement, the price and equity amount reflected in the original 2009 application.

Table 1. Credit Pricing Points

% above the prior commitment	Points
More than 10%	300
More than 5% to less than or equal to 10%	200
More than 0%to less than or equal to 5%	100
Equal to prior commitment	50

c) Equity Bridge Loan Points. An Applicant requesting funds under the Equity Bridge Loan Initiative may elect points based on the amount of the requested funds and the term of the bridge loan using the following table (Table 2). The "Equity" used in this table shall mean the equity generated by the Award of LIHTC and paid by the Limited Partner for use of the LIHTCs.

Table 2. Equity Bridge Loan Points

	Year of Final Payment	6	7	8	9	10
Loan Amount	Less than or equal to 1/10th of the Equity	220	215	210	205	200
	Less than or equal to 2/10ths of the Equity		190	185	180	175
	Less than or equal to 3/10ths of the Equity			165	160	155
	Less than or equal to 4/10ths of the Equity				145	140
	Less than or equal to 5/10ths of the Equity					130

d) Permanent Loan Replacement/Equity Risk Reduction and Tax Credit Replacement Points. If an Applicant requests funds under the Permanent Loan Replacement/Equity Risk Reduction Initiative and/or the Tax Credit Replacement Initiative they may elect points from the following table (Table 3) based on the combined amount requested under these two initiatives.

Table 3. Replacement Points

Loan requested as percentage of Total Housing Development Costs (TDC)	Points
Equal to or less than 10% of TDC	195
Equal to or less than 20% of TDC	150
Equal to or less than 30% of TDC	120
Equal to or less than 40% of TDC	90
Equal to or less than 50% of TDC	60
Equal to or less than 60% of TDC	30
Equal to or less than 70% of TDC	5

e) Single Purpose Points. An Applicant may elect 200 points if funds are requested under only one of the point categories in subsections (c) or (d) of this section.

f) Rural Development Points. Applications that received their Award of LIHTC under any of the 13 Rural Subregions may elect 100 points.

5) Tie Breakers. In the event that two or more applications receive the same number of points under section (7) of this Policy and each application is practical and economically feasible, the Department will prioritize the application requesting the least amount of TCAP funds as a percentage of the Total Housing Development Costs.

6) Application Deadline. The application acceptance period for developments with Award of LIHTC's made in 2007 or 2008 will begin on June 15, 2009 and all such applications must be received on or before **5:00 p.m. Austin local time on July 17, 2009.** The application acceptance period for developments with Award of LIHTC's made in 2009 will begin on August 3, 2009 and all such applications must be received on or before **5:00 p.m. Austin local time on October 1, 2009.**

a) The Department will accept applications from 8 a.m. to 5 p.m. Austin local time each business day, excluding federal and state holidays from the date this Policy is published on the Department's web site until the deadline. For questions regarding this Policy please contact Cameron Dorsey at 512-475-2669 or via e-mail at cameron.dorsey@tdhca.state.tx.us.

b) Applicants must submit the Application materials on forms established by the Department and as detailed in the TCAP Application Submission Procedures Manual (TASPM). In addition to the application requirements in the TASPM, staff may use discretion to determine if additional information that is typically required in the full application (including third party reports) is necessary or prudent in order to review for compliance with state or federal rules or due to changes in the market since last reviewed by the Department.

c) Applications must be submitted by one of the following delivery methods:

via overnight delivery to:

Texas Department of Housing and Community Affairs
Attn: TCAP
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
Attn: TCAP
Post Office Box 13941
Austin, TX 78711-3941

7) Review and Assessment of Applications. Applications submitted for consideration for TCAP funding under this Policy will be reviewed according to the process outlined in this section.

a) Eligibility Criteria Review. All Applications will be reviewed to confirm eligibility for funding.

b) Threshold Criteria Review. Applications will be reviewed for Threshold. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in each event the Applicant will be 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.

c) Administrative Deficiencies. If an Application contains Administrative Deficiencies pursuant to 10 TAC §49.3(2) 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 (only if there has not been confirmation of the receipt within 24 hours) 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 by 5:00 p.m. Austin local time on the fifth business day following the date of the deficiency notice, then for competitive Applications under this Policy, five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected by 5:00 p.m. Austin local time on the seventh business day following the date of the deficiency notice, 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. This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division review.

d) Financial Evaluation. The Department shall underwrite an Application to determine the financial feasibility and amount of need of the Development to arrive at an appropriate level of TCAP funds. Underwriting of a Development will include a determination by the Department, pursuant to the Notice, that the amount of TCAP funds recommended for commitment to a Development is necessary for the financial feasibility of the Development and its viability as a qualified rent restricted housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, 10 TAC §1.32.

e) 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. The Department is not obligated to proceed with any action pertaining to any applications which are received and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The Department reserves the right to negotiate individual elements of any application.

f) Compliance Evaluation. After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status by the Department's Compliance and Asset Oversight Division, in accordance with 10 TAC Chapter 60.

g) Alternative Dispute Resolution. In accordance with §2306.082 Texas Government Code and 10 TAC §53.6, 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 Cod, 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. 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 Rules on ADR at 10 TAC §1.17.

8) Contract Administration. Any activity funded under this Policy will be governed by a Written Agreement or Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract. Any amendments must be in writing and are subject to the requirements of the Department's amendment process for the tax credit program and the requirements of this section.

a) Unless otherwise changed by agreement of the parties in a Contract and approved by the Board, the terms found in Contract shall be consistent with the following:

i) Up to seventy-five percent of the developer fee shall be disbursed in accordance with the percentage completion of construction. The remaining twenty-five percent of developer fee shall not be disbursed until the later of the following:

(1) 100% completion of the Department's Cost Certification process; or

(2) Sufficient sources of funds are available as determined by the Department.

ii) Department authorized pre-award costs for pre-development costs, including but not limited to legal, architectural, engineering, appraisal, surveying, and market study fees, may be paid if incurred before the effective date of the Contract.

iii) The Department may withhold any draw until completion of a site/construction inspection as deemed necessary by the Department to ensure that construction progress is being made in accordance with the Contract.

iv) All applicable sections of the Department's rules for Loans and Contract Administration as reflected in 10 TAC Chapter 53 Subchapter G shall apply; where HOME funds are specifically referenced in this Chapter, the Department may interpret such language to also apply to the funds provided under this Policy.

b) Unless otherwise changed by agreement of the parties in a Contract and approved by the Board, performance under the Contract will be evaluated with the following benchmarks:

i) Closing must occur within 6 months from the date of the Board meeting at which the award is made;

ii) Construction must begin within 2 months of the actual closing date or 8 months from the date of the Board meeting at which the award is made, which ever is earlier;

iii) Fifty percent of construction completion must occur within 12 months of the actual closing date;

iv) Completion of construction and receipt of certificates of occupancy, or certification of completion by an architect for rehabilitation, must occur within 24 months of the date of actual closing.

c) The Executive Director may collectively provide up to one six-month extension to the end date of any Contract. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director relating to unusual, non foreseeable, or extenuating circumstances that warrant more than a six-month extension. If the extension is longer than six months and the Executive Director determines that a statement related to unusual, non-foreseeable, or extenuating circumstances cannot be issued, it will be presented to the Board for approval, approval with modifications, or denial of the requested extension.

d) If the Development Owner fails to meet a benchmark requirement and does not seek, or is not granted, an extension of a benchmark, the awarded funds related to the lack of performance may be entirely or partially de-obligated at the Department's sole discretion.

e) Individual benchmarks. Each benchmark reflected in Subsection (b) of this Section is an individual term and subject to the amendment processes. An interim benchmark extension may or may not extend the entire Contract at the Department's discretion.

f) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of the Contract if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for good cause, as determined by the Board.

g) Accounting Requirements. Within sixty (60) days after the Contract end date, the Administrator or Development Owner shall provide a full accounting of funds expended under the terms of the Contract in accordance with the Cost Certification requirements of 10 TAC §49.15(b). Failure of a Development Owner to provide full accounting of funds expended under the terms of a Contract shall be sufficient reason for the Department to deny any future Contract to the Development Owner.

9) **Asset Management.** Any activity funded under this Policy will be required to enter into a written contract for asset management with the Department. In order to reduce the asset oversight burden on the property, the Department may enter into agreement(s) with the syndicator, lender or other third party to accomplish the asset management objectives of the Department and assure the long term viability of the development. The Department may require a fee for asset management and/or require reserves be established and maintained for the duration of the Compliance Period and Extended Housing Commitment. Any such fee or reserve shall not be considered program income and/or may accrue and not be due until after December 31, 2011 or a date specified by the Department after the submission of the final financial report under the HUD TCAP Grant Agreement.

10) **Crosscutting Requirements.** Any activity funded under this Policy will be required meet all requirements of the Act and the Notice. Applicant's should be particularly aware of the requirements in Section V of the Notice including but not limited to Fair Housing, Civil Rights, Accessibility, Environmental Standards, Lead Based Paint, Labor Standards, and assist the Department in following the requirements of the OMB Regulations and Circulars as described in the Notice.

NOTE: *This Policy does not include the text of the various applicable regulatory provisions that may be important to TCAP. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.*

HOME PROGRAM DIVISON

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Approve publishing a new HOME rule for public comment.

RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the new 10 TAC, Chapter 53, Subchapters A, B, C, D, E, F, G, H, and I, regulations related to the HOME Program, in the form presented to this meeting, accompanied by the proposal to real existing 10 TAC Chapter 53, to be published in the *Texas Register* for public comment and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

Background

Attached behind this Board Action Item is the draft HOME Program rule which reflects staff's recommendations for revisions for the Board's consideration. This draft rule ensures compliance with all statutory requirements, including recent federal rule changes, incorporates public input from the recent HOME Program rule roundtables, removes duplicative federal and statutory requirements, formalizes existing policy and guidelines contained in HOME Program manuals, and includes recommendations for revisions of necessary policy and administrative changes to further enhance the efficient and effective operations of the HOME Program.

Publishing the rule in the *Texas Register* opens the period for public comment. The Board will address the final rule after public comment is received and compiled for presentation.

Summary of Significant Changes

This section outlines some of the most significant staff recommendations. Other more operational or procedural revisions, details of revisions, formatting adjustments, and streamlining are not summarized, however, they are reflected in the attached draft HOME Program rule. Details of the most significant changes are outlined below:

1. *§53.1 Purpose*
   Revised Opt-In provision for only those Contracts that are less than 12 months from the effective date of the Contract at the time of the request.
2. *§53.2 Definitions*
   - Duplicative federal or statutory definitions were removed.

- The definition of Administrative Deficiencies, Application, Contract, Contract Administrator, Development, HOME Final Rule, Program Activity, and Third-Party were clarified, unnecessary definitions were removed (Application Acceptance Period, Articles of Incorporation, Bylaws, Council of Governments, Expenditure, Feasibility Analysis, Homebuyer Assistance, Nonprofit Organization, Owner-Occupied Housing Assistance, Program Activity, Received Date, Rental Housing Development, Single Family Development, Set-Aside, Subprime Mortgage Loan, and Tenant-Based Rental Assistance).
- Commitment of Funds, General Requirements, Housing Contract System, Reservation of Funds, and Reservation System Participant were added, and several CHDO specific terms were moved and defined in Subchapter I.

3. *§53.3 Ex Parte Communications, §53.4 Waivers in Disaster Areas, §53.5 Printed Materials Available, §53.6 Alternative Dispute Resolution, §53.7 Compliance Rules, §53.8 Notice of Receipt of Application or Proposed Application, and §53.9 Environmental Clearance and Loan Closing Are Required Prior to Construction*
   These sections were deleted because they are either duplicative with federal or statutory requirements, unnecessary, or addressed elsewhere in the HOME Program rule.

4. *Subchapter B - Allocation of Funds*
   This subchapter is replaced with *Availability of Funds, Application Requirements and Review and Award Procedures*. *§53.20 Availability of Funds* makes three different allocation methods available. Contract awards and reservation system participation are available through a NOFA. Another method is to directly administer the HOME Program through the procurement of a contractor(s).

5. *§53.22 Contract Award Application Review Process, §53.23 Reservation System Participant Review Process, §53.26 Reservation System Participant Agreements, and §53.27 Procurement of Contractor*
   Several of these sections were moved and revised from previous sections of the rule and several new sections were added to address the reservation system method of allocating funds.

6. *§53.24 General and Threshold Selection Criteria*
   The previous 100% commitment of funds requirement has been addressed in order to allow Applicant to apply for funding when at least 80% of the total number of contractually required Households or at least 80% of the total Project funds have been committed on their current contract for the same Program Activity. Because of budgeting and timing complexities, this provision was particularly difficult for TBRA Administrators to meet.

7. *§53.25 Contract Award Limitations*
   - The contract award limitation for the Homeowner Rehabilitation Program (formerly Owner-Occupied Housing Assistance Program) was increased to $500,000.
   - Based on substantial roundtable feedback, one standard 12-month benchmark for all Program Activities was developed and includes automatic deobligation of funds for the failure to commit funds to all contractually required households within 12 months of the contract effective date.

- To increase the Department's efficiency and effectiveness in responding to contract amendment requests, the Division Director may approve amendments except those extending the contract more than 6 months, increasing a Project funds, or those that would negatively impact the priority of a Board-approved application.
- An Administrator may deobligate funds from a contract in the form of a written request, instead of amendment.

8. *§53.25 Contract Award Limitations*
    - The contract award limitation for the Homeowner Rehabilitation Program (formerly Owner-Occupied Housing Assistance Program) was increased to $500,000.

9. *Subchapters C, D, E, F, G ,and H*
   Revised and restructured into six specific subchapters for the various Program Activities in order to include all of the requirements of the activity within one subchapter. Each subchapter is further subdivided into three sections unique to the Program Activity - threshold and selection criteria, program requirements, and administrative requirements.

   HRA Program Activity:

    - Renaming the Owner-Occupied Housing Assistance Program the Homeowner Rehabilitation Program (HRA).
    - Based on significant roundtable discussion HRA, allowing assistance to be provided in the form of a grant agreement with the ability to recapture the unsecured debt during the state-imposed affordability period.
    - Allowing new construction with federally-required affordability period for households relocating out of the floodplain or not occupying the housing unit as their primary residence for those units uninhabitable due to a natural disaster or condemnation.
    - Line item soft costs limitations were eliminated and replaced with an overall fixed maximum limitation.

   HBA Program Activity:

    - Clarified first lien purchase loan requirements and assistance for identity of interest transactions.
    - Line item soft costs limitations were eliminated and replaced with an overall fixed maximum limitation.

   TBRA Program Activity:

    - Allowing an additional 12 months of assistance to the household through the reservation system.
    - Based on significant roundtable discussion and feedback, administrative funds were increased to 8% of project funds.

   MFD Program Activity:

    - Renaming the Rental Housing Development Program the Multifamily Development Program (MFD).

- MFD loans will be structured with a regular month payment, however, the Board may also approve, on a case-by-case basis, a cashflow loan structure provided it determines that the financial risk is outweighed by the need for the proposed housing.
- MFD loans will had a deed of trust with a lien position that is consistent with the principal amount of the loan in relation to the total amount of financing from other sources, however, the Board may also approve, on a case-by-case basis, an alternative lien priority provided it determines that the financial risk is outweighed by the need for the proposed housing.
- MFD loans will be conditioned upon the occurrence of the closing of any superior loans.
- Payment and performance bonds will be required in any case Department funds have a first lien position.

10. *Subchapter I - CHDO*

    This subchapter was relocated to the last part of the rule and several CHDO specific terms and requirements were moved to this subchapter. Service area and experience, effective control, and recertification requirements were clarified.

Attachment A: Preamble and Rule Chapter 53

The Texas Department of Housing and Community Affairs proposes new 10 TAC, Chapter 53, Subchapters A, B, C, D, E, F, G, H, and I. The proposed new section ensures compliance with all statutory requirements, incorporates public input from the recent HOME Program rule roundtables, removes duplicative federal and statutory requirements, formalizes existing policy and guidelines contained in HOME Program manuals, and includes recommendations for revisions of necessary policy and administrative changes to further enhance the efficient and effective operations of the HOME Program. The Board will address the final rule after public comment is received and compiled for presentation.

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the proposed new section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections as proposed.

Mr. Gerber has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the new sections will be enhanced compliance with formalized policy, all contractual and statutory requirements. There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The proposed section will not impact local employment.

The public comment period will be held between June 28, 2010 to August 9, 2010 to receive input on this new section and a public hearing will be held. More information on the public hearing can be found at http://www.tdhca.state.tx.us. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2009 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-0220. ALL COMMENTS MUST BE RECEIVED BY AUGUST 9, 2010.

The new section is proposed pursuant to the authority of the Texas Government Code, Chapter 2306, which provides the Department the authority to adopt rules governing the administration of the Department and its programs.

The proposed new section affects no other code, article or statute.

Attachment B: Preamble and Rule Chapter 53

The Texas Department of Housing and Community Affairs proposes the repeal of 10 TAC Chapter 53, Subchapters A, B, C, D, E, F, and G. This repeal is proposed in order to consolidate and simplify the existing rules for the HOME Program .

Mr. Michael Gerber, Executive Director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the repeal.

Mr. Gerber has also determined that for each year of the first five-years the repeal is in effect the public benefit anticipated as a result of enforcing the repeals will be to permit the adoption of new rules to enhance the State's ability to provide decent, safe and sanitary housing administered by the Department. There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

The public comment period will be held between June 28, 2010 to August 9, 2010 to receive input on this repeal and a public hearing will be held. More information on the public hearing can be found at http://www.tdhca.state.tx.us. Written comments may be submitted to Texas Department of Housing and Community Affairs, 2009 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to the following address: tdhcarulecomments@tdhca.state.tx.us, or by fax to (512) 475-0220. ALL COMMENTS MUST BE RECEIVED BY AUGUST 9, 2010.

The proposed repeal is proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provide the Department with the authority to adopt rules governing the administration of the Department and its programs.

No other statutes, articles, or codes are affected by this proposed repeal.

Texas Department of Housing and Community Affairs
"HOME Program Rule"

TITLE 10, Part 1, Chapter 53, Texas Administrative Code

Subchapter A. GENERAL

§53.1. Purpose

This Chapter clarifies the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (Department) by the United States Department of Housing and Urban Development (HUD) pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 USC §§12701-12839) and HUD regulations at 24 CFR, Part 92. All provisions of this chapter apply to any Application received on or after the date of adoption of this chapter by the Department's Board. Existing Contracts executed within the preceding 12 months from the date of adoption of this chapter or current pending Applications may be amended in writing at the request of the Contract Administrator (CA) or Applicant, and with Department approval, to subject the Contract or Application to all provisions of this chapter. Amendments proposing only partial adoption of this chapter are prohibited and no amendment adopting this chapter shall be granted if, in the discretion of the Department, any of the provisions of this chapter conflict with the NOFA under which the existing Contract was awarded or Application was submitted. All CAs with an active Contract may become Reservation System Participants (RSPs), at the written request of the CA without the submission of an Application, and with Department approval, subject to all applicable provisions of this chapter. The State's HOME Program is designed to:

(1) Focus on the areas with the greatest housing need described in the State Consolidated Plan;

(2) Provide funds for home ownership and rental housing through acquisition, new construction, rehabilitation, and tenant-based rental assistance;

(3) Promote partnerships among all levels of government and the private sector, including non-profit and for-profit organizations; and

(4) Provide low, very low, and extremely low income families with affordable, decent, safe and sanitary housing.

§53.2. Definitions

Unless the context clearly indicates otherwise, the following capitalized terms, when used in this chapter, shall have the following meanings ascribed to them; provided that certain capitalized terms used and not defined in this chapter, shall have the meanings ascribed to them in or for purposes of the HOME Final Rule or Chapter 2306.

(1) Activity--A single housing unit with a unique physical address. An activity may also refer to an individual Project, Development, or site.

(2) Administrative Deficiencies--The absence of or lack of clarity in information or documentation as required in this chapter, the applicable NOFA, or in order to meet state or federal requirements in staff's determination. The Department staff may request clarification or correction of such Administrative Deficiencies during the review of an Application or at any time prior to the end of a Contract and including, but not limited to, review of performance under a Contract, processing of documentation for a Reservation or Commitment of Funds, closing of a loan, processing of a disbursement request, close-out of a contract, or resolution of any issues related to compliance.

(A) The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile or electronic transmittal, and a telephone call to the Applicant advising that such a request has been transmitted.

(B) The time period to cure an Administrative Deficiency is reflected under each applicable section herein. The time period begins at the start of the business day following the deficiency notice date.

(C) To cure an Administrative Deficiency, an Applicant or Contract Administrator must provide a clarification, further definition or exposition of an issue, an explanation as to why an Applicant or Contract Administrator has provided certain information or resolution of a discrepancy where an Applicant or Contract Administrator has provided conflicting information.

(3) 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.

(4) Affiliated Party--A Person with a contractual relationship with the Contract Administrator on a Contract with the Department.

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

(6) Application--A request for a Contract award or to participate in a reservation system submitted to the Department in a form prescribed by the Department, including any exhibits or other supporting material.

(7) Application Submission Procedures Manual (ASPM)--The manual that sets forth the procedures, forms, and instructions for the completion and submission of an Application to the Department.

(8) Area Median Family Income (AMFI)--The income estimated and determined by HUD as the median family income with adjustments for family size and geographic locations.

(9) Board--The governing board of the Texas Department of Housing and Community Affairs.

(10) CFR--Code of Federal Regulations.

(11) Chapter 2306--The enabling statute for the Department found in the Texas Government Code.

(12) Commitment of Funds--Occurs when the Activity or Project is approved by the Department and set up in the disbursement and information system established by HUD.

(13) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

(14) Contract--The executed written agreement between the Department and a Contract Administrator, Reservation System Participant, or Development Owner performing an activity related to a program that outlines performance requirements and responsibilities assigned by the document.

(15) Contract Administrator (CA) --The Person responsible for performing under a Contract with the Department as approved under §53.22.

(16) Control--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 or voting securities, by contract or otherwise, including ownership of more than 50% of the General Partner interest in a limited partnership, or designation as a managing member of a limited liability company or managing General Partner of a limited partnership or any similar member.

(17) Deobligated Funds--The funds released by a CA or Development Owner or recovered by the Department canceling a Contract or award involving some or all of a contractual financial obligation between the Department and a CA or Development Owner.

(18) Department--The Texas Department of Housing and Community Affairs.

(19) 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 and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

(20) Development--A Project in which an Applicant, CA, or Development Owner has or will have an ownership interest and that has a construction component, either in the form of New Construction or Rehabilitation of multi-unit or single family residential housing.

(21) 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 and is the Person responsible for performing under the Contract with the Department.

(22) Development Site--The area, or if scattered site, areas, for which the Development is proposed to be located.

(23) General Contractor--A Person 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. The prime subcontractors will also be treated as a General Contractor if any of the following are true (in which case, contractor fees will be treated as fees to the General Contractor):

(A) More than 50 percent (50%) of the contract sum in the construction contract is subcontracted to one subcontractor, material supplier or equipment lessor (“prime subcontractors”); or,

(B) More than 75 percent (75%) of the contract sum in the construction contract is subcontracted to three or less subcontractors, material suppliers and equipment lessors (“prime subcontractors”).

(24) General Partner--A Person or Persons who is 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.

(25) General Requirements--An allowance for the General Contractor's on-site overhead expenses. General Requirements shall be limited as prescribed in 10 TAC §1.32 and must follow the standards published by the Construction Specifications Institute.

(26) HOME Final Rule -- The regulations with amendments promulgated at Title 24 CFR, Part 92 as published by HUD for the HOME Investment Partnerships Program at 42 USC §§12701-12839.

(27) Housing Contract System (HCS)--the electronic information system established by the Department to be used for tracking, funding, and reporting HOME Contracts and Activities or Projects.

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

(29) IDIS--The electronic grants management information system named the Integrated Disbursement and Information System established by HUD to be used tracking and reporting HOME funding progress.

(30) Land Use Restriction Agreement (LURA)--An agreement between the Department and a Person related to a specific Property or Properties which is filed with the responsible recording authority.

(31) NOFA--Notice of Funding Availability, published in the Texas Register.

(32) Open Application Cycle--A defined period of time during which Applications may be submitted according 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, whichever is earlier.

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

(34) Persons with Special Needs--Individuals or categories of individuals determined by the Department to have unmet housing needs consistent with 42 USC §§12701, et seq. and as provided in the Consolidated Plan and may include any Households composed of one or more persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, elderly, victims of domestic violence, persons with HIV/AIDS, homeless populations, migrant farm workers, and public housing residents.

(35) Predevelopment Costs--Costs related to a specific eligible 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, and site control;

(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.

(36) Principal--A Person, or 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.

(37) Principal Residence--The primary housing unit a Person or Household inhabits.

(38) Program Activity--The specific purposes for which HOME funds are applied for and used.

(39) Reservation of Funds--Occurs when the Activity or Project is submitted to the Department by a Reservation System Participant.

(40) Reservation System Participant (RSP) --The Person responsible for performing under a Contract with the Department as approved under §53.23.

(41) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application and/or Contract that the CA will serve.

(42) TAC--Texas Administrative Code.

(43) Texas Minimum Construction Standard (TMCS)--The program standard used to determine the minimum acceptable housing condition for the purposes of Rehabilitation, New Construction, and acquisition.

(43) Third Party--A Person who is not:

(A) An Applicant, CA, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(B) An Affiliate, Affiliated Party to the Applicant, CA, Borrower, General Partner, Developer, Development Owner or General Contractor; or

(C) A Person receiving any portion of the administration, contractor fee or developer fee.

Subchapter B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, AND REVIEW AND AWARD PROCEDURES

§53.20. Availability of Funds

The Department will make HOME funds available through Notices of Funding Availability (each a NOFA) or the procurement of a contractor. Funds made available under a NOFA may be allocated through Contract awards to Contract Administrators (CAs) or by providing the ability to submit Reservations of Funds for Reservation System Participants (RSPs). Funds subject to regional allocation shall be made available as follows:

(a) Applicants applying in response to a Competitive Application Cycle will be ranked highest to lowest by subregion. Funding that remains available after awarding all available eligible Applications in each subregion shall collapse and be directed to the next Application in the most underserved subregion. If funding is made available to multiple Program Activities under one NOFA, the funds remaining after awarding all eligible Applications by Program Activity shall collapse and be directed to the next Application in the most underserved subregion regardless of Program Activity.

(b) Funds made available through an Open Application Cycle and subject to regional allocation shall be made available to each subregion for a time period to be specified in the applicable NOFA, after which the funds remaining shall collapse and be made available statewide.

(c) In the event of a tie between two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may also receive a partial recommendation for funding.

§53.21. Application Forms and Materials and Deadlines

(a) The Department will develop and publish an Application, which if completed by an eligible Applicant, would satisfy the requirements for requesting funds from the Department. The Department will also issue an ASPM to provide guidance on proper completion of the Application.

(b) Applicants must submit an Application for a Contract award by the deadline date specified in the NOFA. Applications for participation in a reservation system may be submitted on an ongoing basis throughout the year. All Applications must be received during business hours on any day in which the Department is open for business.

§53.22. Contract Award Application Review Process

(a) An Application received by the Department in response to an Open Application Cycle NOFA will be assigned a "Received Date" based on the date it is received by the Division. An Application will be prioritized for review based on its "Received Date". An Application with outstanding Administrative Deficiencies may be held from further review until all Administrative Deficiencies have been cured. Applications that have completed the review process may be presented to the

Board for approval with priority over Applications that continue to have Administrative Deficiencies at the time Board materials are prepared, regardless of "Received Date." If all funds available under a NOFA are awarded, all remaining Applicants will be notified and the remaining Applications will not be processed. Notwithstanding the foregoing, for an Applicant that has also applied under the competitive housing tax credit cycle for the same development, the following shall apply:

(1) The HOME Application shall not lose its "Received Date" priority to applicants that are not requesting housing tax credits unless the development does not receive an award of housing tax credits by July 31st of the year of the cycle (For example: A HOME-only application that is received after the start of the competitive housing tax credit cycle may not be presented to the Board for approval until HOME and housing tax credit layered applications with priority "Received Dates" are presented for approval and the layered application would maintain its "Received Date" priority).

(2) Applications that have not submitted third party reports due to a later deadline under the housing tax credit program may be held as incomplete Applications until the housing tax credit deadline for submission of third party reports. Such Applications will not be considered complete Applications and shall not be assigned a "Received Date" until the third party reports are received.

(b) For Applications received by the Department in response to a Competitive Application Cycle NOFA, the Department will accept Applications on an ongoing basis during the Application Acceptance Period as specified in the NOFA. Applications will be prioritized for review based upon the score of the Application.

(c) Administrative Deficiencies. An Administration Deficiency may not be cured if it would require substantially changing an Application or providing any new unrequested information. An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, increase the award request amount, or revise the 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 this title or by amendment of an Application after the Board approval of a HOME award. The curative time periods allowable for Administrative Deficiencies are: for Applications received under an Open Application Cycle NOFA, Administrative Deficiencies not cured within five (5) business days will be terminated. Applicants that have been terminated may reapply for funds; or for Applications received under a Competitive Application Cycle NOFA, if Administrative Deficiencies are not cured to the satisfaction of the Department within five (5) business days of the deficiency notice date, then five (5) points shall be deducted from the selection score for each additional day the Administrative Deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected within seven (7) business days from the deficiency notice date, then the Application shall be terminated. An Applicant may not adjust the self-score without a request from the Department as a result of an Administrative Deficiency.

§53.23. Reservation System Participant Review Process

(a) In order for an Applicant to participate in the reservation system, the Department must review and approve an Application to become a Reservation System Participant (RSP). Applications will be reviewed and presented to the Executive Director for approval in the order they are received. Any such approval will be subject to ratification by the Board prior to Commitment of Funds.

(b) Applications for recertification may be submitted 90 days prior to the end of the RSP agreement term and will be required to demonstrate that all Application requirements are met.

(c) Administrative Deficiencies must be cured within 10 business days of the date of the deficiency notice. If Administrative Deficiencies are not clarified or corrected within ten business days from the deficiency notice date, the Application may be terminated.

§53.24. General Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An Applicant certification of compliance with state and federal laws and state and federal rules and guidance governing the HOME Program.

(b) A resolution signed and dated within the six (6) months preceding the Application submission date from the Applicant's direct governing body which includes:

> (1) Authorization of the submission of the Application;
>
> (2) Commitment and amount of cash reserves, if applicable, for use during the Contract or RSP agreement term;
>
> (3) Source of funds for Match obligation and Match dollar amount, if applicable;
>
> (4) Name and title of the person authorized to represent the organization; and
>
> (5) Signature authority to execute a contract.

(c) Any Applicant requesting $25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number. Applicants requesting funds for multifamily housing development and that are "to-be-formed" are not required to submit a CCR or DUNS number until after award but prior to Contract execution. If the property will be owned by a partnership, the partnership must be the registrant. If a partnership will be receiving funds under the CHDO set-aside, the partnership and the CHDO must both be registered.

(d) An Application fee, to be defined in the NOFA, which is sufficient to discourage the submission of partial or incomplete Applications except as otherwise allowed by state statute.

(e) To be eligible for a new Contract award, an Applicant must have committed funds to at least 80% of the total number of contractually required Households or has committed at least 80% of the total Project funds on their current Contract for the same Program Activity. This provision shall not apply to Applications submitted for disaster relief funding or those with an exclusively different Service Area.

(f) An Application must be substantially complete when received by the Department. An Application will be terminated if an entire volume of the Application is missing; has excessive omissions of documentation from the threshold or selection criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. Such 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 termination will be included in the notification sent to the Applicant but, because of the suspended review, may not include an all inclusive list of deficiencies in the Application.

(g) The Department may incentivize or provide preference to Applicants targeting very low and extremely low income Households or to Applicants that have successfully executed a previous HOME Contract with the Department. Such incentives may be established in the form of threshold or selection criteria in the NOFA and may be different for each Program Activity.

§53.25. Contract Award Limitations

(a) Project Funds Limits. Project funds for Contract awards are limited to $500,000 per Contract Administrator for Homeowner Rehabilitation and Contract for Deed Conversion Program Activity Applicants and $300,000 per Contract Administrator for Homebuyer Assistance and Tenant-Based Rental Assistance Program Activity Applicants. The Contract award limits for Project funds for Single Family Development and Multifamily (Rental Housing) Development Program Activity Applicants may be higher and will be established in the NOFA for these activities.

(b) Contract Award Terms. With the exception of Tenant-Based Rental Assistance, all Program Activity Contract awards will have a Contract term of 24 months exclusive of any applicable affordability period or loan term. Tenant-Based Rental Assistance Program Activity Contract awards will have a Contract term of 36 months.

(c) Contract Award Benchmarks. All Contract Administrators must submit to the Department complete Project setup information for the Commitment of Funds of all contractually required Households in accordance with the requirements herein within 12 months from the effective date of the Contract. All remaining funds will be automatically deobligated and returned to the Department unless an amendment has been requested in writing prior to this date and is approved.

(d) Amendments. The Division Director may approve amendments to Contract awards except amendments to extend the Contract and benchmarks by more than 6 months, increase Project funds, or that would have negatively impacted the priority of the Board-approved Application. The Executive Director may approve amendments except to extend the Contract and benchmarks by more than 12 months, increase Project funds by more than 25% or $50,000, whichever is greater, or that would have negatively impacted the priority of the Board approved Application in the Executive Director’s estimation. The Board may, on a case by case basis, approve amendments provided such approval would not cause a violation of the Department's rules or federal requirements.

(e) Voluntary deobligation. The Contract Administrator may fully deobligate funds in the form of a written request signed by the executor of the Contract. The Contract Administrator may partially deobligate funds under a Contract in the form of a written request from the executor if the letter also deobligates the associated number of targeted Households, funds for Administrative costs, and Match and the partial deobligation would not have impacted the award of the Contract.

(e) The Department may request information regarding the performance or status under a Contract prior to a Contract benchmark or at various times during the term of a Contract. Contract Administrator must respond in a timely manner to such requests from the Department. Prolonged or repeated failure to respond may result an Administrative Deficiency and ultimately in termination of the Contract by the Department.

(f) The Department reserves the right to reduce the amount requested in an Application, condition the award recommendation, or terminate the Application based on Program Activity or Project feasibility, past performance, underwriting analysis, or availability of funds. The recommendation with amendments, if any, approved by the Board will supersede any conflicting Application information.

(g) Pre-Award Costs. Before the effective date of the HOME Contract, the Contract Administrator may incur and be reimbursed for travel costs, as provided for with Administrative funds, related to mandatory training required by the Department as a condition of receiving a HOME award and Contract. Department authorized pre-award costs for predevelopment costs, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may be paid if incurred before the effective date of the Contract if the costs are in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

§53.26. Reservation System Participant Agreements

(a) Terms of agreement. RSP agreements will have a 24 month term for all Program Activities. Execution of an RSP agreement does not guarantee the availability of funds under a reservation system.

(b) Limits on Number of Reservations. The number of Homeowner Rehabilitation or Homebuyer Assistance reservations for an RSP is limited to five (5) per county within the RSP's Service Area at any given time. The number of Tenant-Based Rental Assistance reservations for an RSP is limited to thirty (30) at any given time.

(c) Extremely Low-Income Households. Each RSP will be required to serve at least one (1) Household at or below 30% of AMFI out of every four (4) Households submitted and approved for assistance.

(d) Match. An RSP must meet the tiered Match requirements per Program Activity for at least every fourth Household submitted and approved for assistance. For example, if Match is not provide for the first three (3) Households assisted by an RSP, the Match provided to the fourth Household must meet the Match requirement for all four (4) Households.

(e) Completion of Construction. For Activities involving construction, an RSP must complete construction and submit all requests for disbursement within nine (9) months from the Commitment of Funds for the Activity.

(f) Extensions. The Division Director may approve one 3-month time extension to the Commitment of Funds to allow for the completion of construction.

(g) An RSP must remain in good standing with the Department, the State of Texas, and HUD. If an RSP is not in good standing, participation in the reservation system will be suspended and may result in termination of the RSP agreement.

§53.27. Procurement of Contractor

The Department may procure a contractor or contractors to provide services for the administration of the HOME Program through a Request for Proposals. A contractor must provide services and/or administer HOME funds in accordance with state and federal rules and the program requirements of this chapter for the applicable Program Activity.

§53.28. General Administrative Requirements

Unless otherwise provided herein, the CA, RSP, or Development Owner must comply with the following requirements for the administration and use of HOME funds:

(a) Complete training, as applicable;

(b) Provide all applicable Department Housing Contract System access request information and documentation requirements;

(c) Establish and maintain sufficient records at its regular place of business and make available for examination by the Department, HUD, the Auditor of the State of Texas, the United States General Accounting Office, the Comptroller of the State of Texas and the United States, or any of their duly authorized representatives;

(d) For non-development Program Activities, develop and establish written procurement procedures that comply with federal, state, and local procurement requirements including the following:

> (1) Develop and comply with written procurement selection criteria and committees;
>
> (2) Develop and comply with a written code of conduct governing employees, officers, or agents engaged in administering HOME funds and appoint a Procurement Officer to manage any bid process;

(3) Ensure consultant or any procured service provider does not participate in or direct the process of procurement for professional service. In other words, a consultant cannot assist in their own procurement before or after an award is made;

(4) Procedures established for procurement of building construction contractors may not include requirements for the provision of general liability insurance coverage for an amount to exceed the value of the contract;

(5) Building construction contractors must be procured using a formal sealed bid procedure for single family New Construction, Reconstruction or Rehabilitation Activities or Projects;

(6) Professional service providers (consultants) must be procured using an open competitive procedure and may not be procured based solely on the lowest priced bid; and

(7) Any Request for Proposals or Invitation for Bid must include:

(A) An equal opportunity disclosure and that bidders are subject to search for listing on the Excluded Parties List;

(B) Bidders' protest rights and outline the procedures bidders must take to address procurement related disputes;

(C) A Conflict of Interest disclosure;

(D) A clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must include complete, adequate, and realistic specifications;

(E) For sealed bid procedures, disclose the date, time and location for public opening of bids and indicate a fixed-price contract; and,

(F) For competitive proposal specific, disclose the selection/evaluation criteria.

(e) In instances where a potential conflict of interest exist, follow procedures to submit a request to the Department to grant an exception to any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made. No HOME funds will be committed to or reserved to assist a Household until HUD has granted an exception to the Conflict of Interest provisions;

(f) Perform environmental clearance procedures, as required, before acquiring any Property or before performing any construction activities, including demolition, or the occurrence of the loan closing, if applicable;

(g) Develop and comply with written applicant intake and selection criteria for and ensure program eligibility (except for Multifamily Development) and promote and comply with Fair Housing requirements;

(h) Except for Multifamily Development, complete applicant intake and applicant selection. Notify each applicant Household in writing of either acceptance or denial of HOME assistance within sixty (60) days following receipt of the intake application. For Homeowner Rehabilitation Assistance and Contract for Deed Conversion the CA or RSP must:

> (1) Provide Rehabilitation as an available option to Households, provide Households with a general cost estimate, and to the extent that Rehabilitation would not meet the program requirements, explain these program requirements;
>
> (2) Unless not allowed by local code, provide replacement of an existing MHU with a new MHU as an available option; and
>
> (3) Explain relocation as an available option to any Households located within the 100-year floodplain and present the costs associated with flood insurance.

(i) Determine the income eligibility of a Household using the "Annual Income" as defined at 24 CFR §5.609;

(j) Except for Multifamily Development and Single Family Development, complete an updated income eligibility determination of a Household if more than 6 months has elapsed from the date of certification and the date the HOME assistance is provided to the Household. For Single Family Development, complete income eligibility determination of a Household if more than 6 months has elapsed from the date of certification and earlier of the date the HOME assistance is provided to the Household or the date the contract to purchase the housing unit is executed with the Household. For Tenant-Based Rental Assistance, in the event that a Household's monthly gross income changes by more than $200, the Household must be recertified and the rental subsidy recalculated;

(k) For single family Program Activities involving construction, perform initial inspection and at least 4 progress inspections. Property inspections must include photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms. The inspection must be signed and dated by the inspector and CA or RSP. For Tenant-Based Rental Assistance, perform initial and an annual HQS inspection. The inspection must be signed and dated by the inspector and CA or RSP;

(l) Submit requests for the Commitment or Reservation of Funds, loan closing preparation, and disbursements and all required information and verification documentation in the Housing Contract System. A request will not be reviewed by the Department until the CA, RSP, or Development Owner has submitted all required documentation. If, during review, the Department identifies Administrative Deficiencies, the Department will allow a cure period of ten (10) business days beginning at the start of the first business day following the date the CA, RSP or Development Owner is notified of the deficiency. If any Administrative Deficiency remains after the cure period, the Department, in its sole discretion, shall disapprove the request. Disapproved requests will not be considered sufficient to meet the performance benchmark and shall not constitute a Reservation of Funds;

(m) Not proceed or allow a contractor to proceed with construction, including demolition, on any Activity, Project or Development without first completing the required environmental clearance procedures, preconstruction conference and receiving notice to proceed, if applicable, and execution of grant agreement or loan closing with the Department, whichever is applicable;

(n) Not retain Program Income of any kind, including Program Income to fund other eligible HOME Activities;

(o) Submit any Program Income received by the CA, RSP or Development Owner to the Department within ten (10) business days of receipt. Return any refunds to the Department's accounting division and include a written explanation of the return of funds, the Contract number, name of CA, RSP, or Development Owner, Activity address and Activity number referenced on the check;

(p) Submit required documentation for Project completion reports no later than thirty (30) days after the completion of the Activity. For MFD, the Development Owner must periodically update completion reports to provide information on tenants until all HOME units have been occupied;

(q) For Contract awards, submit certificate of Contract Completion no later than sixty (60) days from the Contract end date;

(r) Submit to the Department reports or information regarding the operations related to HOME funds provided by the Department; and

(s) Match must be contributed to a Project or Activity assisted with funds under this chapter and cannot include mortgage revenue bond programs and cannot include any other sources of Department funding unless otherwise approved by the Department.

Subchapter C. HOMEOWNER REHABILITATION ASSISTANCE (HRA) PROGRAM ACTIVITY

§53.30. HRA Program Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match. For Applications submitted to become an RSP, the Department may withhold disbursements if after every four reservations sufficient Match documentation has not been provided. The Department shall use population figures from the most recently available U.S. Census to determine the applicable tier for an Application. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Program Activity. Except for Applications for disaster relief, Match shall be required based on the following tiers:

> (1) 0% of Project funds if serving a city of less than 3,000 Persons or a county of less than 20,000 Persons;
>
> (2) 10% of Project funds if serving a city of between 3,001 and 5,000 Persons or a county of between than 20,001 and 75,000 Persons; and
>
> (3) 12.5% of Project funds for all other applications.

(b) Documentation of a commitment of at least $80,000 or for a Contract award 80% of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

> (1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,
>
> (2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,
>
> (3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

(c) Should the Department provide housing construction plans and specifications for the use of Applicants and Contract Administrators, the Department may prioritize Applicants or otherwise incentivize the use of the Department provided plans through threshold or selection criteria or other means established in the NOFA.

§53.31. HRA Program Requirements

(a) Eligible activities are limited to:

(1) The Rehabilitation or Reconstruction of existing owner-occupied housing on the same site. The Rehabilitation of an MHU is not an eligible activity; or,

(2) The New Construction of site-built housing on the same site to replace an existing owner-occupied Manufactured Housing Unit (MHU); or,

(3) For only the purposes of relocating the existing housing out of the floodplain, the replacement of existing owner-occupied housing with an MHU or New Construction of site-built housing on another site;

(4) If housing unit is uninhabitable as a result of disaster or condemnation by local government, the Household is eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the housing unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification.

(5) If allowable under the NOFA, the refinance of an existing mortgage meeting the federal requirements at 24 CFR §92.206(b) and any additional requirements in the NOFA; and

(b) HOME funds may be used to replace (Reconstruct) an owner-occupied housing unit with a new MHU or Modular Home if:

(1) The unit complies with standards at 24 CFR §92.205 and with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;

(2) The unit is permanently installed with a concrete perimeter foundation and in accordance with the Texas Manufactured Housing Standards Act;

(3) The unit is permanently attached to utilities; and

(4) The ownership of the unit is recorded in the taxing authority of the county in which it is located.

(c) Real property taxes assessed on the housing unit must be current and/or the Household must be participating in an approved payment plan with the taxing authority.

(d) The property must not be encumbered with tax liens, child support liens, or mechanic or materialmen's liens.

(e) If a housing unit has an existing mortgage loan and Department funds are provided in the form of a loan, the Department will require a first lien if the loan has an outstanding balance that is less than the investment of HOME funds and any of the following are true:

(1) A federal affordability period is required; or

(2) Any existing mortgage has been in place for less three years from the date the Household applies for assistance; or

(3) The HOME loan is structured as a repayable loan.

(f) The Household must be current on any existing mortgage loans or home equity loans. If the Department's assistance is provided in the form of a loan, the property cannot have any existing home equity loan liens.

(g) The total Project costs are inclusive of hard construction costs, demolition costs, aerobic septic systems, refinancing costs (as applicable), and Match funds for Project costs, and are limited to:

(1) Reconstruction and New Construction of site-built housing: The lesser of $73.00 per square foot or $80,000 or for Households of 6 or more Persons the lesser of $73.00 per square foot or $85,000;

(2) Replacement with an MHU: $65,000;

(3) Rehabilitation that is not Reconstruction: $30,000; and,

(4) Refinancing of existing mortgages: In addition to the costs limited under paragraphs (1) through (3) of this subsection, the cost to refinance an existing mortgage is limited to the amount determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 25% and no greater than 30% of the Household's gross monthly income based on a 30-year amortization schedule. Refinancing is not eligible for an Activity involving relocation under §53.31(a)(3).

(h) In addition to the Project costs allowable under subsection (g) of this section, up to $5,000 will be allowed in Project costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(i) Project soft costs are limited to:

(1) Reconstruction or New Construction: no more than $7,000 per housing unit;

(2) Replacement with an MHU: no more than $3,500 per housing unit; and

(3) Rehabilitation that is not Reconstruction: $5,000 per housing unit. This limit may be exceeded for lead-based paint remediation and only upon prior approval of the Division

Director. The costs of testing and assessments for lead-based paint are not eligible Project soft costs for housing units that are Reconstructed or if the existing housing unit was built after December 31, 1977.

(4) Third-party Project soft costs related to loan closing requirements, such as appraisals, title reports or insurance, tax certificates, recording fees, and surveys are not subject to a maximum per Activity or Project.

(j) Funds for Administrative costs are limited to no more than 4% of the total Project costs, exclusive of Project soft costs and Match funds.

(k) In the following instances, the assistance to an eligible Household shall be in the form of a loan in the amount of the total Project costs excluding Match funds. The loan will be at 0% interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(1) An MHU being replaced with newly constructed housing (site-built) on the same site; and,

(2) Any housing unit being replaced on an another site; and

(3) Any housing unit that is being relocated out of the floodplain or replaced due to uninhabitability as allowed under subsection (b) of this section;

(4) Any Project Activity that includes any amount of refinancing of existing debt; and

(5) Any Project Activity that requires a federal affordability period.

(l) In all other instances not described in subsection §53.31(k), the assistance to an eligible Household may be in the form of a loan or grant agreement with an affordability term for the amount of the total Project costs excluding Match funds and based on AMFI as reflected in Figure 10 TAC §53.31(l).

Figure: 10 TAC §53.31(l)

AMFI	Form of Assistance
≤30% AMFI	0% interest, 5-year deferred, forgivable loan or grant agreement.
>30% and ≤50% AMFI	0% interest, 10- year deferred, forgivable loan or grant agreement.
>50% and ≤60% AMFI	0% interest, 15-year deferred, forgivable loan or grant agreement.
>60% and ≤80% AMFI	0% interest, 15-year term repayable loan.

(m) In the event that the housing unit ceases to be the Principal Residence of the Household, the forgiveness of the loan or grant agreement will cease and the Department has established that the federal recapture requirements as defined in 24 CFR §92.254 will be imposed.

(n) In the event that the housing unit transfers by devise, descent or operation of law upon the death of the assisted homeowner, the heir or remainderman Household or if sold by the decedent's estate, the purchasing Household must qualify for assistance in accordance with this chapter in order for the forgiveness of the loan or grant agreement to continue until maturity.

(o) In the event that the housing unit is sold and the purchasing Household does not provide documentation evidencing their income eligibility, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority without prior written consent of the Department unless the entire balance on the loan or grant agreement will be paid at closing.

(p) For Reconstruction and New Construction, housing units must meet or exceed the 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule.

§53.32. HRA Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following true and complete information, certified as such, with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition, and construction costs, soft costs and administrative costs requested, A maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household's race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members

over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household's occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within \$3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(6) Provide written consent from all Persons who have a valid lien or ownership interest in the Property for the rehabilitation or reconstruction activities;

(7) In the instance of relocation in accordance with §53.31(a)(3) of this chapter, the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Project funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for an Activity under this paragraph, the CA or RSP Match obligation may be reduced by the cost of such demolition without any Contract amendment in order to facilitate relocation.

(8) Identification of any Lead-Based Paint (LBP);

(9) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance;

(10) Consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's loan, if applicable;

(11) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation;

(12) A title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or 99-year leasehold. In instances of an MHU, a Statement of Ownership and Location (SOL). Together, these documents must evidence the definition of Homeownership is met. The title commitment or down date endorsement must not be older than ninety (90) days on the date submitted to the Department for a Commitment of Funds;

(13) Tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(14) A copy of the completed grant agreement, if applicable; and

(15) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA or RSP must comply with or submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment that expires prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(2) In the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL); and,

(3) Life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship.

(c) Disbursement of funds. The CA or RSP must comply with all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) Property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP.

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) The executed grant agreement or original, executed, legally enforceable loan documents and Statement of Ownership and Location (SOL), if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original

documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all Program Requirements.

(7) With the exception of up to 10% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(8) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(9) For final disbursement requests, evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation.

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Subchapter D. HOMEBUYER ASSISTANCE (HBA) PROGRAM ACTIVITY

§53.40. HBA Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match. The Department may not require such support at the time an Application is submitted when the funds are made available under a reservation system. Except for Applications for disaster relief and Persons with Disabilities set-asides, the amount of Match required must be at least 5% of Project funds requested. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Program Activity.

(b) Documentation of a commitment of at least $80,000 or for a Contract award 100% of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

> (1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,
>
> (2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,
>
> (3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

§53.41. HBA Program Requirements

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) A new MHU is an eligible property type for acquisition only. HOME funds may be used to acquire a new MHU or Modular Home if:

> (1) The unit complies with standards at 24 CFR §92.205 and with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;

(2) The unit is permanently installed with a concrete perimeter foundation and in accordance with the Texas Manufactured Housing Standards Act;

(3) The unit is permanently attached to utilities; and

(4) The ownership of the unit is recorded in the taxing authority of the county in which it is located.

(c) The Household must complete a homebuyer counseling program/class.

(d) The first lien purchase loans must comply with the following requirements:

(1) No adjustable rate mortgage loans (ARMs) or temporary interest rate buy-down loans are allowed;

(2) No mortgage loans with a total loan to value equal to or greater than 100% are allowed;

(3) No Subprime Mortgage Loans are allowed;

(4) Other than surveys and appraisals reimbursed to third-parties and fees allowed for the origination of single family mortgage revenue bond and mortgage credit certificate programs, fees charged by the lender in connection with mortgage loans may not exceed 2% of the loan amount or $2,500, whichever is greater;

(5) The debt to income ratio (back-end ratio) may not exceed 45%;

(6) No identity of interest relationship between the lender and the Household is allowed; and

(7) If an identity of interest exists between the Household and the seller, the Department may require additional documentation that evidences that the sales price is equal to or less than the appraised value of the property as documented by a Third-Party appraisal order by the first lien lender. If an identity of interest exists between the builder and CA or RSP, the CA or RSP must provide documentation that evidences that the sales price does not provide for a profit of more than 15% of the total hard construction costs and does not exceed the current appraised value as documented by a Third-Party appraisal order by the first lien lender.

(e) The total Project costs are inclusive of acquisition and closing costs, hard construction costs for accessibility modifications, and Match funds, and limited to:

(1) Acquisition and closing costs: the lesser of $20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 25% and no greater than 30% of the Household's gross monthly income based on a 30-year amortization schedule; and,

(2) Rehabilitation for accessibility modifications: $20,000.

(f) Project soft costs are limited to:

(1) Acquisition and closing costs: no more than $1,500 per housing unit;

(2) Rehabilitation for accessibility modifications: $5,000 per housing unit.

(g) Funds for Administrative costs are limited to no more than 4% of the total Project costs, exclusive of Project soft costs and Match funds.

(h) The assistance to an eligible Household shall be in the form of a loan in the amount of the total Project costs excluding Match funds. The loan will be at 0% interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(i) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(j) In the event that the housing unit ceases to be the Principal Residence of the Household, the Department has established that the federal recapture requirements as defined in 24 CFR §92.254 will be imposed.

(k) In the event that the housing unit ceases to be the Principal Residence of the Household, the forgiveness of the Loan, if applicable, will cease.

(l) In the event that the housing unit is sold, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority unless the balance on the Loan will be paid at closing.

(m) Housing units that will be rehabilitated with HOME funds must meet or exceed the TMCS, as applicable, and all applicable codes and standards. In addition, housing that is Rehabilitated under this chapter must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the Final Rule. Housing units that are provided assistance for acquisition only, must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§53.42. HBA Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following true and complete information, certified as such, with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition, and construction costs, soft costs and administrative costs requested, A maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household’s race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household’s occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP, and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance;

(8) Executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(9) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, or duplication of benefit;

(10) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA or RSP must submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close; and,

(2) A good faith estimate that is or letter from the lender confirming that the loan terms and closing costs will be consistent with the executed sales contract, the first lien mortgage loan requirements, and the requirements of this chapter.

(c) Disbursement of funds. The CA or RSP must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) Property inspections. The inspection must be signed and dated by the inspector and CA, RSP, or Development Owner;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all program requirements.

(7) With the exception of up to 10% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(8) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(9) For Activities involving Rehabilitation, include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Subchapter E. CONTRACT FOR DEED CONVERSION (CFDC) PROGRAM ACTIVITY

§53.50. CFDC Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) Documentation of a commitment of at least $80,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

> (1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,
>
> (2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,
>
> (3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

(c) Should the Department provide housing construction plans and specifications for the use of Applicants and Contract Administrators, the Department may prioritize Applicants or otherwise incentivize the use of the Department provided plans through threshold or selection criteria or other means established in the NOFA.

§53.51. CFDC Program Requirements

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units.

(b) A new MHU is an eligible property type for acquisition only. An MHU is not an eligible property type for Rehabilitation. HOME funds may be used to replace (Reconstruct) an existing unit with a new MHU or Modular Home if:

> (1) The unit complies with standards at 24 CFR §92.205 and with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;
>
> (2) The unit is permanently installed with a concrete perimeter foundation and in accordance with the Texas Manufactured Housing Standards Act;
>
> (3) The unit is permanently attached to utilities; and

(4) The ownership of the unit is recorded in the taxing authority of the county in which it is located.

(c) The Household's income must not exceed 60% AMFI and the Household must complete a homebuyer counseling program/class.

(d) The Property must not be encumbered with tax liens, child support liens, or mechanic or materialmen's liens.

(e) The Department will require a first lien position.

(f) The total Project costs are inclusive of acquisition costs, closing costs, hard construction costs, demolition costs, aerobic septic systems, and Match funds, and limited to:

(1) Acquisition and closing costs: $35,000. In the case of a contract for deed conversion housing unit that involves the acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed $40,000 of assistance.

(2) Reconstruction and New Construction of site-built housing: The lesser of $73.00 per square foot or $80,000 or for Households of 6 or more Persons the lesser of $73.00 per square foot or $85,000;

(3) Replacement with an MHU: $65,000; and,

(4) Rehabilitation that is not Reconstruction: $30,000.

(g) In addition to the Project costs allowable under subsection (f) of this section, up to $5,000 will be allowed in Project costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(h) Project soft costs are limited to:

(1) Acquisition and closing costs: no more than $1,500 per housing unit;

(2) Reconstruction or New Construction: no more than $7,000 per housing unit;

(3) Replacement with and MHU: no more than $3,500 per housing unit; and

(4) Rehabilitation that is not Reconstruction: $5,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Project soft costs for housing units that are Reconstructed or if the existing housing unit was built after 1978.

(i) Funds for Administrative costs are limited to no more than 4% of the total Project costs, exclusive of Project soft costs and Match funds.

(j) The assistance to an eligible Household shall be in the form of a loan in the amount of the total Project costs excluding Match funds. The loan will be at 0% interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(k) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(l) In the event that the housing unit ceases to be the Principal Residence of the Household, the Department has established that the federal recapture requirements as defined in 24 CFR §92.254 will be imposed.

(m) In the event that the housing unit ceases to be the Principal Residence of the Household, the forgiveness of the loan, if applicable, will cease.

(n) In the event that the housing unit is sold, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority unless the balance on the loan will be paid at closing.

(o) Housing units that are Reconstructed must meet or exceed the 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the Final Rule. Housing units that are provided assistance for acquisition only, must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§53.52. CFDC Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following true and correct information, certified as such, with a request for the Commitment or Reservation of Funds:

> (1) Head of Household name and address of housing unit for which assistance is being requested;
>
> (2) A budget that includes the amount of Project funds specifying the acquisition, and construction costs, soft costs and administrative costs requested, a maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household’s race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household’s occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance;

(8) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation; and,

(9) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA or RSP must submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic’s or materialman’s lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(2) In the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL);

(3) Life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship; and,

(4) A copy of the recorded contract for deed and a current payoff statement.

(c) Disbursement of funds. The CA or RSP must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed.

(3) Property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP.

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents and Statement of Ownership and Location (SOL), as applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA, RSP, or Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional

requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all program requirements.

(7) With the exception of up to 10% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(8) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(9) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(10) For final disbursement requests, evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation.

(11) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Subchapter F. TENANT-BASED RENTAL ASSISTANCE (TBRA) PROGRAM ACTIVITY

§53.60. TBRA Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) Documentation of a commitment of at least $15,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant’s resolution. To meet this requirement, Applicants must submit:

(1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant’s bank(s) or financial institution(s) indicating that current account balances are sufficient; or,

(2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,

(3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

§53.61. TBRA Program Requirements

(a) The Household must participate in a self-sufficiency program.

(b) The amount of assistance will be determined using the Housing Choice Voucher Method.

(c) Households certifying to zero income must also complete a questionnaire which includes a series of questions regarding how basic hygiene, dietary, transportation, and other living needs are met.

(d) The Household paid portion of the monthly rent cannot exceed 40% of the Household's gross monthly income.

(e) Project funds are limited to:

(1) Rental subsidy: No more than twenty-four (24) months per Household with an additional twelve (12) months extension available to Households participating in a reservation system; and,

(2) Security deposit: No more than the amount equal to two (2) month's rent for the unit.

(f) The rent (payment) standard must be the current HUD “Fair Market Rent for the Housing Choice Voucher Program” at the time the household is income certified (or the rental coupon is executed). In instances where the area rents exceed the established Fair Market Rent, the CA or RSP may submit a written request to the Department for approval of a higher rent. The request must be evidenced by a market study. For HOME-assisted units, the payment standard must be the current HOME rent applicable for the unit.

(g) Funds for Administrative costs are limited to 8% of Project funds excluding Match funds. Funds for Administrative costs may be increased an additional 1% of Project funds, if Match is provided in an amount equal to 5% or more of Project funds.

(h) Rental units must be inspected prior to occupancy, annually upon Household recertification, and must comply with Housing Quality Standards established by HUD.

§53.62. TBRA Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds and Administrative costs requested, Match to be provided, evidence that Project cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification of head of Household’s race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household’s occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP, and all Household members age 18 or over, and including the date of the income eligibility determination. All documentation used to determine the income and rental subsidy of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) If applicable, documentation to address or resolve any potential Conflict of Interest or duplication of benefit; and

(8) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Disbursement of funds. The CA or RSP must comply with and submit the following with a request for reimbursement of expenditures: The CA or RSP must comply all of the following requirements for a request for disbursement of funds. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) If required or applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(2) Property inspections. The inspection must be signed and dated by the inspector and CA or RSP.

(3) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(4) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA, RSP, or Development Owner as may be necessary or advisable for compliance with all Program Requirements.

(5) With the exception of up to 25% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(6) Requests may come in up to 10 days in advance of the first day of the following month.

(7) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Subchapter G. SINGLE FAMILY DEVELOPMENT (SFD) PROGRAM ACTIVITY

§53.70. SFD Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An Application for CHDO certification.

(b) If the total of Department loans equals more than 50% of the total development cost, except for developments also financed with USDA funds, the Applicant must provide:

> (1) Evidence of a line of credit or equivalent tool equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities; or
>
> (2) A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and
>
> (3) A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available.

(c) A proposed development plan that is consistent with the requirements of §53.71 of this chapter, all other federal and state rules, and includes:

> (1) A floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition.
>
> (2) A FEMA Issued Flood Map that identifies the location of the proposed site(s).
>
> (2) Letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable.
>
> (3) Documentation of site control of each proposed lot, as follows: A recorded warranty deed with corresponding executed settlement statement; or a contract or option for the purchase of the proposed lots that is valid for at least one hundred-twenty (120) days from the date of application submission.
>
> (4) An "as vacant" appraisal of at least one of the proposed lots if: The Applicant has an Identity of Interest with the seller or current owner of the property; or any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced. The purchase price of any lot in which the current owner has an Identity of Interest must comply with the Identity of Interest transfer requirements in 10 TAC §1.32.

(d) The Department may prioritize Applications or otherwise incentivize Applications that partner with other lenders to provide permanent purchase money financing for the purchase of units developed with funds provided under this subchapter.

§53.71. SFD Program Requirements

(a) Eligible activities include the acquisition and New Construction or acquisition and Rehabilitation of single family housing. Single family housing units assisted with HOME funds must comply with the required affordability requirements as defined at 24 CFR §92.254.

(b) This Program Activity is a CHDO-eligible activity.

(c) The Household's income must not exceed 60% AMFI and the Household must complete a homebuyer counseling program/class.

(d) Each unit must meet the following design and quality requirements:

(1) For New Construction and Reconstruction, current applicable International Residential Code, local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the 24 CFR §92.251(a).

(2) Include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Disposal and Energy-Star or equivalently rated dishwasher (must only be provided as an option to each Household); Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans; and Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car;

(3) Contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(4) Each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and,

(5) Be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(e) The total hard construction costs are limited as follows:

(1) Reconstruction and New Construction of site-built housing: The hard construction costs are limited to $73.00 per square foot and $80,000 or for Households of 6 or more Persons $85,000; and

(2) Rehabilitation that is not Reconstruction: $30,000.

(f) Developer fees (including consulting fees) are limited to 15 percent of the total hard construction costs.

(g) Construction period financing for each unit shall be structured as a 0% interest loan with a 6 month term. The maximum construction loan amount may not exceed the total sales price less developer fees/profit, homebuyer closing costs, and other ineligible Project costs. Prior to construction loan closing, a sales contract must be executed with a qualified homebuyer.

(h) The HOME assistance to the homebuyer shall be structured as a first and/or second lien loan(s) as follows:

(1) The downpayment assistance is limited to $15,000 and shall be structured as a 15-year deferred, forgivable loan with a subordinate lien.

(2) A first lien conventional mortgage not provided by the Department must meet the requirements mortgage financing requirements applicable the §53.41(d) of this chapter. If the Department is providing the first lien mortgage with HOME financing, the loan will be fully amortizing with a 30 year term and the Department will require a debt to income ratio (back-end ratio) not to exceed 45%. The total estimated housing payment (including principal, interest, property taxes, and insurance) shall be no less than 25% and no greater than 30% of the Household's gross monthly income. Should the estimated housing payment be less than 25%, the Department shall reduce the amount of downpayment assistance and/or charge an interest rate to the homebuyer such that the total estimated housing payment is no less than 25% of the homebuyer's gross income. In no instance shall the interest rate charged to the homebuyer exceed 5%. The Department shall use to the Household's income certification to make this determination.

(i) Earnest money is limited to no more than $500, which will be credited to the homebuyer at closing. HOME funds may be used to pay other reasonable and customary closing costs that are HOME eligible costs.

(j) If a Household should become ineligible or otherwise cease participation and a replacement Household is not located within ninety (90) days of the end of the construction period, all additional funding closings and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(k) The Division Director may approve the use of alterative floorplans or lots from those included in the approved Application, provided the requirements of this section can still be met and such changes do not materially affect the total budget.

§53.72. SFD Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition cost, construction costs, developer fees. A maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household's race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household's occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA, RSP, or Development Owner, and all Household members age 18 or over, and including the date of the income eligibility determination. For TBRA and in instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(9) Identification of Lead-Based Paint (LBP);

(11) Executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(12) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation;

(14) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA, RSP or Development Owner must submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close.

(2) Within ninety (90) days after the loan closing date, the Contract Administrator or Development Owner must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the Loan closing date will result in the Department withholding payment for disbursement requests.

(3) A draft settlement statement that is consistent with the executed sales contract, the first lien mortgage loan requirements (as applicable), and the terms of this Contract will be provided to Department.

(c) Disbursement of funds. The CA or RSP must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If required or applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) Property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA, RSP, or Development Owner.

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each

request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA, RSP, or Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA, RSP, or Development Owner as may be necessary or advisable for compliance with all Program Requirements.

(7) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(8) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(9) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Subchapter H. MULTIFAMILY (RENTAL HOUSING) DEVELOPMENT (MFD) PROGRAM ACTIVITY

§53.80. MFD Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) If the total of Department loans equals more than 50% of the total development cost, except for developments also financed with USDA funds, the Applicant must provide:

> (1) Evidence of a line of credit or equivalent financing equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities; or
>
> (2) A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and
>
> (3) A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available.

(b) Applications must comply with all of the current Qualified Allocation Plan and Rules in effect at the time of Application's submission at 10 TAC §49.9 or 50.9(h), excluding subsections (4)(A), (4)(J), (8)(A)(ii), (11), (12), 14(G) and (15) and the requirements of §53.81 of this chapter and all other federal and state rules.

(c) Match equal to 2% of the HOME award must be provided. Documentation of the Applicant's ability to meet this requirement shall be required in the Application in the form of a commitment from the organization providing the Match. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentive may be established in the form of a Threshold or Selection scoring criterion. Match in the form of a property tax abatement will only be accepted if a letter from the applicable appraisal district is provided and such letter documents a cash value and duration for such exemption sufficient to meet the HUD requirements for documentation of Match.

(d) The maximum HOME award may not exceed 90% of the total development costs ("TDC") unless a resolution of support for the development is made by the local unit of government in which the proposed development resides and/or the proposed development is located in an area where the HUD Fair Market Rents are equal to the respective HOME Rent Limit for a one-bedroom unit but will be limited as reflected in Figure §53.80(d). The remaining percentage of total development cost must be in the form of permanent loans with a maturity of at least twenty (20) years, in-kind contributions or grants from third-party private or public entities. Developments with USDA or other government-sponsored loans that will remain as permanent financing may be used to satisfy this requirement from a public or private entity. Loans or grants from the Department will not satisfy this requirement.

Figure §53.80(d)

Rent	Resolution from Local Government	Maximum Award as % of TDC	% of TDC from other sources
FMR greater than High Home	No	90%	10%
FMR greater than High Home	Yes	92%	8%
FMR equal to High Home	No	93%	7%
FMR equal to High Home	Yes	95%	5%
FMR equal to Low Home	No	96%	4%
FMR equal to Low Home	Yes	98%	2%

(e) For Applications proposing New Construction, documentation sufficient to meet the Site and Neighborhood Standards required in 24 CFR §92.202.

§53.81. MFD Program Requirements

(a) Eligible activities include the acquisition or refinancing and New Construction or Rehabilitation of multifamily housing Developments. Housing assisted with HOME funds must meet all applicable codes and standards. Additionally, the Development must meet or exceed the requirements of 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.

(b) Developments involving New Construction will be limited to no more than 252 total units. This maximum unit limitation also applies to those Developments which involve a combination of Rehabilitation and New Construction. Developments that consist solely of acquisition and Rehabilitation or Rehabilitation only may exceed the maximum unit restrictions. The minimum number of units shall be 8 units.

(b) This Program Activity is a CHDO-eligible activity.

(c) A Development receiving funds under this section shall have a LURA filed and recorded at the time of Loan closing and prior to any disbursement of HOME funds. The Department may require that a second LURA be filed and recorded if the restrictions to be placed on the Development exceed those of the federal requirements. Such second LURA shall include all of the requirements that exceed the federally required restrictions.

(d) In addition to the federal restrictions, Developments receiving funds under this section must meet the following rent and income restrictions:

(1) At least 20 percent (20%) of the total number of units in the Development must be restricted as HOME units;

(2) At least 5 percent (5%) of the total number of units in the Development must be set-aside for households at or below 30% of AMFI and must have rent restrictions at 30% of AMFI; and

(3) Developments receiving funds under the Persons with Disabilities set-aside are not required to meet the requirements under paragraphs 1 or 2 of this subsection but must restrict all HOME units at 50% of AMFI or below and at least 5% of the HOME units at 30% of AMFI or below.

(e) Project funds awarded to Developments under this section shall be structured in the form of a loan or loans as follows:

(1) The interest rate may be as low as 2% provided all requirements of this chapter and 10 TAC §1.32 are met. To the extent that Match in an amount of 5% or more of the HOME funds is provided, an interest rate as low as 0% may be requested;

(2) Unless structured only as an interim construction or bridge loan, the loan term shall be no less than 15 years and no greater than 40 years and the amortization schedule shall be no less than 20 years and no greater than 40 years;

(3) The loan shall be structured with a regular monthly payment beginning at the end of the construction period and continuing for the loan term. If the first lien mortgage is a federally insured HUD or FHA mortgage, the Department may approve a loan structure with annual payments payable from surplus cashflow provided that the debt coverage ratio, inclusive of the loan, continues to meet the requirements in 10 TAC §1.32. The Board may also approve, on a case-by-case basis, a cashflow loan structure provided it determines that the financial risk is outweighed by the need for the proposed housing;

(4) The loan shall have a deed of trust with a lien position consistent with the principal amount of the loan in relation to the principal amounts of the other sources of financing. Notwithstanding the foregoing, the loan shall have a lien position that is superior to any other sources of financing that have soft repayment structures, non-amortizing balloon notes, are deferred forgivable loans or in which the lender has an Identity of Interest with any member of the development team. The Board may also approve, on a case-by-case basis, an alternative lien priority provided it determines that the financial risk is outweighed by the need for the proposed housing.

(f) Closing on the Loan shall be conditioned upon the occurrence of closing with any superior lien holders or any other sources of funds determined to be necessary for the long-term financial feasibility of the Development and all due diligence determined by the Department to be prudent and necessary to meet the Department's rules, the HOME Final Rule, and to secure the interests of the Department.

(g) When Department funds have a first lien position, assurance of completion of the development in the form of payment and performance bonds in the full amount of the construction contract will be required or equivalent guarantee in the sole determination of the Department. Such assurance of completion will run to the Department as obligee. Development Owners also utilizing the USDA

515 program are exempt from this requirement but must meet the alternative requirements set forth by USDA.

(h) All HOME units required under this section shall be restricted as "floating" HOME units in accordance with the meaning ascribed by HUD except for units receiving funds for the development of units for persons with disabilities in which case such units shall be designated "fixed" HOME units. Development Owner must use its best efforts to distribute units reserved for Low Income Families, Very Low Income Families and Extremely Low Income Families among unit sizes in proportion to the distribution of unit sizes in the Property and to avoid concentration of Low Income Families, Very Low Income Families and Extremely Low Income Families in any area or areas of the Property.

§53.82. MFD Administrative Requirements

(a) Loan closing. The Development Owner must submit the following with a request for the preparation of loan closing:

(1) Owner/General Contractor and owner/architect agreements;

(2) Survey of the property reflecting all planned improvements that includes a certification to the Department, Development Owner, title company, and other lenders;

(3) If layered with housing tax credits, a fully executed limited partnership agreement between the general partner and the tax credit investor entity (may be provided concurrent with closing);

(4) Documentation of acceptance of HOME loan by other lenders and financing participants;

(5) A budget that includes the amount of Project funds specifying the acquisition cost, construction costs, developer fees, other soft costs and Match to be provided. The sources of funds used to finance the Development. If the budget or sources of funds reflect material changes that may affect the financial feasibility of the Development, the Department may request additional documentation to ensure that the Development continues to meet the requirements of 10 TAC§1.32;

(6) Verification of environmental clearance; and

(7) Any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.

(b) Disbursement of funds. The Development Owner must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Development Owner's compliance with following requirements may be required with a request for disbursement.

(1) Except disbursements for acquisition and closing costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion;

(2) For hard construction costs, documentation of the total construction costs incurred and costs incurred since the last disbursement of funds. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702 or G703;

(3) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Development Owner's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(6) Developer fee schedule. Disbursement of Developer fees will be conditioned as follows:

> (A) For Developments in which the Loan is secured by a first lien deed of trust against the property, 75% shall be disbursed in accordance with percent of construction completed (i.e. 75% of the total allowable fee will be multiplied by the percent completion) as documented by the construction contract and as may be verified by an inspection by the Department and 25% shall be disbursed at the time that the property reaches an occupancy of 50% or at release of retainage, whichever is later; or
>
> (B) For Developments in which the Loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits to finance development, Developer fees will not be reimbursed by the Department unless the other lenders and syndicator confirm in writing that they do not have an existing or planned agreement to govern the disbursement of Developer fees and expect that Department funds shall be used to fund Developer fees. Provided this requirement is met, developer fees shall be reimbursed in the same manner as described in clause (A) of this subparagraph; and

(C) The Department may reasonably withhold any disbursement of developer fees if it is determined that is not progressing as necessary to meet Contract benchmarks or that cost overruns may put the Department's funds or completion within budget at risk. Once a reasonable alternative that is deemed acceptable by the Department has been provided, disbursement of the remaining fee may occur.

(7) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure requested. The Department may request Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Development Owner as may be necessary or advisable for compliance with all program requirements.

(8) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(9) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction, a final inspection is completed and clearance is issued by the Department, labor standards final wage compliance report, and receipt of certificates of occupancy for new construction or a certification of completion from the Development architect for rehabilitation.

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Subchapter I. COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)

§53.90. Application Procedures for Certification of CHDO

(a) An Applicant requesting certification as a CHDO must submit an application for CHDO certification in a form prescribed by the Department. The CHDO Application must be submitted with an Application for HOME funding under the CHDO Set-Aside and the CHDO must be a sponsor, developer, or owner of the Development within the meaning ascribed by HUD for the Program Activity being performed. An Applicant shall not receive more than one award of CHDO operating funds during the same fiscal year of the Department regardless of the number of Applications submitted. Any such award is limited to $50,000. The Application must include documentation evidencing the requirements of 24 CFR Part 92 and this subsection:

(1) All Applications shall include the following documents as applicable which shall be reviewed for compliance with federal and state requirements:

(A) Bylaws with date of board approval;

(B) Charter; and

(C) Articles of Incorporation

(2) The Applicant must be organized as a private nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by the documents required under subsection (a)(1).

(3) The Applicant must be registered with the Secretary of State to do business in the State of Texas.

(4) The Applicant must have the following tax status:

(A) A current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, or §501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as a CHDO; or

(B) Classification as a subordinate of a central organization nonprofit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and a private nonprofit organization's pending application for §501(c)(3) or §(c)(4) status cannot be used to comply with the tax status requirement under this subparagraph.

(5) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by the documents required in subsection (a)(1) or a business plan which outlines the CHDO's plans for developing affordable housing, providing services to each of the areas included within the service area, and internal operations.

(6) The Applicant must have a clearly defined service area that may encompass an entire "community" as defined in 24 CFR §92.2 under Community Housing Development Organization. The service area must delineated in the entity's organizational documents.

(7) An Applicant must have the following capacity and experience:

(A) Conforms to the financial accountability standards of 24 CFR §84.21, "Standards of Financial Management Systems" as evidenced by:

(i) A notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department;

(ii) A certification from a Certified Public Accountant; or

(iii) A HUD-approved audit summary; and,

(iv) A written narrative describing internal controls used to create financial duties and safe guard corporate assets; and

(v) A written narrative describing the conflict of interest policy governing employees and development activities and procurement; and

(vi) A written narrative describing the current corporation's financial structure can support housing development activities; and

(vii) A written narrative describing the organization's ability to manage additional rental development activities, if applicable.

(B) Demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:

(i) Documentation that describes the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds; or

(ii) Contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization.

(C) Has a history of serving the low income residents of the city or county in which housing to be assisted with HOME funds is to be located as evidenced by:

(i) Documentation of at least one year of experience providing services; or

(ii) For newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year providing services; and

(iii) The documentation provided in subparagraphs (i) or (ii) of this paragraph must document and describe the organization’s history (or its parent organization's history) of serving the city or county, such as, developing new housing, rehabilitating existing housing stock and managing housing stock, or delivering non-housing services that have had lasting benefits for those receiving services, such as counseling, food relief, or childcare facilities. The statement in the submission package must be signed by the president or other official of the organization.

(8) An Applicant must have an organizational structure that meets the federal requirements in 24 CFR §92.2. Compliance with this paragraph shall be evidenced by:

(A) A written provision or statement in the organizations Bylaws, Charter or Articles of Incorporation;

(B) An affidavit signed by the organization's Executive Director and notarized; and

(C) A current roster of all Board of Directors, including names and mailing addresses. The required one-third low-income residents or elected representatives must be marked on list as such.

(9) The Applicant must provide a formal process for low-income individuals, including potential program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects. The formal process should include a system for community involvement in parts of the private nonprofit organization's service areas where housing will be developed, but which are not represented on its boards. Input from the low-income community is not met solely by having low-income representation on the board. The formal process must be in writing and approved or adopted by the private nonprofit organization, as evidenced by:

(A) An organization's Bylaws; or

(B) A written statement of operating procedures approved by the governing body. Statement must be original letterhead, signed by the Executive Director and evidence date of board approval; and

(C) A Resolution with evidence of date of board approval.

(11) If the CHDO’s creation was sponsored by a for-profit organization the for-profit entity's primary purpose cannot include the development or management of housing, as

evidenced in the for-profit organization's Bylaws. If an Applicant is associated or has a relationship with a for-profit entity or entities, the CHDO must prove it is not controlled, nor receives directions from individuals, or entities seeking profit as evidenced by the documentation required in subsection (a)(1) or an memorandum of understanding or similar agreement.

(12) CHDOs that are in partnership agreements associated with the Development must maintain effective Control and decision making control over the Development. All legally binding ownership and/or partnership agreements must clearly state the CHDO's role in the Development, as evidenced by an affidavit from the CHDO and any other developer, general partner, or special limited partner (except for entities related to a tax credit investor limited partner) that the CHDO will maintain effective Control and decision making control over the Development. In addition, the CHDO or entity wholly owned by the CHDO must receive at least 50% of the cashflow from the property (for multifamily developments) or 50% of the developer fee which must also be evidenced by the affidavit.

(b) An Application for CHDO Certification will only be accepted if submitted with an Application to the Department for HOME funds. If all requirements under this section are met, the Applicant will be certified as a CHDO upon the award of HOME funds by the Department. A new Application for CHDO certification must be submitted to the Department with each new Application for HOME funds under the CHDO Set-Aside.

§53.91. Recertification of CHDO

A CHDO must be recertified every 12 months during the Contract Period of any Contract with a commitment of CHDO funds with the first recertification application submitted at least 30 days prior to 12 months from the beginning of the contract period. Failure to be recertified as a CHDO may result in the Department withholding any draws until the CHDO obtains the recertification. Such recertification application shall include:

(a) Submission of a CHDO Application to document compliance with this section; or

(b) An affidavit from the CHDO that it continues to meet all of the requirements of this section and that there have been no changes in the organizational structure or Board membership that would violate the federal requirements in 24 CFR Part 92; and

(c) A legal opinion from the CHDO’s legal counsel that the organization continues to meet the federal definition of a CHDO in 24 CFR §92.2.

Texas Department of Housing and Community Affairs
"HOME Program Rule"

TITLE 10, Part 1, Chapter 53, Texas Administrative Code

Subchapter A. GENERAL

§53.1. Purpose

This Chapter clarifies the use and administration of all funds provided to the Texas Department of Housing and Community Affairs (Department) by the United States Department of Housing and Urban Development (HUD) pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (42 USC §§12701-12839) and HUD regulations at 24 CFR, Part 92. All provisions of this chapter apply to any Application received on or after the date of adoption of this chapter by the Department's Board. Existing Contracts ~~or Applications~~ executed within the preceding 12 months from~~received prior to~~ the date of adoption of this chapter or current pending Applications may be amended in writing at the request of the ~~Administrator~~ Contract Administrator (CA) or Applicant, and with Department approval, to subject the Contract or Application to all provisions of this chapter. Amendments proposing only partial adoption of this chapter are prohibited and no amendment adopting this chapter shall be granted if, in the discretion of the Department, any of the provisions of this chapter conflict with the NOFA under which the existing Contract was awarded or Application was submitted. All CAs with an active Contract may become Reservation System Participants (RSPs), at the written request of the CA without the submission of an Application, and with Department approval, subject to all applicable provisions of this chapter. The State's HOME Program is designed to:

(1) ~~focus~~ Focus on the areas with the greatest housing need described in the State Consolidated Plan;

(2) ~~provide~~ Provide funds for home ownership and rental housing through acquisition, new construction, rehabilitation, and tenant-based rental assistance~~, and pre-development loans~~;

(3) ~~promote~~ Promote partnerships among all levels of government and the private sector, including non-profit and for-profit organizations; and

(4) ~~provide~~ Provide low, very low, and extremely low income families with affordable, decent, safe and sanitary housing.

§53.2. Definitions

Unless the context clearly indicates otherwise, ~~T~~the following capitalized ~~words and~~ terms, when used in this chapter, shall have the following meanings ascribed to them; provided that certain capitalized terms used and not defined in this chapter, shall have the meanings ascribed to them in or for purposes of the HOME Final Rule or Chapter 2306~~, unless the context clearly indicates otherwise~~.

~~(1) Act--HOME Investment Partnership Act at Title II of the Cranston-Gonzalez National Affordable Housing Act as amended, at 42 USC §§12701, et seq.~~

(~~2~~1) Activity--A single housing unit with a unique physical address. An activity may also refer to an individual Project, Development, or site.

(~~3~~2) Administrative Deficiencies--The absence of or lack of clarity in information or ~~a~~ documentation ~~from the application~~ as required in this chapter, the ~~or~~ applicable NOFA, or in order to meet state or federal requirements in staff's determination. The Department staff may request clarification or correction of such Administrative Deficiencies during the review of an Application or at any time prior to the end of a Contract and including, but not limited to, review of performance under a Contract, processing of documentation for a Reservation or Commitment of Funds, closing of a loan, processing of a disbursement request, close-out of a contract, or resolution of any issues related to compliance.

(A) The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile or electronic transmittal, and a telephone call to the Applicant advising that such a request has been transmitted.

(B) The time period to cure an Administrative Deficiency is reflected under each applicable section herein. The time period begins at the start of the business day following the deficiency notice date.

(C) To cure an Administrative Deficiency, an Applicant or Contract Administrator must provide a clarification, further definition or exposition of an issue, an explanation as to why an Applicant or Contract Administrator has provided certain information or resolution of a discrepancy where an Applicant or Contract Administrator has provided conflicting information.

~~(43) Administrator--The Person responsible for performing under a Contract with the Department.~~

(~~5~~43) 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.

(~~6~~54) Affiliated Party--A Person ~~in a~~with a contractual relationship with the Contract Administrator on a Contract with the Department.

~~(7) Annual Income--As defined in 24 CFR §92.203.~~

(~~8~~65) Applicant--A Person who has submitted to the Department an Application for Department funds or other assistance.

(~~9~~~~7~~6) Application--A request for ~~funds~~ a Contract award or to participate in a reservation system submitted to the Department in a form prescribed by the Department, including any exhibits or other supporting material.

~~(10) Application Acceptance Period--The period of time that Applications may be submitted to the Department as more fully described in the applicable NOFA.~~

(~~11~~~~8~~7) Application Submission Procedures Manual (ASPM)--The manual that sets forth the procedures, forms, and instructions for the completion and submission of an Application to the Department.

(~~12~~~~9~~8) Area Median Family Income (AMFI)--The income estimated and determined by HUD as the median family income with adjustments for family size and geographic locations.

~~(13) Articles of Incorporation--The document that sets forth the basic terms for a corporation's existence and is the official recognition of the corporation's existence.~~

(~~14~~10~~9~~) Board--The governing board of the Texas Department of Housing and Community Affairs.

~~(15) Business Plan--The written document that for the purposes of CHDO certification outlines the CHDO's plan for developing eligible housing activities, its internal operations, and citizen participation process.~~

~~(16) Bylaws--A rule or administrative provision adopted by a corporation for its internal governance. Bylaws are enacted apart from the Articles of Incorporation. Bylaws and amendments to Bylaws must be formally adopted in the manner prescribed by current Bylaws by either the organization's board of directors or the organization's members, whoever has the authority to adopt and amend Bylaws.~~

(~~1~~110~~7~~) CFR--Code of Federal Regulations.

(112~~8~~) Chapter 2306--The enabling statute for the Department found in the Texas Government Code.

~~(19) CHDO Service Area--A Community in which a CHDO owns, developed and/or sponsored CHDO eligible housing activities for the low income residents of the city/place or county they serve.~~

~~(20) Colonia--A geographic area that is located in a county some part of which is within 150 miles of the international border of this state that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, 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, Texas Water Code; or~~

~~(B) Has the physical and economic characteristics of a Colonia, as determined by the department.~~

(12~~3~~) Commitment of Funds--Occurs when the Activity or Project is approved by the Department and set up in the disbursement and information system established by HUD.

~~(21) Community--Urban areas means one or several Neighborhoods, a city, a county, or a metropolitan area and for Rural Areas means one or several Neighborhoods, a town, a village, a county or multi-county area, but not the whole state. For purposes of this chapter, the Applicant should clearly define the area. For example, the city of Dallas would not include all of Dallas and Collin counties but Dallas and Collin counties would include the city of Dallas.~~

~~(22) Community Housing Development Organization (CHDO)--A private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves in accordance with 24 CFR §92.2 and which is certified as such by the Department. To be certified as a CHDO by the Department, the organization must act in the capacity of Developer, Owner or Sponsor as defined in this chapter.~~

~~(23) Community Housing Development Organization (CHDO) Developer--The CHDO:~~

~~(A) Either owns a Property and develops a Project, or has a contractual obligation to a property owner to develop a Project; and~~

~~(B) Performs all the functions typically expected of for-profit Developers, and assumes all the risks and rewards associated with being the Project Developer.~~

~~(i) For RHD, the CHDO must obtain financing, and Rehabilitate, Reconstruct or construct the Project. If it owns the Property, the CHDO may maintain ownership and manage the Project over the long term. If it does not own the Property, the CHDO must enter into a contractual obligation with the property owner. This contractual obligation is independent of the PJ.~~

~~(ii) For HBA, the CHDO must obtain Project financing, Rehabilitate, Reconstruct or construct the dwelling(s), and have title of the property and the HOME loan/grant obligations transferred to a HOME-qualified homebuyer within a specified timeframe. If it does not own the Property, the CHDO must enter into a contractual obligation with the property owner. This contractual obligation is independent of the PJ.~~

~~(24) Community Housing Development Organization (CHDO) Owner--The CHDO holds valid legal title to or has a long-term (99-year minimum) leasehold interest in a rental~~

~~Property. The CHDO may be a Development Owner with one or more Persons. If it owns the Project in partnership, it or its wholly-owned nonprofit or for-profit subsidiary must be the managing General Partner with effective control (i.e., decision-making authority) of the Project. The CHDO may be both Development Owner and Developer, or may have another entity as the Developer.~~

~~(25) Community Housing Development Organization (CHDO) Sponsor--The CHDO:~~

> ~~(A) For RHD, the CHDO may develop a Project that it solely or partially owns and agrees to convey ownership to a second non-profit organization at a predetermined time prior to or during Development or upon completion of the Development of the Project. The HOME funds are invested in the Project owned by the CHDO. The CHDO Sponsor selects prior to commitment of HOME funds the non-profit organization that will obtain ownership of the Property. The non-profit assumes from the CHDO the HOME obligation (including any repayment of loans) for the Project at a specified time. If the Property is not transferred to the non-profit organization, the CHDO Sponsor remains liable for the HOME loan/grant obligation. The non-profit organization must be financially and legally separate from the CHDO Sponsor. The CHDO Sponsor must provide sufficient resources to the non-profit organization to ensure the Development and long-term operation of the Project.~~
>
> ~~(B) For HBA, the CHDO owns a Property, then shifts responsibility for the Project to another nonprofit at some specified time in the Development process. The second nonprofit, in turn, transfers title along with the HOME loan/grant obligations and recapture requirements to an Income Eligible Household within a specified timeframe. The HOME funds are invested in the Property owned by the CHDO. The other nonprofit being sponsored by the CHDO acquires the completed units, or brings to completion the Rehabilitation or construction of the Property. At completion of the Rehabilitation or construction, the second nonprofit is required to sell the Property along with the HOME loan/grant obligations to an Income Eligible Household.~~
>
> ~~(C) For either type of sponsorship, the CHDO must own the Property prior to the development phase of the project.~~

~~(26) Community Housing Development Organization Pre-Development Loan--A form of assistance in which funds are made available as loans to cover those costs outlined in 24 CFR §92.301.~~

(~~27~~134) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.~~ Applications will be reviewed in accordance with the rules for application review published in the NOFA and the ASPM.~~

~~(28) Conflict of Interest--A conflict between the private interests and the official responsibilities of a Person in a position of trust, as specified in 24 CFR §92.356.~~

~~(29) Consolidated Plan--The State Consolidated Plan prepared in accordance with 24 CFR, Part 91, which describes the needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs and is subject to approval annually by HUD.~~

(~~30~~14~~5~~) Contract--The executed written agreement between the Department and a~~n~~ Contract Administrator, Reservation System Participant, or Development Owner performing an activity related to a program that outlines performance requirements and responsibilities assigned by the document.

(15) Contract Administrator (CA) --The Person responsible for performing under a Contract with the Department as approved under §53.22.

(~~31~~16~~6~~) Control--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 or 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~~member of a limited liability company or managing General Partner of a limited partnership or any similar member.

~~(32) Council of Governments (COG)--A regional body which serves an area of several counties to address regional planning including but not limited to transportation planning, economic and community development, information gathering and processing, hazard mitigation and emergency preparedness, and water and environmental planning.~~

(~~33~~17~~7~~) Deobligated Funds--The funds released by a~~n~~ ~~Administrator~~ CA or Development Owner or recovered by the Department canceling a Contract or award involving some or all of a contractual financial obligation between the Department and a~~n~~ ~~Administrator~~ CA or Development Owner.

(~~34~~18) Department--The Texas Department of Housing and Community Affairs.

(~~35~~19) 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 and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

(~~36~~20) Development--A Project in which an Applicant, ~~Administrator~~CA, or Development Owner has or will have an ownership interest and that has a construction component, either in the form of New Construction or Rehabilitation of multi-unit or single family residential housing.

~~(37) Development funding--~~

~~(A) A loan or grant; or~~

~~(B) An in-kind contribution, including a donation of real Property, a fee waiver for a building permit or for water or sewer service, or a similar contribution that:~~

~~(i) provides an economic benefit; and~~

~~(ii) results in a quantifiable cost reduction for the applicable Development.~~

(~~38~~21) 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~~ and is the Person responsible for performing under the Contract with the Department.

(~~39~~22) Development Site--The area, or if scattered site, areas, for which the Development is proposed to be located ~~and is to be under the Development Owner's Control~~.

~~(40) Executive Award and Review Advisory Committee (EARAC)--The Department 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.~~

~~(41) Expenditure--An approved expense evidenced by documentation submitted by the Administrator or Development Owner to the Department for purposes of drawing funds from HUD's IDIS for work completed, inspected and certified as complete, and as otherwise required by the Department.~~

~~(42) Family--Includes but is not limited to the following types of families as defined in 24 CFR §5.403:~~

~~(A) A family with or without children;~~

~~(B) An elderly family;~~

~~(C) A near elderly family;~~

~~(D) A disabled family;~~

~~(E) A displaced family;~~

~~(F) The remaining member of a tenant family; or~~

~~(G) A single person who is not an elderly or displaced person or a person with a person with disabilities or the remaining member of a tenant family.~~

~~(43) Feasibility Analysis--The process of performing a budgetary justification for Reconstruction which compares the cost of Rehabilitation to the replacement costs of a housing unit for the purposes of OCC.~~

~~(44) FHA 203(b) Mortgage Limits ("203(b) Limits")--The mortgage limits established under 203(b) of the National Housing Act (12 USC §1709(b) which may be obtained from the HUD Field Office.~~

~~(45) Final Rule--The current final rule as published by HUD as 24 CFR, Part 92 with amendments.~~

(~~46~~23) General Contractor--A ~~p~~Person ~~or organization who that~~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. The prime subcontractors will also be treated as a General Contractor if any of the following are true (in which case, contractor fees will be treated as fees to the General Contractor):

(A) More than 50 percent (50%) of the contract sum in the construction contract is subcontracted to one subcontractor, material supplier or equipment lessor ("prime subcontractors"); or,

(B) More than 75 percent (75%) of the contract sum in the construction contract is subcontracted to three or less subcontractors, material suppliers and equipment lessors ("prime subcontractors").

(24~~7~~) General Partner--A Person or Persons who is 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.

(25) General Requirements--An allowance for the General Contractor's on-site overhead expenses. General Requirements shall be limited as ~~required~~prescribed in 10 TAC §1.32 and must follow the standards published by the Construction Specifications Institute.

~~(48) Grant--Financial assistance that is awarded in the form of money to a housing sponsor for a specific purpose and that is not required to be repaid. For purposes of this chapter, a grant includes a forgivable loan.~~

~~(49) Homebuyer Assistance Program (HBA)--A Program Activity for the purpose of providing HOME funds for acquisition, acquisition with Rehabilitation, down payment, closing costs, and gap financing assistance provided to Income Eligible Households.~~

~~Rehabilitation may be combined with HBA to provide contract for deed conversions and assist Person with Disabilities.~~

(~~50~~26) HOME Final Rule -- The regulations with amendments promulgated at Title 24 CFR, Part 92 as published by HUD for ~~T~~the HOME Investment Partnerships Program at 42 USC §§12701-12839~~ and the regulations promulgated thereafter at 24 CFR, Part 92~~.

~~(51) Household--One or more persons occupying a housing unit (24 CFR §92.2).~~

(27) Housing Contract System (HCS)--the electronic information system established by the Department to be used for tracking, funding, and reporting HOME Contracts and Activities or Projects.

(~~52~~28) HUD--The United States Department of Housing and Urban Development, or its successor.

~~(53) HUD's Maximum Per-unit Subsidy Amount ("§221(d)(3) Limits")--The per-unit dollar limitations established under §221(d)(3)(ii) of the National Housing Act for elevator-type projects that apply to the area in which the housing is located.~~

(~~54~~29) IDIS--The electronic grants management information system named the Integrated Disbursement and Information System established by HUD to be used tracking and reporting HOME funding progress.

~~(55) Income Eligible Households--The federal definition which is:~~

> ~~(A) Low-Income Households--Households whose Annual Incomes do not exceed 80% of the AMFI;~~
>
> ~~(B) Very Low-Income Households--Households whose Annual Incomes do not exceed 50% of the AMFI; and~~
>
> ~~(C) Extremely Low Income Households--Households whose Annual Incomes do not exceed 30% of the AMFI.~~

~~(56) 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.~~

(~~57~~30) Land Use Restriction Agreement (LURA)--An agreement between the Department and a Person related to a specific Property or Properties which is filed with the responsible recording authority.

~~(58) Loan--Financial assistance that is awarded in the form of money and an executed written agreement between the Department and Person for a specific purpose and that is required to be repaid.~~

~~(59) Manufactured Housing Unit (MHU)--As defined by HUD is a structure transportable in one or more sections which, in traveling mode, is 8 body-feet or more in width or 40 body-feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.~~

~~(60) Match--Eligible forms of non-federal contributions to a Program Activity or Project in the forms specified in 24 CFR §92.220, CPD Notice 97-03 and the Department's Match Guide.~~

~~(61) Material Noncompliance--As is defined in Chapter 60, Subchapter A of this title.~~

~~(62) Modular Housing--As defined by HUD is a home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.~~

~~(63) Mortgagor--The Person who borrows money and uses his or her real property as collateral and security for the payment of the debt.~~

~~(64) Neighborhood--As defined by HUD, a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a Unit of General Local Government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a Unit of General Local Government (24 CFR §92.2).~~

~~(65) New Construction--Any Development not meeting the definition of Rehabilitation.~~

(~~66~~31) NOFA--Notice of Funding Availability, published in the ~~<eti>~~Texas Register~~<et>~~.

~~(67) Nonprofit organization--A public or private organization that:~~

~~(A) Is organized under state or local laws;~~

~~(B) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;~~

~~(C) Has a current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, or §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 to the IRS for exemption status under §501(c)(3) or (4) status cannot be used to comply with the tax status requirement.~~

(~~68~~32) Open Application Cycle--A defined period of time during which Applications may be submitted according 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, whichever is earlier.

~~(69) Owner-Occupied Housing Assistance (OCC)--A Program Activity for the purpose of providing HOME funds for the Rehabilitation of existing owner-occupied housing for Income Eligible Households. Housing assistance for disaster relief is provided under this Program Activity.~~

~~(70) Participating Jurisdiction (PJ)--Any state or Unit of General Local Government, including consortia as specified in 24 CFR §92.101, designated by HUD in accordance with 24 CFR §92.105.~~

(~~71~~33) Person--Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

~~(72) Persons with Disabilities--A Household composed of one or more Persons, at least one of whom is a Person, who has a disability that is a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. A Person will also be considered to~~

~~have a disability if he or she has a developmental disability, which is a severe, chronic disability and as further defined at 24 CFR §92.2.~~

(~~73~~34) Persons with Special Needs--Individuals or categories of individuals determined by the Department to have unmet housing needs consistent with 42 USC §§12701, et seq. and as provided in the Consolidated Plan and may include any ~~household~~Households composed of one or more persons with alcohol and/or drug addictions, Colonia residents, Persons with Disabilities, elderly, victims of domestic violence, persons with HIV/AIDS, homeless populations, migrant farm workers, and public housing residents.

(~~74~~35) Predevelopment Costs--Costs related to a specific eligible 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, and 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.

(~~75~~36) Principal--A Person, or 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.

(37~~6~~) Principal Residence--The primary housing unit a Person or Household inhabits.

(38~~77~~) Program Activity--The specific purposes for which HOME funds are applied for and used~~ and required in the Contract with the Administrator~~.

(39) Reservation of Funds--Occurs when the Activity or Project is submitted to the Department by a Reservation System Participant.

(40) Reservation System Participant (RSP) --The Person responsible for performing under a Contract with the Department as approved under §53.23.

~~(78) Program Income--The gross income received by the Department, Development Owners or Administrators directly generated from the use of HOME funds or matching contributions as further described in 24 CFR §92.2.~~

~~(79) Project--A site or an entire building (including a manufactured housing unit), or two or more buildings, together with the site or sites on which the building or buildings are located, that are under common ownership, management, and financing and are to be assisted with HOME funds, under a commitment by the owner, as a single undertaking under 24 CFR §92.2.~~

~~(80) 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.~~

~~(81) 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.~~

~~(82) 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.~~

~~(83) Received Date--The date and time that an Application is physically received by the Department.~~

~~(84) Rehabilitation--The improvement or modification of an existing residential development through an alteration, addition, or enhancement. The term includes the demolition of an existing residential development and the Reconstruction of any development units, but does not include the improvement or modification of an existing residential development for the purpose of an adaptive reuse of the development. In accordance with the federal definition of Reconstruction at 24 CFR §92.2, the term also~~

~~means the demolition and rebuilding, on the same lot, of housing standing on the site at the time of commitment of HOME funds. The number of units on the lot may not be decreased or increased as part of the rehabilitation, but the number of rooms per unit may be increased or decreased. Rehabilitation also includes replacing an existing substandard MHU with a new MHU.~~

~~(85) Rental Housing Development (RHD)--A Program Activity and Project for the purpose of providing HOME funds for the acquisition, New Construction or Rehabilitation of multi-family or single family rental housing, or conversion of commercial property to rental housing for Income Eligible Households.~~

~~(86) 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 25,000 or less and does not share a boundary with an urban area; or~~
>
> ~~(C) In an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an area that is located in a municipality with a population of more than 50,000.~~

~~(87) Rural Development--A Development or proposed Development that is located in a Rural Area, other than rural New Construction Developments with more than 80 units.~~

(~~88~~~~40~~1) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application and/or Contract that the ~~Administrator~~ CA will serve.

~~(89) Set-Aside--A statutory or federally mandated reservation of a portion of available funds or units for specific types of housing priorities, Program Activities or geographic locations.~~

~~(90) Single Family Housing Development--A Program Activity and Project for the purpose of providing HOME funds for the acquisition, and/or New Construction or Rehabilitation of affordable single family housing units Income Eligible Households to acquire homeownership.~~

~~(91) State Recipient--A Unit of General Local Government designated by the Department to receive HOME funds.~~

~~(92) Subprime Mortgage Loan--A mortgage loan that is made at a higher interest rate than the prime rate offered by conventional lenders to a Person with higher credit risk characteristics or other underwriting deficiencies.~~

~~(93) Subrecipient--A public agency or nonprofit organization selected by the Department to administer all or a portion of the Department's HOME program. A public agency or nonprofit that receives HOME funds solely as a developer or owner of housing is not a Subrecipient. The Department's selection of a Subrecipient is not subject to the procurement procedures and requirements.~~

(~~94~~4~~1~~2) TAC--Texas Administrative Code.

~~(95) Tenant-Based Rental Assistance (TBRA)--A Program Activity for the purpose of providing HOME funds for rental subsidy and security and utility deposit assistance to Income Eligible Households.~~

(~~96~~43) Texas Minimum Construction Standard (TMCS)--The program standard used to determine the minimum acceptable housing condition for the purposes of Rehabilitation, New Construction, and acquisition.

(~~97~~4~~2~~3) Third Party--A Person who is not:

(A) An Applicant, ~~Administrator~~CA, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(B) An Affiliate, Affiliated Party to the Applicant, ~~Administrator~~CA, Borrower, General Partner, Developer, Development Owner or General Contractor; or

(C) A Person receiving any portion of the administration, contractor fee or developer fee.

~~(98) Unit of General Local Government--A city, town, county, or other general purpose political subdivision of the State; a consortium of such subdivisions recognized by HUD in accordance with 24 CFR §92.101 and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction. An urban county is considered a unit of general local government under the HOME Program.~~

~~(99) Urban Area--The area that is located within the boundaries of a primary metropolitan statistical area other than an area that is described by paragraph (86) of this section.~~

~~(100) USC--The United States Code.~~

Subchapter B. AVAILABILITY~~ALLOCATION~~ OF FUNDS, APPLICATION REQUIREMENTS, AND REVIEW AND AWARD PROCEDURES

§53.20. Availability of Funds

~~Consolidated Plan~~

The Department will make HOME funds available through Notices of Funding Availability (each a NOFA) or the procurement of a contractor. Funds made available under a NOFA may be allocated through Contract awards to Contract Administrators (CAs) or by providing the ability to submit Reservations of Funds for Reservation System Participants (RSPs). Funds subject to regional allocation shall be made available as follows:

~~§53.70. Process for Awards~~

(a~~c~~) Applicants applying in response to a Competitive Application Cycle will be ranked highest to lowest by subregion. Funding that remains available after awarding all available eligible Applications in each subregion shall collapse and be directed to the next Application in the most underserved subregion. If funding is made available to multiple Program Activities under one NOFA, the funds remaining after awarding all eligible Applications by Program Activity shall collapse and be directed to the next Application in the most underserved subregion regardless of Program Activity.~~by highest score per Program Activity, per Uniform State Service Region and Area Type, unless otherwise specified in the NOFA.~~

> ~~(1) If sufficient qualified Applications are not received for a Program Activity in a Uniform State Service Region and Area Type, the funds will be redirected to the next Uniform State Service Region that had a higher number of qualified Applicants for that same Program Activity type, unless otherwise specified in the NOFA.~~
>
> ~~(2) If sufficient Applications are not received in a Uniform State Service Region and Area Type for a Program Activity, the funds will be redirected to the Uniform State Service Region and Area Type with the highest number of qualified Applicants for another Program Activity type, unless otherwise specified in the NOFA.~~

(b~~d~~) Funds made available through an Open Application Cycle and subject to regional allocation shall be made available to each subregion for a time period to be specified in the applicable NOFA, after which the funds remaining shall collapse and be made available statewide.

(c) In the event of a tie between two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may also receive a partial recommendation for funding.

~~(e) When the remainder of the allocation for an allocation within a Uniform State Service Region is insufficient to completely fund the next ranked Application in the Program Activity or Uniform State Service Region, it is within the discretion of the Department to:~~

~~(1) award a partial amount to the next ranked Application, reducing the scope of the Application proportionally;~~

~~(2) make necessary adjustments to fully fund the Application; or~~

~~(3) transfer the remaining funds to other Program Activities or Uniform State Service Regions.~~

~~***annually develop a Consolidated Plan One-Year Action Plan that will determine funding priorities and Set-Asides for the use of funds provided under the Act by HUD. Funds will be released only after approval of the One-Year Action Plan by HUD.***~~

§53.21. Application Forms and Materials and Deadlines

~~***Allocation of Funds***~~

(a) The Department will develop and publish an Application, which if completed by an eligible Applicant, would satisfy the requirements for requesting funds from the Department. The Department will also issue an ASPM to provide guidance on proper completion of the Application.

(b) Applicants must submit an Application for a Contract award by the deadline date specified in the NOFA. Applications for participation in a reservation system may be submitted on an ongoing basis throughout the year. All Applications must be received during business hours ~~(8:00 a.m. to 5:00 p.m. Central Standard Time)~~ on any ~~business~~ day in which the Department is open for business.

~~***§53.22. General Applicant and Application Requirements***~~

~~(b) An Applicant may submit an Application to apply for additional funding as long as the Applicant has committed funds to at least 80% of the total number of contractually required Households on their current contract for the same activity. This provision shall not apply to Applications submitted for disaster relief funding or those with an exclusively different Service Area.~~

§53.22. Contract Award Application Review Process

(a) An Application received by the Department in response to an Open Application Cycle NOFA will be assigned a "Received Date" based on the date it is received by the Division. An Application will be prioritized for review based on its "Received Date". An Application with outstanding Administrative Deficiencies may be held from further review until all Administrative Deficiencies have been cured. Applications that have completed the review process may be presented to the

Board for approval with priority over Applications that continue to have Administrative Deficiencies at the time Board materials are prepared, regardless of "Received Date." If all funds available under a NOFA are awarded, all remaining Applicants will be notified and the remaining Applications will not be processed. Notwithstanding the foregoing, for an Applicant that has also applied under the competitive housing tax credit cycle for the same development, the following shall apply:

(1) The HOME Application shall not lose its "Received Date" priority to applicants that are not requesting housing tax credits unless the development does not receive an award of housing tax credits by July 31st of the year of the cycle (For example: A HOME-only application that is received after the start of the competitive housing tax credit cycle may not be presented to the Board for approval until HOME and housing tax credit layered applications with priority "Received Dates" are presented for approval and the layered application would maintain its "Received Date" priority).

(2) Applications that have not submitted third party reports due to a later deadline under the housing tax credit program may be held as incomplete Applications until the housing tax credit deadline for submission of third party reports. Such Applications will not be considered complete Applications and shall not be assigned a "Received Date" until the third party reports are received.

(b) For Applications received by the Department in response to a Competitive Application Cycle NOFA, the Department will accept Applications on an ongoing basis during the Application Acceptance Period as specified in the NOFA. Applications will be prioritized for review based upon the score of the Application.

(~~b~~c) Administrative Deficiencies. ~~If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted in the Application, the Department staff may request clarification or correction of such Administrative Deficiencies including threshold and/or selection criteria documentation and/or financial feasibility analysis.~~

~~(1) The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile or electronic transmittal, and a telephone call to the Applicant advising that such a request has been transmitted.~~

~~(2) The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date.~~

~~(3) To cure an Administrative Deficiency, an Applicant must provide a clarification, further definition or exposition of an issue, an explanation as to why an Applicant has provided certain information or resolution of a discrepancy where an Applicant has provided conflicting information.~~

~~(4)~~ An Administration Deficiency may not be cured if it would require substantially changing an Application or providing any new unrequested information.

~~(5)~~ An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, increase the award request amount, or revise the 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 this title or by amendment of an Application after the Board approval of a HOME award.

~~(6)~~ The curative time periods allowable for Administrative Deficiencies are: for Applications received under an Open Application Cycle NOFA, Administrative Deficiencies not cured within five (5) business days will be terminated. Applicants that have been terminated may reapply for funds; or for Applications received under a Competitive Application Cycle NOFA, if Administrative Deficiencies are not cured to the satisfaction of the Department within five (5) business days of the deficiency notice date, then five (5) points shall be deducted from the selection score for each additional day the Administrative Deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected within seven (7) business days from the deficiency notice date, then the Application shall be terminated. An Applicant may not adjust the self-score without a request from the Department as a result of an Administrative Deficiency.

~~(c) The Application will be terminated if an entire volume of the Application is 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 cannot reasonably be performed by the Department, as determined by the Department. Such 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 termination will be included in the notification sent to the Applicant;~~

~~(d) Decline to Fund. The Department may decline to fund any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.~~

§53.23. Reservation System Participant Review Process

(a) In order for an Applicant to participate in the reservation system, the Department must review and approve an Application to become a Reservation System Participant (RSP). Applications will be reviewed and presented to the Executive Director for approval in the order they are received. Any such approval will be subject to ratification by the Board prior to Commitment of Funds.

(b) Applications for recertification may be submitted 90 days prior to the end of the RSP agreement term and will be required to demonstrate that all Application requirements are met.

(c) Administrative Deficiencies must be cured within 10 business days of the date of the deficiency notice. If Administrative Deficiencies are not clarified or corrected within ten business days from the deficiency notice date, the Application may be terminated.

§53.24. General Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An Applicant certification of compliance with state and federal laws and state and federal rules and guidance governing the HOME Program.

(b) A resolution signed and dated within the six (6) months preceding the Application submission date from the Applicant's direct governing body which includes:

(1) Authorization of the submission of the Application;

(2) Commitment and amount of cash reserves, if applicable, for use during the Contract or RSP agreement term;

(3) Source of funds for Match obligation and Match dollar amount, if applicable;

(4) Name and title of the person authorized to represent the organization; and

(5) Signature authority to execute a contract.

(c) Any Applicant requesting $25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number. Applicants requesting funds for multifamily housing development and that are "to-be-formed" are not required to submit a CCR or DUNS number until after award but prior to Contract execution. If the property will be owned by a partnership, the partnership must be the registrant. If a partnership will be receiving funds under the CHDO set-aside, the partnership and the CHDO must both be registered.

(d) An Application fee, to be defined in the NOFA, which is sufficient to discourage the submission of partial or incomplete Applications except as otherwise allowed by state statute.

(e) To be eligible for a new Contract award, an Applicant must have committed funds to at least 80% of the total number of contractually required Households or has committed at least 80% of the total Project funds on their current Contract for the same Program Activity. –This provision shall not apply to Applications submitted for disaster relief funding or those with an exclusively different Service Area.

(f) An Application must be substantially complete when received by the Department. An Application will be terminated if an entire volume of the Application is missing; has excessive omissions of documentation from the threshold or selection criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. Such 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 termination will be included in the notification sent to the Applicant but, because of the suspended review, may not include an all inclusive list of deficiencies in the Application.

(g) The Department may incentivize or provide preference to Applicants targeting very low and extremely low income Households or to Applicants that have successfully executed a previous HOME Contract with the Department. Such incentives may be established in the form of threshold or selection criteria in the NOFA and may be different for each Program Activity.

§53.25. Contract Award Limitations

~~Subchapter F - §53.70. Process for Awards~~

~~(c) Applicants applying in response to a Competitive Application Cycle will be ranked by highest score per Program Activity, per Uniform State Service Region and Area Type, unless otherwise specified in the NOFA.~~

~~(1) If sufficient qualified Applications are not received for a Program Activity in a Uniform State Service Region and Area Type, the funds will be redirected to the next Uniform State Service Region that had a higher number of qualified Applicants for that same Program Activity type, unless otherwise specified in the NOFA.~~

~~(2) If sufficient Applications are not received in a Uniform State Service Region and Area Type for a Program Activity, the funds will be redirected to the Uniform State Service Region and Area Type with the highest number of qualified Applicants for another Program Activity type, unless otherwise specified in the NOFA.~~

~~(d) In the event of a tie between two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may also receive a partial recommendation for funding.~~

~~(e) When the remainder of the allocation for an allocation within a Uniform State Service Region is insufficient to completely fund the next ranked Application in the Program Activity or Uniform State Service Region, it is within the discretion of the Department to:~~

~~(1) award a partial amount to the next ranked Application, reducing the scope of the Application proportionally;~~

~~(2) make necessary adjustments to fully fund the Application; or~~

~~(3) transfer the remaining funds to other Program Activities or Uniform State Service Regions.~~

~~(f) Applications may also receive a partial recommendation for funding. A minimum award amount may be established to ensure feasibility.~~

~~(i) Board approval of the award of any HOME funds, acquisition or construction activities will be conditional upon a completed Loan closing and any other conditions deemed necessary by the Department.~~

~~§53.47. Application and Award Limitations~~

(a) Project Funds Limits. Project funds for Contract awards are limited to $500,000 per Contract Administrator for Homeowner Rehabilitation and Contract for Deed Conversion Program Activity Applicants and $300,000 per Contract Administrator for Homebuyer Assistance and Tenant-Based Rental Assistance Program Activity Applicants. The Contract award limits for Project funds for Single Family Development and Multifamily (Rental Housing) Development Program Activity Applicants may be higher and will be established in the NOFA for these activities.

~~(a) The Department reserves the right to reduce the amount requested in an Application, condition the award recommendation, or terminate the Application based on Program Activity or Project feasibility, past performance, underwriting analysis, or availability of funds.~~

~~(b) Pre-Award Costs. Before the effective date of the HOME Contract, the Contract Administrator may incur and be reimbursed for travel costs, as provided for with Administrative funds, related to mandatory training required by the Department as a condition of receiving a HOME award and Contract. Department authorized pre-award costs for predevelopment costs, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may be paid if incurred before the effective date of the Contract if the costs are in accordance with 24 CFR §92.212 and at the sole discretion of the Department.~~

(~~c~~b) Contract Award Terms. With the exception of Tenant-Based Rental Assistance, a~~Unless otherwise changed by agreement of the parties in a Contract or the applicable NOFA, the terms found in Contract shall be consistent with the following and performance under the Contract will be evaluated with the following benchmarks:, a~~ll Program Activity Contract awards wil~~activities (except TBRA) shal~~l have a Contract term of 24 months exclusive of any applicable affordability period or loan term. Tenant-Based Rental Assistance Program Activity Contract awards will have a Contract term of 36 months.

(c) Contract Award Benchmarks. All Contract Administrators must submit to the Department complete Project set-up information for the Commitment of Funds of all contractually required Households in accordance with the requirements herein within 12 months from the effective date of the Contract. All remaining funds will be automatically deobligated and returned to the Department unless an amendment has been requested in writing prior to this date and is approved.

~~(1) OCC Program Activity. The Contract term will not exceed 24 months. Performance under the Contract term will be based on the following benchmarks from the Contract begin date:~~

~~(A) 6 months, exempt administrative and broad review environmental clearance must be complete, and if not tiering, the first Household to be assisted must be environmentally cleared;~~

~~(B) 8 months, Authority to Use Grant Funds must be fully executed and all Households to be assisted must be environmentally cleared;~~

~~(C) 12 months, 100% of funds must be committed to Households to be assisted;~~

~~(D) 18 months, 100% of Household's Loans must be closed, if applicable;~~

~~(E) 22 months, 100% of construction must be complete for all Households to be assisted; and~~

~~(F) 24 months, 100% funds drawn and 100% of match requirement supplied.~~

~~(2) HBA Program Activity. The Contract term will not exceed 24 months. Performance under the Contract term will be based on the following benchmarks from the Contract begin date:~~

~~(A) 6 months, exempt administrative and environmental clearance must be complete for at least one Household to be assisted;~~

~~(B) 12 months, environmental clearance must be complete for at least 50% of the Households to be assisted, 50% of funds must be committed, 25% of funds drawn, and 25% of match supplied;~~

~~(C) 18 months, environmental clearance must be complete for at least 75% of the Households to be assisted, 75% of funds must be committed, 50% of funds drawn, and 50% of match requirement supplied; and~~

~~(D) 24 months, 100% of funds must be committed, 100% of funds drawn, and 100% of matched supplied.~~

~~(3) TBRA Program Activity. The Contract term will not exceed 36 months. Performance under the Contract term will be based on the following benchmarks from the Contract begin date:~~

~~(A) 6 months, exempt administrative environmental clearance must be complete and application intake complete for 30% for Households to be assisted;~~

~~(B) 9 months, application intake complete for 75% for Households to be assisted;~~

~~(C) 12 months, 100% of funds must be committed to Households to be assisted and 25% of funds drawn;~~

~~(D) 18 months, 100% of funds already committed and 35% of funds drawn;~~

~~(E) 24 months, 100% of funds already committed and 50% of funds drawn; and~~

~~(F) 36 months, 100% of funds already committed and 100% of funds drawn.~~

~~(4) Rental Housing Development and Single Family Housing Development Program Activity. The Contract term will not exceed 36 months based on the size of the development~~

~~and length of the Development period. Performance under the Contract term will be based on benchmarks established in the Contract and specific to the Development. Repayment of Loans or affordability periods will extend beyond the Contract end date depending on the Final Rule and Chapter 2306 requirements.~~

~~(b) Revised benchmarks and/or lower percentages, due to extenuating or unforeseeable circumstances, may be allowed and as approved by the Department.~~

(~~c~~d) Amendments. The Division Director may approve amendments to Contract ~~A~~awards except amendments to extend the Contract and benchmarks by more than 6 months, increase Project funds, or that would have negatively impacted the priority of the Board-approved Application. The Executive Director may approve amendments except to extend the Contract and benchmarks by more than 12 months, increase Project funds by more than 25% or $50,000, whichever is greater, or that would have negatively impacted the priority of the Board approved Application in the Executive Director's estimation. The Board may, on a case by case basis, approve amendments provided such approval would not cause a violation of the Department's rules or federal requirements.

~~requests to be approved by the Executive Director of the Department are allowable under the following circumstances:~~

~~(1) Time extensions. The Executive Director may collectively provide up to one six-month extension to the end date of any Contract. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director relating to unusual, non foreseeable, or extenuating circumstances that warrant more than a six-month extension. If the extension is longer than six months and the Executive Director determines that a statement related to unusual, non-foreseeable, or extenuating circumstances cannot be issued, it will be presented to the Board for approval, approval with modifications, or denial of the requested extension;~~

~~(2) Changes in Match. The Executive Director may grant approval of a modification or amendment to the dollar amount of the Match requirement, if such amendment that does not decrease the dollar amount by more than 25% of the original amount committed. In the cases where the reduction in Match is greater than 25% or significantly decreases the benefits to be received by the Department, in the estimation of the Executive Director, the modification or amendment will be presented to the Board for approval;~~

~~(3) Changes in Area Median Family Income (AMFI) levels. The Executive Director may grant approval of a modification or amendment to the AMFI levels of the households to be served under said contract, if Contract Administrator provides a statement relating to unusual, non-foreseeable, or extenuating circumstances that warrant such a request to be granted and the Executive Director determines that such request does not violate Department rules. In the case that the Executive Director determines that such request is not warranted and/ or violates Department rules, the request will be presented to the Board for approval;~~

~~(4) Changes to Services Areas. The Executive Director may grant approval of the modification or amendment to the Service Area being served under said contract, if Contract Administrator provides a statement relating to unusual, non-foreseeable, or extenuating circumstances that~~

~~warrant such a request to be granted and the Executive Director determines that does not violate Department rules. In the case that the Executive Director determines that such request is not warranted and/or violates Department rules, the request will be presented to the Board for approval;~~

~~(5) Changes in number of Households to serve. The Executive Director may grant approval of the modification or amendment to the reduction in the number of the Households to be served under said contract, if Contract Administrator provides a statement relating to unusual, non-foreseeable, or extenuating circumstances that warrant such request to be granted and the Executive Director determines that such request does not violate Department rules. In the case the Executive Director determines that such request is not warranted and/or violates Department rules, the request will be presented to the Board for approval; and~~

~~(6) Increase in funds. In the case of a modification or amendment to the dollar amount of the Contract, such modification or amendment does not increase the dollar amount by more than 25% of the original Contract or $50,000, whichever is greater. Modifications and/or amendments that increase the dollar amount by more than 25% of the original Contract 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, except for increases that result in a dollar amount increase that is more than 25% of the original Contract amount on an existing Contract for which an Administrator has requested an amendment to be governed by all provisions of this chapter as allowed in §53.30 of this chapter~~(e) Voluntary deobligation. The Contract Administrator may fully deobligate funds in the form of a written request signed by the executor of the Contract. The Contract Administrator may partially deobligate funds under a Contract in the form of a written request from the executor if the letter also deobligates the associated number of targeted Households, funds for Administrative costs, and Match and the partial deobligation would not have impacted the award of the Contract.~~.~~

(e) The Department may request information regarding the performance or status under a Contract prior to a Contract benchmark or at various times during the term of a Contract. Contract Administrator must respond in a timely manner to such requests from the Department. Prolonged or repeated failure to respond may result an Administrative Deficiency and ultimately in termination of the Contract by the Department.

(~~a~~f) The Department reserves the right to reduce the amount requested in an Application, condition the award recommendation, or terminate the Application based on Program Activity or Project feasibility, past performance, underwriting analysis, or availability of funds. The recommendation with amendments, if any, approved by the Board will supersede any conflicting Application information.

(~~b~~g) Pre-Award Costs. Before the effective date of the HOME Contract, the Contract Administrator may incur and be reimbursed for travel costs, as provided for with Administrative funds, related to mandatory training required by the Department as a condition of receiving a HOME award and Contract. Department authorized pre-award costs for predevelopment costs, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may be paid if incurred before the effective date of the Contract if the costs are in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

~~(b) If the Administrator or Development Owner fails to meet a benchmark requirement and does not seek, or is not granted, an extension of a benchmark, the awarded funds related to the lack of performance may be entirely or partially deobligated at the Department's sole discretion.~~

~~(c) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of this chapter if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for good cause, as determined by the Board.~~

~~(d) Accounting Requirements. Within sixty (60) days after the Contract end date, the Administrator or Development Owner shall provide a full accounting of funds expended under the terms of the Contract. Failure of an Administrator or Development Owner to provide full accounting of funds expended under the terms of a Contract shall be sufficient reason for the Department to deny any future Contract to the Administrator or Development Owner.~~

~~(e) Individual benchmarks. Each benchmark is an individual term and subject to the amendment processes. An interim benchmark extension may or may not extend the entire Contract at the Department's discretion.~~

§53.264. Reservation System Participant Agreements

(a) Terms of agreement. RSP agreements will have a 24 month term for all Program ~~Program~~ A~~a~~ctivities. Execution of an RSP agreement does not guarantee the availability of funds under a reservation system.

(b) Limits on Number of Reservations. The number of Homeowner Rehabilitation or Homebuyer Assistance reservations for an RSP is limited to five (5) per county within the RSP's Service Area at any given time. The number of Tenant-Based Rental Assistance reservations for an RSP is limited to thirty (30) at any given time.

(c) Extremely Low-Income Households. Each RSP will be required to serve at least one (1) Household at or below 30% of AMFI out of every four (4) Households submitted and approved for assistance.

(d) Match. An RSP must meet the tiered Match requirements per Program Activity for at least every fourth Household submitted and approved for assistance. For example, if Match is not provide for the first three (3) Households assisted by an RSP, the Match provided to the fourth Household must meet the Match requirement for all four (4) Households.

(e) Completion of Construction. For Activities involving construction, an RSP must complete construction and submit all requests for disbursement within nine (9) months from the Commitment of Funds for the Activity.

(f) Extensions. The Division Director may approve one 3-month time extension to the Commitment of Funds to allow for the completion of construction.

(g) An RSP must remain in good standing with the Department, the State of Texas, and HUD. If an RSP is not in good standing, participation in the reservation system will be suspended and may result in termination of the RSP agreement.

§53.27. Procurement of Contractor

The Department may procure a contractor or contractors to provide services for the administration of the HOME Program through a Request for Proposals. A contractor must provide services and/or administer HOME funds in accordance with state and federal rules and the program requirements of this chapter for the applicable Program Activity.

§53.28. General Administrative Requirements

Unless otherwise provided herein, the CA, RSP, or Development Owner must comply with the following requirements for the administration and use of HOME funds:

(a) Complete training, as applicable;

(b) Provide all applicable Department Housing Contract System access request information and documentation requirements;

(c) Establish and maintain sufficient records at its regular place of business and make available for examination by the Department, HUD, the Auditor of the State of Texas, the United States General Accounting Office, the Comptroller of the State of Texas and the United States, or any of their duly authorized representatives;

(d) For non-development Program Activities, develop and establish written procurement procedures that comply with federal, state, and local procurement requirements including the following:

> (1) Develop and comply with written procurement selection criteria and committees;
>
> (2) Develop and comply with a written code of conduct governing employees, officers, or agents engaged in administering HOME funds and appoint a Procurement Officer to manage any bid process;
>
> (3) Ensure consultant or any procured service provider does not participate in or direct the process of procurement for professional service. In other words, a consultant cannot assist in their own procurement before or after an award is made;
>
> (4) Procedures established for procurement of building construction contractors may not include requirements for the provision of general liability insurance coverage for an amount to exceed the value of the contract;

(5) Building construction contractors must be procured using a formal sealed bid procedure for single family New Construction, Reconstruction or Rehabilitation Activities or Projects;

(6) Professional service providers (consultants) must be procured using an open competitive procedure and may not be procured based solely on the lowest priced bid; and

(7) Any Request for Proposals or Invitation for Bid must include:

(A) An equal opportunity disclosure and that bidders are subject to search for listing on the Excluded Parties List;

(B) Bidders' protest rights and outline the procedures bidders must take to address procurement related disputes;

(C) A Conflict of Interest disclosure;

(D) A clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must include complete, adequate, and realistic specifications;

(E) For sealed bid procedures, disclose the date, time and location for public opening of bids and indicate a fixed-price contract; and,

(F) For competitive proposal specific, disclose the selection/evaluation criteria.

(e) In instances where a potential conflict of interest exist, follow procedures to submit a request to the Department to grant an exception to any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made. No HOME funds will be committed to or reserved to assist a Household until HUD has granted an exception to the Conflict of Interest provisions;

(f) Perform environmental clearance procedures, as required, before acquiring any Property or before performing any construction activities, including demolition, or the occurrence of the loan closing, if applicable;

(g) Develop and comply with written applicant intake and selection criteria for and ensure program eligibility (except for Multifamily Development) and promote and comply with Fair Housing requirements;

(h) Except for Multifamily Development, complete applicant intake and applicant selection. Notify each applicant Household in writing of either acceptance or denial of HOME assistance within sixty (60) days following receipt of the intake application. For Homeowner Rehabilitation Assistance and Contract for Deed Conversion the CA or RSP must:

(1) Provide Rehabilitation as an available option to Households, provide Households with a general cost estimate, and to the extent that Rehabilitation would not meet the program requirements, explain these program requirements;

(2) Unless not allowed by local code, provide replacement of an existing MHU with a new MHU as an available option; and

(3) Explain relocation as an available option to any Households located within the 100-year floodplain and present the costs associated with flood insurance.

(i) Determine the income eligibility of a Household using the "Annual Income" as defined at 24 CFR §5.609;

(j) Except for Multifamily Development and Single Family Development, complete an updated income eligibility determination of a Household if more than 6 months has elapsed from the date of certification and the date the HOME assistance is provided to the Household. For Single Family Development, complete income eligibility determination of a Household if more than 6 months has elapsed from the date of certification and earlier of the date the HOME assistance is provided to the Household or the date the contract to purchase the housing unit is executed with the Household. For Tenant-Based Rental Assistance, in the event that a Household's monthly gross income changes by more than $200, the Household must be recertified and the rental subsidy recalculated;

(k) For single family Program Activities involving construction, perform initial inspection and at least 4 progress inspections. Property inspections must include photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms. The inspection must be signed and dated by the inspector and CA or RSP. For Tenant-Based Rental Assistance, perform initial and an annual HQS inspection. The inspection must be signed and dated by the inspector and CA or RSP;

(l) Submit requests for the Commitment or Reservation of Funds, loan closing preparation, and disbursements and all required information and verification documentation in the Housing Contract System. A request will not be reviewed by the Department until the CA, RSP, or Development Owner has submitted all required documentation. If, during review, the Department identifies Administrative Deficiencies, the Department will allow a cure period of ten (10) business days beginning at the start of the first business day following the date the CA, RSP or Development Owner is notified of the deficiency. If any Administrative Deficiency remains after the cure period, the Department, in its sole discretion, shall disapprove the request. Disapproved requests will not be considered sufficient to meet the performance benchmark and shall not constitute a Reservation of Funds;

(m) Not proceed or allow a contractor to proceed with construction, including demolition, on any Activity, Project or Development without first completing the required environmental clearance procedures, preconstruction conference and receiving notice to proceed, if applicable, and execution of grant agreement or loan closing with the Department, whichever is applicable;

(n) Not retain Program Income of any kind, including Program Income to fund other eligible HOME Activities;

(o) Submit any Program Income received by the CA, RSP or Development Owner to the Department within ten (10) business days of receipt. Return any refunds to the Department's accounting division and include a written explanation of the return of funds, the Contract number, name of CA, RSP, or Development Owner, Activity address and Activity number referenced on the check;

(p) Submit required documentation for Project completion reports no later than thirty (30) days after the completion of the Activity. For MFD, the Development Owner must periodically update completion reports to provide information on tenants until all HOME units have been occupied;

(q) For Contract awards, submit certificate of Contract Completion no later than sixty (60) days from the Contract end date;

(r) Submit to the Department reports or information regarding the operations related to HOME funds provided by the Department; and

(s) Match must be contributed to a Project or Activity assisted with funds under this chapter and cannot include mortgage revenue bond programs and cannot include any other sources of Department funding unless otherwise approved by the Department.

~~(a) The Department shall administer all federal housing funds provided to the state under the Act in accordance with the Final Rule and Chapter 2306 of the Texas Government Code by:~~

~~(1) adopting a goal to apply an aggregate minimum of 25% of the division's total housing funds toward housing assistance for individuals and families of extremely low and very low income, pursuant to §2306.111(b);~~

~~(2) expending 95% of these funds for the benefit of non-participating small cities and Rural Areas that do not qualify to receive funds under the Act directly from HUD; and~~

~~(3) expending 5% of these funds for Persons with Disabilities who live in any area of the state as required by §2306.111(c).~~

~~(b) The funds under subsection (a)(2) of this section shall be allocated according to the regional allocation formula adopted as required by Chapter 2306.~~

~~(c) The funds will not be regionally allocated as required by subsection (b) of this section if the funds are reserved for contract for deed conversions or for Set-Asides mandated by state or federal law and each Contract for Deed Set-Aside equals not more than 10% of the total allocation of funds.~~

~~(d) The funds under subsection (a)(3) of this section are not subject to the regional allocation formula and may be used in any region of the state. Limitations on funds for a single region, if any, will be included within a NOFA. If limitations are not included in a NOFA, the maximum funds available are 5% of the annual allocation.~~

~~(e) The Department will make every effort to distribute funds throughout the state as outlined in the Department's Consolidated Plan One-Year Action Plan and in accordance with Chapter 2306.~~

~~(f) Redistribution. In an effort to commit HOME funds in a timely manner, the Department may reallocate funds to other areas identified in the Consolidated Plan, at its own discretion.~~

~~(g) Deobligated Funds. The Department shall use Deobligated Funds in accordance with §1.19 of this title. As required by Chapter 2306, the deobligated funds will be expended under the same allocation method called for under subsection (a)(2) of this section and are not subject to the regional allocation formula.~~

Subchapter C. ~~PROGRAM ACTIVITIES~~HOMEOWNER REHABILITATION ASSISTANCE (HRA) PROGRAM ACTIVITY

§53.30. HRA Program Threshold and Selection Criteria

~~(b) An Applicant certification of compliance with state and federal laws and state and federal rules and guidance governing the HOME Program.~~

~~(c) A resolution signed and dated within the six (6) months preceding the Application submission date from the Applicant's direct governing body which includes:~~

~~(1) Authorization of the submission of the Application;~~

~~(2) Commitment and amount of cash reserves for use during the contract period;~~

~~(3) Source of funds for match obligation and match dollar amount, if applicable;~~

~~(4) Name and title of the person authorized to represent the organization; and~~

~~(5) Signature authority to execute a contract.~~

All Applicants and Applications must submit or comply with the following:

(a) An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match. For Applications submitted to become an RSP, the Department may withhold disbursements if after every four reservations sufficient Match documentation has not been provided. The Department shall use population figures from the most recently available U.S. Census to determine the applicable tier for an Application. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Program Activity. Except for Applications for disaster relief, Match shall be required based on the following tiers:

(1) 0% of Project funds if serving a city of less than 3,000 Persons or a county of less than 20,000 Persons;

(2) 10% of Project funds if serving a city of between 3,001 and 5,000 Persons or a county of between than 20,001 and 75,000 Persons; and

(3) 12.5% of Project funds for all other applications.

(b) Documentation of a commitment of at least $80,000 or for a Contract award 80% of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,

(2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,

(3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

(c) Should the Department provide housing construction plans and specifications for the use of Applicants and Contract Administrators, the Department may prioritize Applicants or otherwise incentivize the use of the Department provided plans through threshold or selection criteria or other means established in the NOFA.

~~***Activities in Consolidated Plan***~~

~~Through its Consolidated Plan, the Department has identified general guidelines for funding of a Program Activity. Applicants that meet the qualifications identified in this Chapter and under the terms of a NOFA may apply for any Program Activity the Department funds.~~

§53.31. HRA ~~Owner-Occupied Housing Assistance Program (OCC)~~Program Requirements

(a) Eligible activities are limited to:

(1) T~~t~~he Rehabilitation or Reconstruction of existing owner-occupied housing on the same site. The Rehabilitation of an MHU is not an eligible activity; or,

(2) The New Construction of site-built housing on the same site to replace an existing owner-occupied Manufactured Housing Unit (MHU); or,

(3) For only the purposes of relocating the existing housing out of the floodplain, the replacement of existing owner-occupied housing with an MHU or New Construction of site-built housing on another site;

(4) If housing unit is uninhabitable as a result of disaster or condemnation by local government, the Household is eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the housing unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification.

(45) If allowable under the NOFA, the refinance of an existing mortgage meeting the federal requirements at 24 CFR §92.206(b) and any additional requirements in the NOFA; and~~.~~
~~. The Rehabilitation of an MHU is not an eligible activity.~~

(~~c~~b) ~~Eligible property types are limited to single family dwellings, condominium units and cooperative units in mutual housing projects. An MHU is not an eligible property type for Rehabilitation.~~ HOME funds may be used to replace (Reconstruct) an owner-occupied housing unit with a new MHU or Modular Home if:

(1) T~~t~~he unit complies with standards at 24 CFR §92.205 and with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;

(2) T~~t~~he unit is permanently installed with a concrete perimeter foundation and in accordance with the Texas Manufactured Housing Standards Act;

(3) T~~t~~he unit is permanently attached to utilities; and

(4) T~~t~~he ownership of the unit is recorded in the taxing authority of the county in which it is located.

~~(d) The Household must comply with the following initial eligibility requirements:~~

~~(1) own and occupy the single family unit as its Principal Residence;~~

~~(2) be an Income Eligible Household;~~

~~(3) be located within the Administrator's Service Area; and~~

~~(4) meet all other eligibility requirements.~~

(~~ed~~c) Real property taxes assessed on the housing unit must be current and/or the Household must be participating in an approved payment plan with the taxing authority.

(~~f~~ed) The property must not be encumbered with tax liens, child support liens, or mechanic or materialmen's liens.

(e~~f~~) If a housing unit has an existing mortgage loan and Department funds are provided in the form of a loan, the Department will require a first lien if the loan has an outstanding balance that is less than the investment of HOME funds and any of the following are true:

(1) A federal affordability period is required; or

(2) Any existing mortgage has been in place for less three years from the date the Household applies for assistance; or

(3) The HOME loan is structured as a repayable loan.

~~-~~(~~g~~f) The Household must be current on any existing mortgage loans or home equity loans. If the Department's assistance is provided in the form of a loan, the property cannot have any existing home equity loan liens.

(~~h~~g~~g~~) The total Project costs are inclusive of hard ~~maximum amount of assistance is the total of~~ construction costs, demolition ~~- and soft~~ costs, aerobic septic systems, refinancing costs (as applicable), and Match funds for Project costs, and ~~provided to an eligible Household. The total construction costs~~ are limited to:

(1) ~~Rehabilitation that is~~ Reconstruction and New Construction of site-built housing: The lesser of $73.00 per square foot or $80,000 or for Households of 6 or more Persons the lesser of ~~, if the Reconstruction includes actual costs for an aerobic septic system and/or demolition. If the Reconstruction includes costs for an aerobic septic system and/or demolition, the total construction costs cannot exceed~~ $73.00 per square foot ~~exclusive of the aerobic septic system and demolition costs~~or $85,000;~~ and,~~

(2) Replacement with an MHU: $65,000;

(~~2~~3) Rehabilitation that is not Reconstruction: $30,000; and,

~~.~~(4) Refinancing of existing mortgages: In addition to the costs limited under paragraphs (1) through (3) of this subsection, the cost to refinance an existing mortgage is limited to the amount determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 25% and no greater than 30% of the Household's gross monthly income based on a 30-year amortization schedule. Refinancing is not eligible for an Activity involving relocation under §53.31(a)(3).

(~~i~~h) In addition to the Project costs allowable under subsection (g) of this section, up to $5,000 will be allowed in Project costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(~~j~~i) Project soft costs are limited to:

(1) Reconstruction~~,~~ or New Construction: no more than $7,000 per housing unit;

(2) Replacement with an MHU: no more than $3,500 per housing unit; and

(3) Rehabilitation that is not Reconstruction: $5,000 per housing unit. This limit may be exceeded for lead-based paint remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Project soft costs for housing units that are Reconstructed or if the existing housing unit was built after December 31, 1977.

(4) Third-party Project soft costs related to loan closing requirements, such as appraisals, title reports or insurance, tax certificates, recording fees, and surveys are not subject to a maximum per Activity or Project.

(~~k~~j) Funds for Administrative costs are limited to no more than 4% of the total Project costs, exclusive of Project soft costs and Match funds.~~are no more than 4% of the total project costs, exclusive of project soft costs).~~

~~(h) The minimum amount of assistance to an eligible household is $1,000.~~

~~(i) The estimated value of the housing unit, after Rehabilitation or Reconstruction, must not exceed the HUD §203(b) Limits.~~

(~~jl~~k) In the following instances, ~~T~~the ~~form of~~ assistance to an eligible Household shall be in the form of a loan in the amount of the total Project costs excluding Match funds. The loan will be at 0% interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254. ~~is based on AMFI except in the instances of~~

~~-~~(1) ~~an~~ An MHU being replaced with newly constructed housing (site-built) on the same site; and,
~~-or~~
(2) ~~any~~ Any housing unit being replaced on an ~~alternate~~ another site; and

(3) Any housing unit that is being relocated out of the floodplain or replaced due to uninhabitability as allowed under subsection (b) of this section;

(4) Any Project Activity that includes any amount of refinancing of existing debt; and

(5) Any Project Activity that requires a federal affordability period.~~.~~

(~~m~~l) In all other instances not described in subsection §53.31(~~l~~k), the assistance to an eligible Household may be in the form of a loan or grant agreement with an affordability term for the amount of the total Project costs excluding Match funds and based on AMFI as reflected in Figure 10 TAC §53.31(~~m~~l).

~~In accordance with the Housing Assistance Rider 5 of the Department's Legislative Appropriation, the Department shall use the state average median family income in determining the form of assistance as prescribed in Figure: 10 TAC §53.31(j) for eligible Households living in those counties where the area median family income is lower than the state average median family income. For Rehabilitation (excluding Homebuyer Assistance and contract for deed conversion), the Loan amount is based upon the amount of assistance to be provided to the household. Once construction is complete, the loan balance will be determined by subtracting soft costs and/or costs of lead-based paint remediation. The Department will adjust the Loan balance with a principal reduction in the amount necessary to arrive at the correct Loan balance, taking into account any change orders that resulted in~~

~~a net decrease or increase in the amount of assistance. Any loan that has not closed at the time this chapter is adopted will follow the provisions in this subsection.~~

Figure: 10 TAC §53.31(ml~~j~~)

AMFI	~~Rehabilitation or Reconstruction~~Form of Assistance
≤30% AMFI	0% interest, 5-year deferred, forgivable ~~Loan~~loan or grant agreement.
>30% and ≤50% AMFI	0% interest, ~~15~~10- year deferred, forgivable ~~Loan~~loan or grant agreement.
>50% and ≤60% AMFI	0% interest, ~~20~~15-year deferred, forgivable ~~Loan~~loan or grant agreement.
>60% and ≤80% AMFI	0% interest, ~~20~~15-year term repayable ~~Loan~~loan.

~~(k) When an MHU is being replaced with newly constructed housing (site-built) or any housing unit being replaced on an alternate site, the activity is considered acquisition and will trigger affordability requirements for homeownership as defined by 24 CFR §92.254. (Refer to §53. 32(l) of this subchapter.)~~

(~~l~~m) In the event that the housing unit ceases to be the Principal Residence of the Household, the forgiveness of the loan or grant agreement will cease and the Department has established that the federal recapture requirements as defined in 24 CFR §92.254 will be imposed.

(~~m~~n) In the event that the housing unit transfers ~~ceases to be the Principal Residence of the Household, the forgiveness of the Loan, if applicable, will cease, unless the Property is transferred~~ by devise, descent or operation of law upon the death of the assisted homeowner, the heir ~~that is a~~ or remainderman Household or if sold by the decedent's estate, the purchasing Household must qualify for assistance in accordance with this chapter in order for the forgiveness of the loan or grant agreement to continue until maturity~~whose Annual Income does not exceed 30% of the AMFI. The Department shall use the state average median family income for eligible Households living in those counties where the area median family income is lower than the state average median family income, as defined in the Housing Assistance Rider 5 of the Department's Legislative Appropriation, to apply this subsection. Any Contract that is active at the time this chapter is adopted will follow the provisions in this subsection.~~

(~~n~~o) In the event that the housing unit is sold and the purchasing Household does not provide documentation evidencing their income eligibility, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority without prior written consent of the Department unless the entire balance on the ~~Loan~~ loan or grant agreement will be paid at closing.

(~~o~~~~q~~p) For Reconstruction and New Construction, h~~H~~ousing units ~~assisted with HOME funds~~ must meet or exceed the ~~TMCS~~ 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule.

§53.32. HRA ~~Homebuyer Assistance Program (HBA)~~Administrative Requirements

(a) Commitment or Reservation of Funds~~:~~. The CA or RSP must submit the following true and complete information, certified as such, –with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition, and construction costs, soft costs and administrative costs requested, A maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household's race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household's occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility

determination. In instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(6) Provide written consent from all Persons who have a valid lien or ownership interest in the Property for the rehabilitation or reconstruction activities;

(7) In the instance of relocation in accordance with §53.31(a)(3) of this chapter, the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Project funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for an Activity under this paragraph, the CA or RSP Match obligation may be reduced by the cost of such demolition without any Contract amendment in order to facilitate relocation.

(8) Identification of any Lead-Based Paint (LBP);

(9) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance;

(10) Consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's loan, if applicable;

(11) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation;

(12) A title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or 99-year leasehold. In instances of an MHU, a Statement of Ownership and Location (SOL). Together, these documents must evidence the definition of Homeownership is met. The title commitment or down date endorsement must not be older than ninety (90) days on the date submitted to the Department for a Commitment of Funds;

(13) Tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(14) A copy of the completed grant agreement, if applicable; and~~,~~

(15) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA or RSP must comply with or submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment that expires prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(2) In the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL); and,

(3) Life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship.

(c) Disbursement of funds. The CA or RSP must comply with all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) Property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP.

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) The executed grant agreement or original, executed, legally enforceable loan documents and Statement of Ownership and Location (SOL), if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement

procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all Program Requirements.

(7) With the exception of up to 10% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(8) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(9) For final disbursement requests, evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation.

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

~~§53.33. Tenant-Based Rental Assistance Program (TBRA)~~

~~(a) TBRA is provided to eligible tenants for payment of rental subsidies and for a period of time that does not exceed 24 months per Household. Security deposits and utility deposits may be provided in conjunction with rental assistance.~~

~~(b) The Household must comply with the following initial eligibility requirements:~~

~~(1) participate in an approved self-sufficiency program;~~

~~(2) maintain Principal Residency in the rental unit for which the subsidy is being provided;~~

~~(3) be an Income Eligible Household;~~

~~(4) reside in a rental unit that is located within the Administrator's Service Area; and~~

~~(5) meet all other eligibility requirements.~~

~~(c) Assistance to an eligible Household is limited by:~~

~~(1) for rental subsidy, cannot exceed twenty-four (24) months per Household per Contract; and~~

~~(2) for security deposit, cannot exceed two (2) months rent for the unit.~~

~~(d) The rental standard must not exceed HUD's "Fair Market Rent for the Housing Choice Voucher Program."~~

~~(e) Rental units must be inspected prior to occupancy and must comply with Housing Quality Standards established by HUD.~~

~~§53.34. Rental Housing Development Program (RHD)~~

~~(a) Eligible activities include the acquisition and New Construction or Rehabilitation of multifamily housing Developments and as further defined in the NOFA. Owners of rental units assisted with HOME funds must comply with income and rent restrictions for the duration of the required affordability period as required and defined at 24 CFR §92.252. Housing assisted with HOME funds must meet all applicable codes and standards. In addition, housing that is Newly Constructed or Rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with 24 CFR §92.251(a).~~

~~(b) This Program Activity is a CHDO-eligible activity.~~

~~§53.35. Single Family Housing Development Program~~

~~(a) Eligible activities include the acquisition and New Construction or Rehabilitation of single family housing and as further defined in the NOFA. Single family housing units assisted with HOME funds must comply with the required affordability requirements as defined at 24 CFR §92.254. In addition, housing that is Newly Constructed or Rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the 24 CFR §92.251(a). If eligible, an Applicant that applies for Single Family Housing Development may also apply for Homebuyer Assistance.~~

~~(b) This Program Activity is a CHDO-eligible activity.~~

~~§53.36. CHDO Pre-Development Loan Program~~

~~Applicants for pre-development loans will be required to have a summary description of a proposed Development and be able to show the necessary development experience to apply, as outlined in the NOFA and Application. Predevelopment loan funds may only be used for activities such as project-specific technical assistance, site control loans, and project-specific seed money. Pre-development Loans must be repaid from construction loan proceeds or other project income.~~

~~§53.37. Prohibited Activities~~

~~Department awards may not be used to:~~

~~(1) Provide project reserve accounts, except as provided in 24 CFR §92.206(d)(5), or operating subsidies;~~

~~(2) Provide tenant-based rental assistance for the special purposes of the existing Section 8 program, in accordance with §212(d) of the Act;~~

~~(3) Provide non-federal matching contributions required under any other Federal program;~~

~~(4) Provide assistance authorized under §9 of the 1937 Act (Public Housing Capital and Operating Funds);~~

~~(5) Provide assistance to eligible low-income housing under 24 CFR Part 248 (Prepayment of Low Income Housing Mortgages), except that assistance may be provided to priority purchasers as defined in 24 CFR §248.101;~~

~~(6) Provide assistance (other than tenant-based rental assistance or assistance to a homebuyer to acquire housing previously assisted with HOME funds) to a project previously assisted with HOME funds during the period of affordability established by the PJ in the written agreement under 24 CFR §92.504. However, additional HOME funds may be committed to a project up to one year after project completion (24 CFR §92.502), but the~~

~~amount of HOME funds in the Project may not exceed the maximum per-unit subsidy amount established under 24 CFR §92.250;~~

~~(7) Pay for the acquisition of Property owned by the PJ, except for Property acquired by the PJ with HOME funds, or Property acquired in anticipation of carrying out a HOME project;~~

~~(8) Pay delinquent taxes, fees or charges on Properties to be assisted with HOME funds;~~

~~(9) Pay for any cost that is not eligible under 24 CFR §§92.206 - 92.209;~~

~~(10) Assist Persons who owe payments identified by the Comptroller of Texas as relevant;~~

~~(11) Assist Households whose Property has current tax liens and/or judgments to the State of Texas against it; or~~

~~(12) Provide Rehabilitation on a housing unit without prior written consent of all Persons who have a valid lien or ownership interest in the Property.~~

Subchapter D. ~~APPLICATION REQUIREMENTS AND PROCEDURES~~HOMEBUYER ASSISTANCE (HBA) PROGRAM ACTIVITY

§53.40. HBA Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An itemized schedule of the proposed Match and evidence to support the Applicant's ability to provide the required Match. The Department may not require such support at the time an Application is submitted when the funds are made available under a reservation system. Except for Applications for disaster relief and Persons with Disabilities set-asides, the amount of Match required must be at least 5% of Project funds requested. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established in the form of a threshold or selection criteria and may be different for each Program Activity.

(b) Documentation of a commitment of at least $80,000 or for a Contract award 100% of the award amount, whichever is less, in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

> (1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,
>
> (2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,
>
> (3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

§53.41. HBA Program Requirements

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) A new MHU is an eligible property type for acquisition only. HOME funds may be used to acquire a new MHU or Modular Home if:

> (1) The unit complies with standards at 24 CFR §92.205 and with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;

(2) The unit is permanently installed with a concrete perimeter foundation and in accordance with the Texas Manufactured Housing Standards Act;

(3) The unit is permanently attached to utilities; and

(4) The ownership of the unit is recorded in the taxing authority of the county in which it is located.

(c) The Household must complete a homebuyer counseling program/class.

(d) The first lien purchase loans must comply with the following requirements:

(1) No adjustable rate mortgage loans (ARMs) or temporary interest rate buy-down loans are allowed;

(2) No mortgage loans with a total loan to value equal to or greater than 100% are allowed;

(3) No Subprime Mortgage Loans are allowed;

(4) Other than surveys and appraisals reimbursed to third-parties and fees allowed for the origination of single family mortgage revenue bond and mortgage credit certificate programs, fees charged by the lender in connection with mortgage loans may not exceed 2% of the loan amount or $2,500, whichever is greater;

(5) The debt to income ratio (back-end ratio) may not exceed 45%;

(6) No identity of interest relationship between the lender and the Household is allowed; and

(7) If an identity of interest exists between the Household and the seller, the Department may require additional documentation that evidences that the sales price is equal to or less than the appraised value of the property as documented by a Third-Party appraisal order by the first lien lender. If an identity of interest exists between the builder and CA or RSP, the CA or RSP must provide documentation that evidences that the sales price does not provide for a profit of more than 15% of the total hard construction costs and does not exceed the current appraised value as documented by a Third-Party appraisal order by the first lien lender.

(e) The total Project costs are inclusive of acquisition and closing costs, hard construction costs for accessibility modifications, and Match funds, and limited to:

(1) Acquisition and closing costs: the lesser of $20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 25% and no greater than 30% of the Household's gross monthly income based on a 30-year amortization schedule; and,

(2) Rehabilitation for accessibility modifications: $20,000.

(f) Project soft costs are limited to:

(1) Acquisition and closing costs: no more than $1,500 per housing unit;

(2) Rehabilitation for accessibility modifications: $5,000 per housing unit.

(g) Funds for Administrative costs are limited to no more than 4% of the total Project costs, exclusive of Project soft costs and Match funds.

(h) The assistance to an eligible Household shall be in the form of a loan in the amount of the total Project costs excluding Match funds. The loan will be at 0% interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(i) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(j) In the event that the housing unit ceases to be the Principal Residence of the Household, the Department has established that the federal recapture requirements as defined in 24 CFR §92.254 will be imposed.

(k) In the event that the housing unit ceases to be the Principal Residence of the Household, the forgiveness of the Loan, if applicable, will cease.

(l) In the event that the housing unit is sold, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority unless the balance on the Loan will be paid at closing.

(m) Housing units that will be rehabilitated with HOME funds must meet or exceed the TMCS, as applicable, and all applicable codes and standards. In addition, housing that is Rehabilitated under this chapter must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the Final Rule. Housing units that are provided assistance for acquisition only, must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§53.42. HBA Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following true and complete information, certified as such, with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition, and construction costs, soft costs and administrative costs requested, A maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household's race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household's occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP, and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance;

(8) Executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(9) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, or duplication of benefit;

(10) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA or RSP must submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close; and,

(2) A good faith estimate that is or letter from the lender confirming that the loan terms and closing costs will be consistent with the executed sales contract, the first lien mortgage loan requirements, and the requirements of this chapter.

(c) Disbursement of funds. The CA or RSP must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) Property inspections. The inspection must be signed and dated by the inspector and CA, RSP, or Development Owner;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must

be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all program requirements.

(7) With the exception of up to 10% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(8) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(9) For Activities involving Rehabilitation, include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

~~*§53.40. Competitive and Open Cycles*~~

~~All NOFAs will be presented to the Board. The Department will declare within a NOFA whether the application cycle will be a competitive or open cycle. Funds made available for disaster relief may not be released in a NOFA but will be provided in accordance with the Department's Deobligated Funds Policy §1.19 of this title.~~

~~*§53.41. Eligible Applicants*~~

~~The following organizations or entities are eligible to apply for HOME eligible activities:~~

~~(1) nonprofit organizations;~~

~~(2) CHDOs;~~

~~(3) Units of General Local Government;~~

~~(4) for-profit entities and sole proprietors; and~~

~~(5) public housing agencies.~~

~~*§53.42. Ineligible Applicants and Applications*~~

~~The following violations will cause an Applicant and any Applications they have submitted to be ineligible:~~

~~(1) The Applicant, Development Owner, or Developer is an Administrator of a previously funded Contract for which Department funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to application submission date, unless the deobligation was voluntary and prior to the contract term expiration date, or was the remainder on a completed Contract;~~

~~(2) The Applicant, Development Owner, or Developer has failed to submit a response to provide an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a monitoring review;~~

~~(3) The Applicant, Development Owner, or Developer has failed to make timely payment or is delinquent on any loans or fee commitments made with the Department on the date of the Application submission;~~

~~(4) The Applicant, Development Owner, or Developer 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 has otherwise been debarred by HUD or the Department;~~

~~(5) The Applicant, Development Owner, or Developer has violated the State's revolving door policy;~~

~~(6) The Applicant, Development Owner, or Developer has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline;~~

~~(7) The Applicant, Development Owner, or Developer at the time of Application submission is:~~

~~(A) subject to an enforcement or disciplinary action under state or federal securities law or by the NASD;~~

~~(B) subject to a federal tax lien;~~

~~(C) or is the subject of an enforcement proceeding with any governmental entity;~~

~~(8) The Applicant, Development Owner, or Developer with any past due audits has not submitted those past due audits to the Department in a satisfactory format on or before the Application submission date in accordance with §1.3 of this title;~~

~~(9) The 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 cannot 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;~~

~~(10) The Applicant, Development Owner, or Developer or anyone that has Controlling ownership interest in the Development Owner or Developer 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;~~

~~(11) The Application is a joint venture Application for the same Program Activity to serve the same town, city, or county that is identified in the Application already submitted as a sole Application for the same Program Activity in the same town, city or county;~~

~~(12) Applicant is requesting funding not related to Persons with Disabilities in a PJ; or~~

~~(13) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal~~

~~law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.~~

~~§53.43. Application Forms and Materials and Deadlines~~

~~(a) The Department will develop and publish on its website an Application and ASPM, that if completed, would satisfy the requirements for requesting funds from the Department. The Department may limit the eligibility of Applications in the NOFA and ASPM. Threshold and selection criteria and any other Application requirements will be specified in the NOFA approved by the Board.~~

~~(b) Applicants must submit an Application by the deadline date specified in the NOFA using the Application, ASPM and forms required by the Department. All Applications must be received during business hours (8:00 a.m. to 5:00 p.m. Central Standard Time) on any business day.~~

~~§53.44. General Applicant Eligibility Requirements~~

~~(a) An Applicant must satisfy each of the following requirements in order to be eligible to apply for HOME funding and as more fully described in the NOFA and Application, when applicable:~~

~~(1) provide evidence of its ability to carry out the program in the areas of financing, acquiring, rehabilitating, developing or managing affordable housing Developments;~~

~~(2) demonstrate fiscal, programmatic, and contractual compliance on previously awarded Department Contracts or Loans;~~

~~(3) demonstrate satisfactory performance otherwise required by Department rules and set out in the Application; and~~

~~(4) comply with all requirements to utilize the Department's website to provide necessary data to the Department.~~

~~(b) Noncompliance. Each Application will be reviewed for its compliance history by the Department, consistent with Chapter 60 of this title. Applications containing Persons found to be in Material Noncompliance, or otherwise violating the compliance rules of the Department, will be terminated.~~

~~(c) All entities receiving funds of $25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number.~~

~~*§53.45. Rental Housing Development (Multifamily) Application Requirements*~~

~~(a) Rental Housing Development site and development restrictions include all those items referred to in the Final Rule, and any additional items included in the NOFA for RHD.~~

~~(b) 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 and Rehabilitation or Rehabilitation only may exceed the maximum unit restrictions. Developments in Rural Areas are limited to no more than 80 units. The minimum number of units shall be 4 units.~~

~~(c) For funds being used for RHD, the Development Owner must establish a reserve account consistent with Texas Government Code, §2306.186, and as further described in §1.37 of this title.~~

~~(d) Unless further restricted or amended by the NOFA, Applications must comply with all of the current Qualified Allocation Plan and Rules in effect at the time of application's submission at 10 TAC §49.9(h), excluding subsections (4)(A), (4)(J), (11), (12), 14(G) and (15).~~

~~*§53.46. Multifamily Applicants also Seeking Housing Tax Credits*~~

~~Applicants who are seeking housing tax credits and are also seeking funds under this chapter for the same Development must meet the requirements under the Qualified Allocation Plan for the year in which they are applying for these funds and all of the requirements of this subchapter unless specifically waived by the Department.~~

~~*§53.47. Application and Award Limitations*~~

~~(a) The Department reserves the right to reduce the amount requested in an Application based on Program Activity or Project feasibility, underwriting analysis, or availability of funds.~~

> ~~(1) The Contract award, including administrative costs, shall not exceed the established amount in the NOFA.~~
>
> ~~(2) The Contract award amount for disaster relief shall not exceed $520,000, including administrative costs, per state or federally declared disaster, or as may be otherwise allowed by the Board. Only one Application per affected Unit of General Local Government may be submitted for each declared disaster. Public Housing Authorities (PHAs) and Nonprofit organizations may only act as an Applicant, in lieu of the Unit of General Local Government, if they are so designated by the affected Unit of General Local Government. If the disaster is a federally declared disaster, the Applicant may not submit an application or be funded until 90 days have expired from the federal declaration date. Applications for disaster relief will only be accepted within six (6) months after the first day assistance under this program is made available.~~

~~(3) The Contract Award amount for RHD or Single Family Development activities shall not exceed the established amount in the NOFA. The Department reserves the right to set maximum loan to value limitations and minimum Match requirements on all Development activities.~~

~~(4) The Contract award amount for CHDO Operating Expenses shall not exceed:~~

~~(A) the lesser of clauses (i) or (ii) of this subparagraph:~~

~~(i) fifty percent (50%) of the CHDO's total annual operating expenses in that fiscal year; or~~

~~(ii) five percent (5%) of the CHDO funds awarded for the Project from the CHDO Set-Aside; and~~

~~(B) $50,000, whichever is greater.~~

~~(C) An Applicant shall not receive more than one award of CHDO operating funds during the same fiscal year of the Department regardless of the number of Applications submitted.~~

~~(5) The Contract award amount for CHDO Predevelopment Loans may not exceed $50,000 per Application. Applicants may submit only one Application per NOFA to cover eligible costs.~~

~~(b) An Applicant may submit an Application to apply for additional funding as long as the Applicant is 100% committed on their current contract for the same activity.~~

~~§53.48. Application Review Process~~

~~(a) Applications received by the Department in response to an Open Application Cycle NOFA will be handled in the following manner:~~

~~(1) The Department will accept Applications on an ongoing basis, during the Application Acceptance Period specified in the NOFA or until such date when the Department makes notice to the public that an Open Application Cycle has been closed, whichever is earlier; and~~

~~(2~~1~~) 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 Division. Then each Application will be reviewed on its own merits in three review phases, as applicable. Applications will continue to be prioritized for funding~~ processing ~~based on its Received Date unless it does 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 and will include a review of eligibility and threshold criteria and all Application requirements. The Department will ensure review of materials required under the NOFA and ASPM and will issue a notice of any Administrative Deficiencies for threshold criteria and eligibility within forty-five (45) days of the Received Date. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into Phase Two, if applicable. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds. Applications that have completed this Phase and do not require additional review in Phase Two or Three will be reviewed for recommendation to the Board by the Committee.~~

~~(B) Phase Two will include a comprehensive review for financial feasibility for RHD and Single Family Development Program Activities. Financial feasibility reviews will be conducted by the Real Estate Analysis (REA) Division consistent with §1.32 of this title. REA will create an underwriting report identifying staff's recommended Loan terms, the Loan or Grant amount and any conditions to be placed on the Development. The Department will issue a notice of any Administrative Deficiencies within forty-five (45) days of the date the Application enters Phase Two. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into Phase Three, if applicable. Applications with Administrative Deficiencies not satisfied within five (5) business days, will be terminated and must reapply for consideration of funds. Applications that have completed this Phase and do not require additional review in Phase Three will be reviewed for recommendation to the Board by the Committee.~~

~~(C) Phase Three will only entail the review of the CHDO Certification Application. The Department will ensure review of these materials and issue notice of any Administrative Deficiencies on the CHDO Certification Application within 30 days of the Application enters Phase Three. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into the final review phase of the Application process. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds. Only upon satisfaction of all Administrative Deficiencies will the Application be forwarded to the final phase of the Application process. Upon completion of the applicable final review phase, the Application will be reviewed for recommendation to the Board by the Committee.~~

~~(3) Because Applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HOME funds before an Application has completed all phases of its review. In the case that all HOME funds are committed before an Application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for ninety (90) days in its current phase. If new HOME funds become available, Applications will continue~~

~~onward with their review without losing their Received Date priority. If HOME funds do not become available within ninety (90) days of the notification, the Applicant will be notified that their Application is no longer under consideration. The Applicant must reapply to be considered for future funding. If on the date an Application is received by the Department, no funds are available under this NOFA, the Applicant will be notified that no funds exist under the NOFA and the Application will not be processed.~~

~~(b) Applications received by the Department in response to a Competitive Application Cycle NOFA will be handled in the following manner:~~

~~(1) The Department will accept Applications on an ongoing basis during the Application Acceptance Period as specified in the NOFA;~~

~~(2) Applications submitted and accepted by the Department will be reviewed for eligibility, threshold and selection criteria and all Application requirements. The Department will ensure review of materials required under the NOFA and ASPM. A comprehensive review of financial feasibility for RHD and Single Family Development Program Activities will be conducted by the Real Estate Analysis (REA) Division consistent with §1.32 of this title. REA will create an underwriting report identifying staff's recommended Loan terms, the Loan or Grant amount and any conditions to be placed on the Development. If applicable, a review of the CHDO Certification Application will be performed. The Department will issue a notice of any Administrative Deficiencies for items reviewed within forty-five (45) days of the Received Date. If Administrative Deficiencies are not cured to the satisfaction of the Department within five (5) business days of the deficiency notice date, then five (5) points shall be deducted from the selection score for each additional day the Administrative Deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected within seven (7) business days from the deficiency notice date, then the Application shall be terminated; and~~

~~(3) Upon completion of review and no unresolved Administrative Deficiencies, the Application will be reviewed for recommendation to the Board by the Committee.~~

~~(c) Administrative Deficiencies. If an application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies including threshold and/or selection criteria documentation and/or financial feasibility analysis. 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. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. To cure an Administrative Deficiency, an Applicant must provide a clarification, further definition or exposition of an issue, an explanation as to why an Applicant has provided certain information, or resolution of a discrepancy where an Applicant has provided conflicting information. An Administration Deficiency may not be cured by substantially changing an Application or providing any new unrequested information. An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any Set-asides, increase their award amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Real~~

~~Estate Analysis Division to remedy an Administrative Deficiency as further described in this title or by amendment of an Application after a commitment or allocation of HOME funds.~~

~~(d) Decline to Fund. The Department may decline to fund any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.~~

~~§53.49. Selection Criteria for Program Activities~~

~~Selection criteria for any Program Activities will be described in the applicable NOFA and ASPM. The Applicant's self-score must be completed in the Application. An Applicant may not adjust the self-score without a request from the Department as a result of an Administrative Deficiency.~~

Subchapter E. CONTRACT FOR DEED CONVERSION (CFDC) PROGRAM ACTIVITY

~~COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)~~

§53.50. CFDC Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) Documentation of a commitment of at least $80,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

> (1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,
>
> (2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,
>
> (3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

(c) Should the Department provide housing construction plans and specifications for the use of Applicants and Contract Administrators, the Department may prioritize Applicants or otherwise incentivize the use of the Department provided plans through threshold or selection criteria or other means established in the NOFA.

§53.51. CFDC Program Requirements

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units.

(b) A new MHU is an eligible property type for acquisition only. An MHU is not an eligible property type for Rehabilitation. HOME funds may be used to replace (Reconstruct) an existing unit with a new MHU or Modular Home if:

> (1) The unit complies with standards at 24 CFR §92.205 and with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;

(2) The unit is permanently installed with a concrete perimeter foundation and in accordance with the Texas Manufactured Housing Standards Act;

(3) The unit is permanently attached to utilities; and

(4) The ownership of the unit is recorded in the taxing authority of the county in which it is located.

(c) The Household's income must not exceed 60% AMFI and the Household must complete a homebuyer counseling program/class.

(d) The Property must not be encumbered with tax liens, child support liens, or mechanic or materialmen's liens.

(e) The Department will require a first lien position.

(f) The total Project costs are inclusive of acquisition costs, closing costs, hard construction costs, demolition costs, aerobic septic systems, and Match funds, and limited to:

(1) Acquisition and closing costs: $35,000. In the case of a contract for deed conversion housing unit that involves the acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed $40,000 of assistance.

(2) Reconstruction and New Construction of site-built housing: The lesser of $73.00 per square foot or $80,000 or for Households of 6 or more Persons the lesser of $73.00 per square foot or $85,000;

(3) Replacement with an MHU: $65,000; and,

(4) Rehabilitation that is not Reconstruction: $30,000.

(g) In addition to the Project costs allowable under subsection (f) of this section, up to $5,000 will be allowed in Project costs for additional sitework related to accessibility features if the house will be located more than 50 feet from the nearest paved roadway or if the house is being elevated above the floodplain.

(h) Project soft costs are limited to:

(1) Acquisition and closing costs: no more than $1,500 per housing unit;

(2) Reconstruction or New Construction: no more than $7,000 per housing unit;

(3) Replacement with and MHU: no more than $3,500 per housing unit; and

(4) Rehabilitation that is not Reconstruction: $5,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Project soft costs for housing units that are Reconstructed or if the existing housing unit was built after 1978.

(i) Funds for Administrative costs are limited to no more than 4% of the total Project costs, exclusive of Project soft costs and Match funds.

(j) The assistance to an eligible Household shall be in the form of a loan in the amount of the total Project costs excluding Match funds. The loan will be at 0% interest and include deferral of payment and annual pro-rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(k) Any forgiveness of the Loan occurs upon the anniversary date of the Household's continuous occupancy as its Principal Residence and continues on an annual pro-rata basis until maturity of the Loan.

(l) In the event that the housing unit ceases to be the Principal Residence of the Household, the Department has established that the federal recapture requirements as defined in 24 CFR §92.254 will be imposed.

(m) In the event that the housing unit ceases to be the Principal Residence of the Household, the forgiveness of the loan, if applicable, will cease.

(n) In the event that the housing unit is sold, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority unless the balance on the loan will be paid at closing.

(o) Housing units that are Reconstructed must meet or exceed the 2000 International Residential Code and all applicable local codes and standards. In addition, housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the Final Rule. Housing units that are provided assistance for acquisition only, must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§53.52. CFDC Administrative Requirements

(~~b~~a) Commitment or Reservation of Funds. The CA or RSP must submit the following true and correct information, certified as such, with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition, and construction costs, soft costs and administrative costs requested, a maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household’s race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household’s occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP and all Household members age 18 or over, and including the date of the income eligibility determination. I~~i~~n instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) For housing units located within the 100-year floodplain, a quote for the cost of flood insurance;

(8) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation; and,

(9) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA or RSP must submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(2) In the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL);

(3) Life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship; and,

(4) A copy of the recorded contract for deed and a current payoff statement.

(c) Disbursement of funds. The CA or RSP must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed.

(3) Property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA or RSP.

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents and Statement of Ownership and Location (SOL), as applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the

housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA, RSP, or Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA or RSP as may be necessary or advisable for compliance with all program requirements.

(7) With the exception of up to 10% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(8) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(9) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(10) For final disbursement requests, evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation.

(11) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

~~***§53.50. Application Procedures for Certification of CHDO***~~

~~(a) An Applicant requesting certification as a CHDO must submit an application for CHDO certification in a form prescribed by the Department. The CHDO Application must be submitted with an Application for HOME funding under the CHDO Set-Aside. The Application must include documentation evidencing the requirements of this subsection:~~

~~(1) All Applications shall include the following documents as applicable which shall be reviewed for compliance with federal and state requirements:~~

~~(A) Bylaws with date of board approval;~~

~~(B) Charter; and~~

~~(C) Articles of Incorporation~~

~~(1) The Applicant must be organized as a private nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by the documents required under subsection (a)(1).:~~

~~(A) charter; or~~

~~(B) Articles of Incorporation.~~

~~(2) The Applicant must be registered with the Secretary of State to do business in the State of Texas.~~

~~(3) No part of the private nonprofit organization's net earnings inure to the benefit of any member, founder, contributor, or individual, as evidenced by:~~

~~(A) charter; or~~

~~(B) Articles of Incorporation.~~

~~(4) The Applicant must have the following tax status:~~

~~(A) A current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, or §501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as a CHDO; or~~

~~(B) 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 a private nonprofit organization's pending application for §501(c)(3) or §(c)(4) status cannot be used to comply with the tax status requirement under this subparagraph.~~

~~(5) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by.a statement in the organization's:~~

~~(A) Articles of Incorporation;~~

~~(B) Charter;~~

~~(C) Resolutions; or~~

~~(D) Bylaws; and~~

~~(E) A Business Plan for the CHDO, as prescribed in the CHDO Application.~~

~~(6) The Applicant must have a clearly defined CHDO Service Area. The Applicant may include as its service area an entire Community, but not the whole state. The Applicant must provide evidence of its participation in the Community for each city/place or county listed in the Service Area. Private nonprofit organizations serving special populations must also define the geographic boundaries of its Service Areas and provide evidence of its participation in the Community for each city/place or county listed in the Service Area. This subparagraph does not require a private nonprofit organization to represent only a single neighborhood.~~

~~(7) An Applicant must have the following capacity and experience:~~

~~(A) Conforms to the financial accountability standards of 24 CFR §84.21, "Standards of Financial Management Systems" as evidenced by:~~

~~(i) a notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department;~~

~~(ii) a certification from a Certified Public Accountant; or~~

~~(iii) a HUD approved audit summary; and,~~

~~(iv) a written narrative describing internal controls used to create financial duties and safe guard corporate assets; and~~

~~(v) a written narrative describing the conflict of interest policy governing employees and development activities and procurement; and~~

~~(vi) a written narrative describing the current corporation's financial structure can support housing development activities; and~~

~~(vii)a written narrative describing the organization's ability to manage additional rental development activities, if applicable.~~

~~(B) Demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:~~

~~(i) documentation that describes the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds; or~~

~~(ii) contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization.~~

~~(C) Has a history of serving the low income residents of the Community within the city/place or county which housing to be assisted with HOME funds is to be located as evidenced by:~~

~~(i) documentation of at least one year of experience in serving that Community; or~~

~~(ii) for newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year of experience in serving the Community in which the housing to be assisted with HOME funds is to be located; and~~

~~(iii) The CHDO or its parent organization must be able to document one year of serving the Community in which housing to be assisted with HOME funds is to be located prior to the date the PJ provides HOME funds to the organization. In the submission, the organization must document and describe its history (or its parent organization's history) of serving the community in which the housing to be assisted with HOME funds is to be located by describing and documenting CHDO eligible activities which it provided (or its parent organization provided), such as, developing new housing, rehabilitating existing stock and managing housing stock, or delivering non-housing services that have had lasting benefits for the Community, such as counseling, food relief, or childcare facilities. The statement in the submission package must be signed by the president or other official of the organization.~~

~~(8) An Applicant must have the following organizational structure. The Applicant must maintain at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations in the Applicant's service area. Low-income neighborhoods are defined as neighborhoods where 51% or more of the residents are low-income. Residents of low-income neighborhoods do not have to be low income individuals themselves. If a low-income individual does not live in a low-income neighborhood as herein defined, the low-income individual must certify that he qualifies as a low-income individual. This certification is in addition to the affidavit required in subparagraph (B) of this paragraph. For the purpose of this paragraph, elected representatives of low-income neighborhood organizations include block groups, town watch organizations, civic associations, neighborhood church groups, Neighbor Works organizations and any organization composed primarily of residents of a low-income neighborhood as herein~~

~~defined whose primary purpose is to serve the interest of the neighborhood residents. Compliance with this paragraph shall be evidenced by:~~

~~(A) a written provision or statement in the organizations Bylaws, Charter or Articles of Incorporation;~~

~~(B) an affidavit in a form prescribed by the Department signed by the organization's Executive Director and notarized; and~~

~~(C) a current roster of all Board of Directors, including names and mailing addresses. The required one-third low income residents or elected representatives must be marked on list as such.~~

~~(9) The Applicant must provide a formal process for low-income, program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects. The formal process should include a system for community involvement in parts of the private nonprofit organization's service areas where housing will be developed, but which are not represented on its boards. Input from the low-income community is not met solely by having low-income representation on the board. The formal process must be in writing and approved or adopted by the private nonprofit organization, as evidenced by:~~

~~(A) an organization's Bylaws; or~~

~~(B) a written statement of operating procedures approved by the governing body. Statement must be original letterhead, signed by the Executive Director and evidence date of board approval; and~~

~~(C) a Resolution as prescribed by the Department and evidence date of board approval.~~

~~(10) A local or state government and/or public agency cannot qualify as a CHDO, but may sponsor the creation of a CHDO. A private nonprofit organization may be chartered by a State or local government, but the following restrictions apply:~~

~~(A) The state or local government may not appoint more than one-third of the membership of the organization's governing body;~~

~~(B) The board members appointed by the state or local government may not, in turn, appoint the remaining two-thirds of the board members;~~

~~(C) No more than one-third of the governing board members may be public officials. Public officials include elected officials, appointed public officials, employees of the participating jurisdiction, or employees of the sponsoring state or local government, and individuals appointed by a public official. Elected officials include, but are not limited to, state legislators or any other statewide elected officials. Appointed public officials include, but are not limited to, members of any~~

~~regulatory and/or advisory boards or commissions that are appointed by a State official;~~

~~(D) Public officials who themselves are low-income residents or representatives do not count toward the one-third minimum requirement of community representatives in subparagraph (A) of this paragraph; and~~

~~(E) Compliance with subparagraphs (A) - (E) of this paragraph shall be evidenced by the Applicant's:~~

~~(i) Bylaws with evidence date of board approval;~~

~~(ii) Charter; or~~

~~(iii) Articles of Incorporation.~~

~~(11) If the Applicant is sponsored or created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the Applicant's governing body, and the board members appointed by the for-profit entity may not, in turn, appoint the remaining two-thirds of the board members, as evidenced by the Applicant's:~~

~~(A) Bylaws with evidence date of board approval;~~

~~(B) Charter; or~~

~~(C) Articles of Incorporation.~~

~~(D) An Applicant may be sponsored or created by a for-profit entity provided the for-profit entity's primary purpose does not include the development or management of housing, as evidenced in the for-profit organization's Bylaws. If an Applicant is associated or has a relationship with a for-profit entity or entities, the Applicant must prove it is not controlled, nor receives directions from individuals, or entities seeking profit as evidenced by:~~

~~(i) the Applicant's Bylaws with evidence date of board approval; or~~

~~(ii) a Memorandum of Understanding (MOU);~~

~~(12) CHDOs that are in partnership agreements associated with the Development must maintain effective Control and decision making control over the Development. All legally binding ownership and/or partnership agreements must clearly state the CHDO's role in the Development, as evidenced by the Applicant's:~~

~~(A) partnership agreement; and/or~~

~~(B) ownership agreement; and/or~~

~~(C) developer agreement; and/or~~

~~(D) sponsorship agreement.~~

~~(13) Religious or Faith-based Organizations may sponsor a CHDO if the CHDO meets all the requirements of this section. While the governing board of a CHDO sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the faith-based organization may retain control over appointments to the board. If a CHDO is sponsored by a religious organization, the following restrictions also apply:~~

~~(A) Housing developed must be made available exclusively for the residential use of program beneficiaries and must be made available to all persons regardless of religious affiliations or beliefs;~~

~~(B) A religious organization that participates in the HOME program may not use HOME funds to support any inherently religious activities: such as worship, religious instruction, or proselytizing;~~

~~(C) HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Sanctuaries, chapels, or other rooms which a faith-based CHDO uses as its principal place of worship are always ineligible for HOME-funded improvements;~~

~~(D) Compliance with subparagraphs (A) - (C) of this paragraph may be evidenced by the Applicant's:~~

~~(i) Bylaws;~~

~~(ii) Charter; or~~

~~(iii) Articles of Incorporation.~~

~~(b) An Application for CHDO Certification will only be accepted if submitted with an Application to the Department for HOME funds. If all requirements under this section are met, the Applicant will be certified as a CHDO upon the award of HOME funds by the Department. A new Application for CHDO certification must be submitted to the Department with each new Application for HOME funds under the CHDO Set-Aside.~~

~~(c)Community Housing Development Organizations (CHDO) that have received an award of HOME funds must submit recertification documentation every two years. The recertification documentation is due to the Department biannually on the last day of the anniversary month in which the Board approved the CHDO Set-Aside award. The recertification documentation must include, but is not limited to:~~

~~(1) A narrative describing the housing production objectives accomplished over the last 2-year period;~~

~~(2) A description of any ongoing/future initiatives;~~

~~(3)A statement of objectives for the CHDO over the next two years;~~

~~(4) A timeline and budget describing the completion of any development activities undertaken by the CHDO within the last two years;~~

~~(5) An organizational chart listing current personnel and a brief description of each individual's position, primary responsibilities and authority in the organization;~~

~~(6) A written statement indicating how the current organization's financial structure can support housing development activities in the future;~~

~~(7) A written statement describing how the CHDO will continue to leverage other resources in the future; and~~

~~(8) A written statement describing ways in which the Department can assist your organization through technical assistance, capacity building, and/or training.~~

Subchapter F. ~~AWARDS AND CONTRACTS~~TENANT-BASED RENTAL ASSISTANCE (TBRA) PROGRAM ACTIVITY

§53.60. TBRA Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) Documentation of a commitment of at least $15,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

> (1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or,
>
> (2) Evidence of an available line of credit or equivalent in an amount equal to or exceeding the above requirement; or,
>
> (3) The CPA opinion letter from the most recent audit and a statement from the CPA that indicates, based on past experience with grant programs and past audits, the applicant has in place the best practices and financial capacity necessary in order to effectively administer a HOME Program award.

§53.61. TBRA Program Requirements

(a) The Household must participate in a self-sufficiency program.

(b) The amount of assistance will be determined using the Housing Choice Voucher Method.

(c) Households certifying to zero income must also complete a questionnaire which includes a series of questions regarding how basic hygiene, dietary, transportation, and other living needs are met.

(d) The Household paid portion of the monthly rent cannot exceed 40% of the Household's gross monthly income.

(e) Project funds are limited to:

> (1) Rental subsidy: No more than twenty-four (24) months per Household with an additional twelve (12) months extension available to Households participating in a reservation system; and,

(2) Security deposit: No more than the amount equal to two (2) month's rent for the unit.

(f) The rent (payment) standard must be the current HUD "Fair Market Rent for the Housing Choice Voucher Program" at the time the household is income certified (or the rental coupon is executed). In instances where the area rents exceed the established Fair Market Rent, the CA or RSP may submit a written request to the Department for approval of a higher rent. The request must be evidenced by a market study. For HOME-assisted units, the payment standard must be the current HOME rent applicable for the unit.

(g) Funds for Administrative costs are limited to 8% of Project funds excluding Match funds. Funds for Administrative costs may be increased an additional 1% of Project funds, if Match is provided in an amount equal to 5% or more of Project funds.

(h) Rental units must be inspected prior to occupancy, annually upon Household recertification, and must comply with Housing Quality Standards established by HUD.

§53.62. TBRA Administrative Requirements

(a) Commitment or Reservation of Funds. The CA or RSP must submit the following with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds and Administrative costs requested, Match to be provided, evidence that Project cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification of head of Household's race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household's occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if

applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA or RSP, and all Household members age 18 or over, and including the date of the income eligibility determination. All documentation used to determine the income and rental subsidy of the Household;

(6) Identification of Lead-Based Paint (LBP);

(7) If applicable, documentation to address or resolve any potential Conflict of Interest or duplication of benefit; and

(8) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Disbursement of funds. The CA or RSP must comply with and submit the following with a request for reimbursement of expenditures: The CA or RSP must comply all of the following requirements for a request for disbursement of funds. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) If required or applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(2) Property inspections. The inspection must be signed and dated by the inspector and CA or RSP.

(3) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(4) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA or RSP to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA, RSP, or Development Owner as may be necessary or advisable for compliance with all Program Requirements.

(5) With the exception of up to 25% of the total funds available for Administrative costs, the request for funds for Administrative costs must be proportionate to the amount of Project costs requested or already disbursed.

(6) Requests may come in up to 10 days in advance of the first day of the following month.

(7) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

~~***§53.70. Process for Awards***~~

~~(a) All recommendations for awards will be presented to the Committee before presentation to the Board. All Applications must comply with all applicable program requirements or regulations established in 24 CFR Part 92 and in this chapter.~~

~~(b) Applicants applying in response to an Open Application Cycle will be prioritized for recommendation to the Board based on the process described in §53.48 of this chapter and as otherwise specified in the NOFA.~~

~~(c) Applicants applying in response to a Competitive Application Cycle will be ranked by highest score per Program Activity, per Uniform State Service Region and Area Type, unless otherwise specified in the NOFA.~~

~~(1) If sufficient qualified Applications are not received for a Program Activity in a Uniform State Service Region and Area Type, the funds will be redirected to the next Uniform State Service Region that had a higher number of qualified Applicants for that same Program Activity type, unless otherwise specified in the NOFA.~~

~~(2) If sufficient Applications are not received in a Uniform State Service Region and Area Type for a Program Activity, the funds will be redirected to the Uniform State Service Region and Area Type with the highest number of qualified Applicants for another Program Activity type, unless otherwise specified in the NOFA.~~

~~(d) In the event of a tie between two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may also receive a partial recommendation for funding.~~

~~(e) When the remainder of the allocation for an allocation within a Uniform State Service Region is insufficient to completely fund the next ranked Application in the Program Activity or Uniform State Service Region, it is within the discretion of the Department to:~~

~~(1) award a partial amount to the next ranked Application, reducing the scope of the Application proportionally;~~

~~(2) make necessary adjustments to fully fund the Application; or~~

~~(3) transfer the remaining funds to other Program Activities or Uniform State Service Regions.~~

~~(f) Applications may also receive a partial recommendation for funding. A minimum award amount may be established to ensure feasibility.~~

~~(g) Applications receiving a favorable EARAC recommendation are presented to the Board for approval, pending the availability of HOME funds.~~

~~(h) Applicants may appeal staff's decision regarding their Applications in accordance with §1.7 of this title.~~

~~(i) Board approval of the award of any HOME funds, acquisition or construction activities will be conditional upon a completed Loan closing and any other conditions deemed necessary by the Department.~~

~~§53.71. Contract Required after Award~~

~~Any Program Activity funded under this program will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract. Any amendments must be in writing and are subject to the requirements of this chapter.~~

~~§53.72. Pre-Award Costs~~

~~(a) Before the effective date of the HOME Contract, the Contract Administrator may incur and be reimbursed for travel costs, as provided for with Administrative funds, related to mandatory implementation training required by the Department as a condition of receiving a HOME award and Contract.~~

~~(b) Department authorized pre-award costs for predevelopment costs, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may be paid if incurred before the effective date of the Contract if the costs are in accordance with 24 CFR §92.212 and at the sole discretion of the Department.~~

~~***§53.73. Contract Terms***~~

~~(a) Unless otherwise changed by agreement of the parties in a Contract or the applicable NOFA, the terms found in Contract shall be consistent with the following and performance under the Contract will be evaluated with the following benchmarks:~~

~~(1) OCC Program Activity. The Contract term will not exceed 24 months. Performance under the Contract term will be based on the following benchmarks from the Contract begin date:~~

~~(A) 6 months, exempt administrative and broad review environmental clearance must be complete, and if not tiering, the first Household to be assisted must be environmentally cleared;~~

~~(B) 8 months, Authority to Use Grant Funds must be fully executed and all Households to be assisted must be environmentally cleared;~~

~~(C) 12 months, 100% of funds must be committed to Households to be assisted;~~

~~(D) 18 months, 100% of Household's Loans must be closed, if applicable;~~

~~(E) 22 months, 100% of construction must be complete for all Households to be assisted; and~~

~~(F) 24 months, 100% funds drawn and 100% of match requirement supplied.~~

~~(2) HBA Program Activity. The Contract term will not exceed 24 months. Performance under the Contract term will be based on the following benchmarks from the Contract begin date:~~

~~(A) 6 months, exempt administrative and environmental clearance must be complete for at least one Household to be assisted;~~

~~(B) 12 months, environmental clearance must be complete for at least 50% of the Households to be assisted, 50% of funds must be committed, 25% of funds drawn, and 25% of match supplied;~~

~~(C) 18 months, environmental clearance must be complete for at least 75% of the Households to be assisted, 75% of funds must be committed, 50% of funds drawn, and 50% of match requirement supplied; and~~

~~(D) 24 months, 100% of funds must be committed, 100% of funds drawn, and 100% of matched supplied.~~

~~(3) TBRA Program Activity. The Contract term will not exceed 36 months. Performance under the Contract term will be based on the following benchmarks from the Contract begin date:~~

~~(A) 6 months, exempt administrative environmental clearance must be complete and application intake complete for 30% for Households to be assisted;~~

~~(B) 9 months, application intake complete for 75% for Households to be assisted;~~

~~(C) 12 months, 100% of funds must be committed to Households to be assisted and 25% of funds drawn;~~

~~(D) 18 months, 100% of funds already committed and 35% of funds drawn;~~

~~(E) 24 months, 100% of funds already committed and 50% of funds drawn; and~~

~~(F) 36 months, 100% of funds already committed and 100% of funds drawn.~~

~~(4) Rental Housing Development and Single Family Housing Development Program Activity. The Contract term will not exceed 36 months based on the size of the development and length of the Development period. Performance under the Contract term will be based on benchmarks established in the Contract and specific to the Development. Repayment of Loans or affordability periods will extend beyond the Contract end date depending on the Final Rule and Chapter 2306 requirements.~~

~~(5) CHDO Pre-Development Loans. The initial contract term will not exceed 24 months. Repayment is expected from development funds if development is begun prior to 24 months.~~

~~(b) Revised benchmarks and/or lower percentages, due to extenuating or unforeseeable circumstances, may be allowed and as approved by the Department.~~

~~§53.74. Contract Amendments~~

~~(a) Amendment requests to be approved by the Executive Director of the Department are allowable under the following circumstances:~~

~~(1) Time extensions. The Executive Director may collectively provide up to one six-month extension to the end date of any Contract. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director relating to unusual, non foreseeable, or extenuating circumstances that warrant more than a six-month extension. If the extension is longer than six months and the Executive Director determines that a statement related to unusual, non-foreseeable, or extenuating circumstances cannot be issued, it will be presented to the Board for approval, approval with modifications, or denial of the requested extension;~~

~~(2) Changes in Match. The Executive Director may grant approval of a modification or amendment to the dollar amount of the Match requirement, if such amendment that does not decrease the dollar amount by more than 25% of the original amount committed. In the~~

~~cases where the reduction in Match is greater than 25% or significantly decreases the benefits to be received by the Department, in the estimation of the Executive Director, the modification or amendment will be presented to the Board for approval;~~

~~(3) Changes in Area Median Family Income (AMFI) levels. The Executive Director may grant approval of a modification or amendment to the AMFI levels of the households to be served under said contract, if Contract Administrator provides a statement relating to unusual, non-foreseeable, or extenuating circumstances that warrant such a request to be granted and the Executive Director determines that such request does not violate Department rules. In the case that the Executive Director determines that such request is not warranted and/ or violates Department rules, the request will be presented to the Board for approval;~~

~~(4) Changes to Services Areas. The Executive Director may grant approval of the modification or amendment to the Service Area being served under said contract, if Contract Administrator provides a statement relating to unusual, non-foreseeable, or extenuating circumstances that warrant such a request to be granted and the Executive Director determines that does not violate Department rules. In the case that the Executive Director determines that such request is not warranted and/or violates Department rules, the request will be presented to the Board for approval;~~

~~(5) Changes in number of Households to serve. The Executive Director may grant approval of the modification or amendment to the reduction in the number of the Households to be served under said contract, if Contract Administrator provides a statement relating to unusual, non-foreseeable, or extenuating circumstances that warrant such request to be granted and the Executive Director determines that such request does not violate Department rules. In the case the Executive Director determines that such request is not warranted and/or violates Department rules, the request will be presented to the Board for approval; and~~

~~(6) Increase in funds. In the case of a modification or amendment to the dollar amount of the Contract, such modification or amendment does not increase the dollar amount by more than 25% of the original Contract or $50,000, whichever is greater. Modifications and/or amendments that increase the dollar amount by more than 25% of the original Contract 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, except for increases that result in a dollar amount increase that is more than 25% of the original Contract amount on an existing Contract for which an Administrator has requested an amendment to be governed by all provisions of this chapter as allowed in §53.30 of this chapter.~~

~~(b) If the Administrator or Development Owner fails to meet a benchmark requirement and does not seek, or is not granted, an extension of a benchmark, the awarded funds related to the lack of performance may be entirely or partially deobligated at the Department's sole discretion.~~

~~(c) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of this chapter if the Board finds that waiver is appropriate to~~

~~fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for good cause, as determined by the Board.~~

~~(d) Accounting Requirements. Within sixty (60) days after the Contract end date, the Administrator or Development Owner shall provide a full accounting of funds expended under the terms of the Contract. Failure of an Administrator or Development Owner to provide full accounting of funds expended under the terms of a Contract shall be sufficient reason for the Department to deny any future Contract to the Administrator or Development Owner.~~

~~(e) Individual benchmarks. Each benchmark is an individual term and subject to the amendment processes. An interim benchmark extension may or may not extend the entire Contract at the Department's discretion.~~

Subchapter G. ~~LOANS AND CONTRACT ADMINISTRATION~~SINGLE FAMILY DEVELOPMENT (SFD) PROGRAM ACTIVITY

§53.70. SFD Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) An Application for CHDO certification.

(b) If the total of Department loans equals more than 50% of the total development cost, except for developments also financed with USDA funds, the Applicant must provide:

(1) Evidence of a line of credit or equivalent tool equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities; or

(2) A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and

(3) A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available.

(c) A proposed development plan that is consistent with the requirements of §53.71 of this chapter, all other federal and state rules, and includes:

(1) A floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition.

(2) A FEMA Issued Flood Map that identifies the location of the proposed site(s).

(2) Letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable.

(3) Documentation of site control of each proposed lot, as follows: A recorded warranty deed with corresponding executed settlement statement; or a contract or option for the purchase of the proposed lots that is valid for at least one hundred-twenty (120) days from the date of application submission.

(4) An "as vacant" appraisal of at least one of the proposed lots if: The Applicant has an Identity of Interest with the seller or current owner of the property; or any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced. The purchase price of any lot in which the current owner has an Identity of Interest must comply with the Identity of Interest transfer requirements in 10 TAC §1.32.

(d) The Department may prioritize Applications or otherwise incentivize Applications that partner with other lenders to provide permanent purchase money financing for the purchase of units developed with funds provided under this subchapter.

§53.71. SFD Program Requirements

(a) Eligible activities include the acquisition and New Construction or acquisition and Rehabilitation of single family housing. Single family housing units assisted with HOME funds must comply with the required affordability requirements as defined at 24 CFR §92.254.

(b) This Program Activity is a CHDO-eligible activity.

(c) The Household's income must not exceed 60% AMFI and the Household must complete a homebuyer counseling program/class.

(d) Each unit must meet the following design and quality requirements:

(1) For New Construction and Reconstruction, current applicable International Residential Code, local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the 24 CFR §92.251(a).

(2) Include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Disposal and Energy-Star or equivalently rated dishwasher (must only be provided as an option to each Household); Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans; and Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car;

(3) Contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(4) Each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and,

(5) Be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(e) The total hard construction costs are limited as follows:

(1) Reconstruction and New Construction of site-built housing: The hard construction costs are limited to $73.00 per square foot and $80,000 or for Households of 6 or more Persons $85,000; and

(2) Rehabilitation that is not Reconstruction: $30,000.

(f) Developer fees (including consulting fees) are limited to 15 percent of the total hard construction costs.

(g) Construction period financing for each unit shall be structured as a 0% interest loan with a 6 month term. The maximum construction loan amount may not exceed the total sales price less developer fees/profit, homebuyer closing costs, and other ineligible Project costs. Prior to construction loan closing, a sales contract must be executed with a qualified homebuyer.

(h) The HOME assistance to the homebuyer shall be structured as a first and/or second lien loan(s) as follows:

(1) The downpayment assistance is limited to $15,000 and shall be structured as a 15-year deferred, forgivable loan with a subordinate lien.

(2) A first lien conventional mortgage not provided by the Department must meet the requirements mortgage financing requirements applicable the §53.41(d) of this chapter. If the Department is providing the first lien mortgage with HOME financing, the loan will be fully amortizing with a 30 year term and the Department will require a debt to income ratio (back-end ratio) not to exceed 45%. The total estimated housing payment (including principal, interest, property taxes, and insurance) shall be no less than 25% and no greater than 30% of the Household's gross monthly income. Should the estimated housing payment be less than 25%, the Department shall reduce the amount of downpayment assistance and/or charge an interest rate to the homebuyer such that the total estimated housing payment is no less than 25% of the homebuyer's gross income. In no instance shall the interest rate charged to the homebuyer exceed 5%. The Department shall use to the Household's income certification to make this determination.

(i) Earnest money is limited to no more than $500, which will be credited to the homebuyer at closing. HOME funds may be used to pay other reasonable and customary closing costs that are HOME eligible costs.

(j) If a Household should become ineligible or otherwise cease participation and a replacement Household is not located within ninety (90) days of the end of the construction period, all additional funding closings and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(k) The Division Director may approve the use of alterative floorplans or lots from those included in the approved Application, provided the requirements of this section can still be met and such changes do not materially affect the total budget.

§53.72. SFD Administrative Requirements

(a) Commitment or Reservation of Funds~~:~~. The CA or RSP must submit the following with a request for the Commitment or Reservation of Funds:

(1) Head of Household name and address of housing unit for which assistance is being requested;

(2) A budget that includes the amount of Project funds specifying the acquisition cost, construction costs, developer fees. A maximum of 5% of hard construction costs for contingency items, Match to be provided, evidence that Project and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) Verification of environmental clearance;

(4) A copy of the Household's intake application, which must include Household composition including name, date of birth, relationship to head of Household, gender, and social security number for each Household member; identification and resolution of potential and/or existing conflicts of interest; identification of amounts of housing assistance or insurance proceeds previously received from other sources; identification if any Household member owes a debt to the State of Texas; identification that the housing unit is located or proposed to be located outside of the 100-year floodplain; identification of head of Household's race and ethnicity; Household special needs status, if applicable; names of Household members who are temporarily absent and reason for absence, if applicable; future Household members and explanation, if applicable; income sources and gross amounts for all Household members; full-time student status of Household members over age 18, if applicable; type and source of all assets owned by Household members including cash value and annual asset income; year in which property to be assisted was built; Household's occupancy requirements including number of bedrooms being requested; Household expense information including current rent, phone, medical expenses, credit card payments, utilities, car payments, cable television, insurance including Medicare if applicable, loan payments, child care for children under age 13, and other expenses; and signatures of all Household members age 18 or over;

(5) Certification of the income eligibility of the Household signed by the CA, RSP, or Development Owner, and all Household members age 18 or over, and including the date of the income eligibility determination. For TBRA and in instances the total Household income is within $3,000 of the 80% AMFI, all documentation used to determine the income of the Household;

(9) Identification of Lead-Based Paint (LBP);

(11) Executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(12) If applicable, documentation to address or resolve any potential Conflict of Interest, identity of interest, duplication of benefit, or floodplain mitigation;

(14) Any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing. The CA, RSP or Development Owner must submit the following with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) A title commitment to issue a title policy not older than ninety (90) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close.

(2) Within ninety (90) days after the loan closing date, the Contract Administrator or Development Owner must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the Loan closing date will result in the Department withholding payment for disbursement requests.

(3) A draft settlement statement that is consistent with the executed sales contract, the first lien mortgage loan requirements (as applicable), and the terms of this Contract will be provided to Department.

(c) Disbursement of funds. The CA or RSP must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the CA's or RSP's compliance with following requirements may be required with a request for disbursement.

(1) For construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion.

(2) If required or applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) Property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and CA, RSP, or Development Owner.

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would

benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request CA, RSP, or Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to CA, RSP, or Development Owner as may be necessary or advisable for compliance with all Program Requirements.

(7) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner’s authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(8) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction.

(9) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

~~***§53.80. Documents Supporting Mortgage Loans***~~

~~(a) Administrators and Development Owners must not proceed or allow a contractor to proceed with construction, including demolition, on any Activity, Project or Development without first completing the required environmental clearance procedures and Loan closing with the Department.~~

~~(b) A mortgage Loan shall be evidenced by a mortgage or deed of trust note or bond and by a mortgage that creates a lien on the housing development and on all real property that constitutes the site of or that relates to the housing development.~~

~~(c) A note or bond and a mortgage or deed of trust:~~

~~(1) must contain provisions satisfactory to the Department;~~

~~(2) must be in a form satisfactory to the department; and~~

~~(3) may contain exculpatory provisions relieving the borrower or its principal from personal liability if the department agrees.~~

~~(d) For each Loan made for the Development of multifamily housing with funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 USC §§12701, et seq.), the Department shall obtain a mortgagee's title policy in the amount of the loan. The Department may not designate a specific title insurance company to provide the mortgagee title policy or require the borrower to provide the policy from a specific title insurance company. The borrower shall select the title insurance company to close the loan and to provide the mortgagee title policy.~~

~~(e) Documentation required for OCC and HBA with Rehabilitation Loans: The Administrator must ensure the following documents are submitted to the Department in order to request preparation of Loan documents for the Household:~~

~~(1)A title report or a commitment to issue a title policy not older than ninety (90) days that:~~

~~(A)evidences eligible forms of homeownership pursuant to §53.31(b) of this chapter and 24 CFR §92.2; and~~

~~(B)evidences no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest. The title report must be a report of the property reflecting the current owner's deed vesting title, including complete deed information, grantees, grantors, execution and recording dates, recording references, and legal description, as well as all existing mortgage/deed of trust liens.~~

~~(2) Tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;~~

~~(3) Life event documentation, as applicable;~~

~~(4) A copy of the original contract for deed, for contract for deed conversion Loan; and~~

~~(5) A current payoff statement, for contract for deed conversion Loan.~~

~~(f) Trailing documentation requirements for Loans. Within ninety (90) days after the Loan closing date, the Administrator or Development Owner must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the Loan closing date will result in the Department withholding payment for disbursement requests.~~

~~***§53.81. General Contract Administration***~~

~~All Administrators and Development Owners must use the forms provided on the Department's website and comply with the Department's procedural and documentation requirements as outlined in the HOME Program Manual and in this section including:~~

~~(1) Contract must be signed and executed by all appropriate authorized parties;~~

~~(2) Attend training as required by the Department;~~

~~(3) Develop and comply with written procurement selection criteria and committees;~~

~~(4) Procure consultants, if applicable. Consultants may not participate in or direct any part of the process for procuring consultants;~~

~~(5) Complete all applicable Department Contract System access request forms and requirements;~~

~~(6) Perform environmental clearance procedures before committing or expending funds to a Project or Activity, performing any construction activities, including demolition, or the occurrence of the Loan closing, if applicable;~~

~~(7) Develop and comply with written accounting, reporting, filing, and documentation procedures;~~

~~(8) Develop and comply with written applicant intake and selection criteria for and ensure program eligibility which must include, but is not limited to:~~

~~(A) Homeownership, if applicable;~~

~~(B) Income eligibility;~~

~~(C) Assisted Households must be located within the Administrator's Service Area, as defined by the Contract;~~

~~(D) Property taxes are current, if applicable; and~~

~~(E) Assist Special Needs Households, if applicable.~~

~~(9) Develop and comply with affirmative marketing procedures in accordance with the Final Rule;~~

~~(10) Complete applicant intake and applicant selection. Notify each applicant Household in writing of either acceptance or denial of HOME assistance within sixty (60) days following receipt of the intake application;~~

~~(11) To ensure compliance with the Texas Comptroller of Public Accountants requirements, Contract Administrators are required to ensure the applicant Household does not owe a debt to the State of Texas including, but not limited to, tax liens, child support liens, or student loan delinquencies;~~

~~(12) Ensure that no Conflict of Interest exists between Households to be assisted and Persons designated to receive or assist with the application intake process;~~

~~(13) Document and verify all income and asset eligibility requirements for the Household to be assisted;~~

~~(14) Ensure compliance with applicable audit certification requirements;~~

~~(15) Ensure that the demolition and removal of all dilapidated units on the lot occurs prior to the Household's occupancy of the Newly Constructed or Rehabilitated housing unit;~~

~~(16) Ensure and verify that each building construction contractor performing activities in the amount of $10,000 or more under the Contract is registered and maintains good standing with the Texas Residential Construction Commission in accordance with Chapters 401 and 416 of the Texas Property Code;~~

~~(17) Ensure and verify that each housing unit being rehabilitated in the amount of $10,000 or more under the Contract is registered with the Texas Residential Construction Commission in accordance with §426.003 of the Texas Property Code;~~

~~(18) Provide building construction contractor oversight and ensure builder's risk coverage is provided;~~

~~(19) Ensure that the demolition of any housing unit does not occur less than six (6) months prior to the Contract end date;~~

~~(20) Ensure compliance with applicable construction or property standards and lead-based paint requirements;~~

~~(21) Conduct appropriate property inspections and documentation in accordance with applicable program requirements. Ensure compliance with the Texas Residential Construction Commission inspection requirements under Title 16 of the Texas Property Code;~~

~~(22) Submit required documentation and electronic requests for Project setups and disbursement requests to the Department;~~

~~(23) Submit support documentation for Project setups and disbursement requests within thirty (30) days of electronic submission to the Department;~~

~~(24) Submit all Project setups and support documentation for Households to be assisted no later than ninety (90) days prior to the Contract end date. In the event that a loan closing is required for single family Rehabilitation or Reconstruction, non-development activities, all Project setups and support documentation must be submitted no later than one hundred eighty (180) days prior to the Contract end date;~~

~~(25) Provide certification that no person or entity that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith;~~

~~(26) Provide certification that all contractors, consulting firms, Administrators, and Development Owners will sign an affidavit to attest that each request for payment of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions; and~~

~~(27) If required or requested, provide reasonable Match and submit required documentation to the Department;~~

~~(28) Not retain Program Income of any kind, including Program Income to fund other eligible HOME Activities;~~

~~(29) Submit any Program Income received to the Department within ten (10) days of receipt;~~

~~(30) Return any refunds to the Department's accounting division and include a written explanation of the return of funds, the Contract number, name of Administrator or Development Owner, Activity address and Activity number referenced on the check;~~

~~(31) Submit required documentation for Project completion reports and certificate of Contract Completion no later than sixty (60) days from the Contract end date; and~~

~~(32) Complete the terms of the Contract.~~

~~*§53.82. Conflict of Interest*~~

~~The Conflict of Interest provisions in 24 CFR §92.356 apply to any Person who is an employee, agent, consultant, officer, or elected official or appointed official of the Department, Administrator or Development Owner. All Administrators and Development Owners must comply with procedures to submit a request to the Department to grant an exception to any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made. No HOME funds can be used to assist a Household until HUD has granted an exception to the Conflict of Interest provisions.~~

~~*§53.83. Procurement*~~

~~(a) All Administrators acting in the capacity of State Recipients must comply with procurement requirements and regulations established under 24 CFR Part 84 pertaining to the HOME Program, 24 CFR Part 92, Chapter 2254, Texas Government Code, and the HOME Program Manual, as well as any other applicable state and/or local procurement requirements.~~

~~(b) Administrators acting in the capacity of Subrecipients must comply with procurement requirements and regulations established under 24 CFR Part 85 pertaining to the HOME Program, as well as any other applicable state and/or local procurement requirements.~~

~~(c) Procurement procedures and the selection process must be integrated into the Administrator's HOME program and must comply with federal, state, and local procurement requirements. The Administrator must have a written code of conduct governing employees, officers, or agents engaged in administering a HOME Contract and appoint a Procurement Officer to manage the bid process.~~

~~(d) Procedures established for procurement of building construction contractors may not include requirements for the provision of general liability insurance coverage for an amount to exceed the value of the contract.~~

~~(e) HOME funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any service provider or vendor during any period for which the service provider or vendor has been debarred, suspended, or designated as ineligible on the federal Excluded Parties Listing System.~~

~~(f) Building construction contractors must be procured using a formal sealed bid procedure for single family New Construction or Rehabilitation Activities or Projects.~~

~~(g) Professional service providers must be procured using an open competitive procedure for single family New Construction or Rehabilitation Activities or Projects. Professional services may not be procured based solely on the lowest priced bid. Consultants may not participate in or direct the process of procurement for consultants.~~

~~(h) Goods and services other than professional services and building construction contractors, for an amount less than $100,000 may be procured using documented price quotation procedures.~~

~~§53.84. Project Setups and Disbursement Requests~~

~~All Administrators and Development Owners must comply with procedures and timeframes established by this chapter and the HOME Program Manual to submit requests for Project setup and disbursement requests and support documentation required by the Department. The Department reserves the right to request additional documentation or clarification from the Administrator or Development Owners. Requests must be made electronically and submitted in accordance with applicable benchmarks to the Department using the online TDHCA Contract System database as defined in the "TDHCA Contract System Users Guide."~~

Subchapter H. MULTIFAMILY (RENTAL HOUSING) DEVELOPMENT (MFD) PROGRAM ACTIVITY

§53.80. MFD Threshold and Selection Criteria

All Applicants and Applications must submit or comply with the following:

(a) If the total of Department loans equals more than 50% of the total development cost, except for developments also financed with USDA funds, the Applicant must provide:

(1) Evidence of a line of credit or equivalent financing equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities; or

(2) A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and

(3) A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available.

(b) Applications must comply with all of the current Qualified Allocation Plan and Rules in effect at the time of Application's submission at 10 TAC §49.9 or 50.9(h), excluding subsections (4)(A), (4)(J), (8)(A)(ii), (11), (12), 14(G) and (15) and the requirements of §53.81 of this chapter and all other federal and state rules.

(c) Match equal to 2% of the HOME award must be provided. Documentation of the Applicant's ability to meet this requirement shall be required in the Application in the form of a commitment from the organization providing the Match. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentive may be established in the form of a Threshold or Selection scoring criterion. Match in the form of a property tax abatement will only be accepted if a letter from the applicable appraisal district is provided and such letter documents a cash value and duration for such exemption sufficient to meet the HUD requirements for documentation of Match.

(d) The maximum HOME award may not exceed 90% of the total development costs ("TDC") unless a resolution of support for the development is made by the local unit of government in which the proposed development resides and/or the proposed development is located in an area where the HUD Fair Market Rents are equal to the respective HOME Rent Limit for a one-bedroom unit but will be limited as reflected in Figure §53.80(d). The remaining percentage of total development cost must be in the form of permanent loans with a maturity of at least twenty (20) years, in-kind contributions or grants from third-party private or public entities. Developments with USDA or other government-sponsored loans that will remain as permanent financing may be used to satisfy this requirement from a public or private entity. Loans or grants from the Department will not satisfy this requirement.

Figure §53.80(d)

Rent	Resolution from Local Government	Maximum ~~a~~Award as % of TDC	% of TDC from other sources
FMR greater than High Home	No	90%	10%
FMR greater than High Home	Yes	92%	8%
FMR equal to High Home	No	93%	7%
FMR equal to High Home	Yes	95%	5%
FMR equal to Low Home	No	96%	4%
FMR equal to Low Home	Yes	98%	2%

(e) For Applications proposing New Construction, documentation sufficient to meet the Site and Neighborhood Standards required in 24 CFR §92.202.

§53.81. MFD Program Requirements

(a) Eligible activities include the acquisition or refinancing and New Construction or Rehabilitation of multifamily housing Developments. Housing assisted with HOME funds must meet all applicable codes and standards. Additionally, the Development must meet or exceed the requirements of 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.

(b) Developments involving New Construction will be limited to no more than 252 total units. This maximum unit limitation also applies to those Developments which involve a combination of Rehabilitation and New Construction. Developments that consist solely of acquisition and

Rehabilitation or Rehabilitation only may exceed the maximum unit restrictions. The minimum number of units shall be 8 units.

(b) This Program Activity is a CHDO-eligible activity.

(c) A Development receiving funds under this section shall have a LURA filed and recorded at the time of Loan closing and prior to any disbursement of HOME funds. The Department may require that a second LURA be filed and recorded if the restrictions to be placed on the Development exceed those of the federal requirements. Such second LURA shall include all of the requirements that exceed the federally required restrictions.

(d) In addition to the federal restrictions, Developments receiving funds under this section must meet the following rent and income restrictions:

> (1) At least 20 percent (20%) of the total number of units in the Development must be restricted as HOME units;
>
> (2) At least 5 percent (5%) of the total number of units in the Development must be set-aside for households at or below 30% of AMFI and must have rent restrictions at 30% of AMFI; and
>
> (3) Developments receiving funds under the Persons with Disabilities set-aside are not required to meet the requirements under paragraphs 1 or 2 of this subsection but must restrict all HOME units at 50% of AMFI or below and at least 5% of the HOME units at 30% of AMFI or below.

(e) Project funds awarded to Developments under this section shall be structured in the form of a loan or loans as follows:

> (1) The interest rate may be as low as 2% provided all requirements of this chapter and 10 TAC §1.32 are met. To the extent that Match in an amount of 5% or more of the HOME funds is provided, an interest rate as low as 0% may be requested;
>
> (2) Unless structured only as an interim construction or bridge loan, the loan term shall be no less than 15 years and no greater than 40 years and the amortization schedule shall be no less than 20 years and no greater than 40 years;
>
> (3) The loan shall be structured with a regular monthly payment beginning at the end of the construction period and continuing for the loan term. If the first lien mortgage is a federally insured HUD or FHA mortgage, the Department may approve a loan structure with annual payments payable from surplus cashflow provided that the debt coverage ratio, inclusive of the loan, continues to meet the requirements in 10 TAC §1.32. The Board may also approve, on a case-by-case basis, a cashflow loan structure provided it determines that the financial risk is outweighed by the need for the proposed housing;

(4) The loan shall have a deed of trust with a lien position consistent with the principal amount of the loan in relation to the principal amounts of the other sources of financing. Notwithstanding the foregoing, the loan shall have a lien position that is superior to any other sources of financing that have soft repayment structures, non-amortizing balloon notes, are deferred forgivable loans or in which the lender has an Identity of Interest with any member of the development team. The Board may also approve, on a case-by-case basis, an alternative lien priority provided it determines that the financial risk is outweighed by the need for the proposed housing.

(f) Closing on the Loan shall be conditioned upon the occurrence of closing with any superior lien holders or any other sources of funds determined to be necessary for the long-term financial feasibility of the Development and all due diligence determined by the Department to be prudent and necessary to meet the Department's rules, the HOME Final Rule, and to secure the interests of the Department.

(g) When Department funds have a first lien position, assurance of completion of the development in the form of payment and performance bonds in the full amount of the construction contract will be required or equivalent guarantee in the sole determination of the Department. Such assurance of completion will run to the Department as obligee. Development Owners also utilizing the USDA 515 program are exempt from this requirement but must meet the alternative requirements set forth by USDA.

(h) All HOME units required under this section shall be restricted as "floating" HOME units in accordance with the meaning ascribed by HUD except for units receiving funds for the development of units for persons with disabilities in which case such units shall be designated "fixed" HOME units. Development Owner must use its best efforts to distribute units reserved for Low Income Families, Very Low Income Families and Extremely Low Income Families among unit sizes in proportion to the distribution of unit sizes in the Property and to avoid concentration of Low Income Families, Very Low Income Families and Extremely Low Income Families in any area or areas of the Property.

§53.82. MFD Administrative Requirements

(a) Loan closing. The Development Owner must submit the following with a request for the preparation of loan closing:

(1) Owner/General Contractor and owner/architect agreements;

(2) Survey of the property reflecting all planned improvements that includes a certification to the Department, Development Owner, title company, and other lenders;

(3) If layered with housing tax credits, a fully executed limited partnership agreement between the general partner and the tax credit investor entity (may be provided concurrent with closing);

(4) Documentation of acceptance of HOME loan by other lenders and financing participants;

(5) A budget that includes the amount of Project funds specifying the acquisition cost, ~~and~~ construction costs, developer fees, other soft costs and Match to be provided. The sources of funds used to finance the Development. If the budget or sources of funds reflect material changes that may affect the financial feasibility of the Development, the Department may request additional documentation to ensure that the Development continues to meet the requirements of 10 TAC§1.32;

(6) Verification of environmental clearance; and

(7) Any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.~~;~~

(b) Disbursement of funds. The Development Owner must comply all of the following requirements for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Development Owner's compliance with following requirements may be required with a request for disbursement.

(1) Except disbursements for acquisition and closing costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or 45 days, whichever is later. For release of retainage the down date endorsement must be dated at least 30 days after the date of construction completion;

(2) For hard construction costs, documentation of the total construction costs incurred and costs incurred since the last disbursement of funds. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702 or G703;

(3) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Development Owner's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official.

(6) Developer fee schedule. Disbursement of Developer fees will be conditioned as follows:

(A) For Developments in which the Loan is secured by a first lien deed of trust against the property, 75% shall be disbursed in accordance with percent of construction completed (i.e. 75% of the total allowable fee will be multiplied by the percent completion) as documented by the construction contract and as may be verified by an inspection by the Department and 25% shall be disbursed at the time that the property reaches an occupancy of 50% or at release of retainage, whichever is later; or

(B) For Developments in which the Loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits to finance development, Developer fees will not be reimbursed by the Department unless the other lenders and syndicator confirm in writing that they do not have an existing or planned agreement to govern the disbursement of Developer fees and expect that Department funds shall be used to fund Developer fees. Provided this requirement is met, developer fees shall be reimbursed in the same manner as described in clause (A) of this subparagraph; and

(C) The Department may reasonably withhold any disbursement of developer fees if it is determined that is not progressing as necessary to meet Contract benchmarks or that cost overruns may put the Department's funds or completion within budget at risk. Once a reasonable alternative that is deemed acceptable by the Department has been provided, disbursement of the remaining fee may occur.

(7) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure requested. The Department may request Development Owner to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Development Owner as may be necessary or advisable for compliance with all program requirements.

(8) Table funding requests must be submitted to the Department with complete documentation no later than 10 business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Development Owner's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for soft costs being paid at closing.

(9) Include the withholding of 10% of hard construction costs for retainage. Retainage will be held until at least 30 days after completion of construction, a final inspection is completed and clearance is issued by the Department, labor standards final wage compliance report, and receipt of certificates of occupancy for new construction or a certification of completion from the Development architect for rehabilitation.

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

~~(c) For funds being used for RHD, the Development Owner must establish a reserve account consistent with Texas Government Code, §2306.186, and as further described in §1.37 of this title~~

Subchapter I. COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)

§53.90. Application Procedures for Certification of CHDO

(a) An Applicant requesting certification as a CHDO must submit an application for CHDO certification in a form prescribed by the Department. The CHDO Application must be submitted with an Application for HOME funding under the CHDO Set-Aside and the CHDO must be a sponsor, developer, or owner of the Development within the meaning ascribed by HUD for the Program Activity being performed. An Applicant shall not receive more than one award of CHDO operating funds during the same fiscal year of the Department regardless of the number of Applications submitted. Any such award is limited to $50,000. The Application must include documentation evidencing the requirements of 24 CFR Part 92 and this subsection:

(1) All Applications shall include the following documents as applicable which shall be reviewed for compliance with federal and state requirements:

(A) Bylaws with date of board approval;

(B) Charter; and

(C) Articles of Incorporation

(2) The Applicant must be organized as a private nonprofit organization under the Texas Nonprofit Corporation Act or other state not-for-profit/nonprofit statute as evidenced by the documents required under subsection (a)(1).

(3) The Applicant must be registered with the Secretary of State to do business in the State of Texas.

(4) The Applicant must have the following tax status:

(A) A current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, or §501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as a CHDO; or

(B) Classification as a subordinate of a central organization nonprofit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS that includes the Applicant. The group exemption letter must specifically list the Applicant; and a private nonprofit organization's pending application for §501(c)(3) or §(c)(4) status cannot be used to comply with the tax status requirement under this subparagraph.

(5) The Applicant must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by the documents required in subsection (a)(1) or a business plan which outlines the CHDO's plans for developing affordable housing, providing services to each of the areas included within the service area, and internal operations.

(6) The Applicant must have a clearly defined service area that may encompass an entire "community" as defined in 24 CFR §92.2 under Community Housing Development Organization. The service area must delineated in the entity's organizational documents.

(7) An Applicant must have the following capacity and experience:

(A) Conforms to the financial accountability standards of 24 CFR §84.21, "Standards of Financial Management Systems" as evidenced by:

(i) A notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department;

(ii) A certification from a Certified Public Accountant; or

(iii) A HUD-approved audit summary; and,

(iv) A written narrative describing internal controls used to create financial duties and safe guard corporate assets; and

(v) A written narrative describing the conflict of interest policy governing employees and development activities and procurement; and

(vi) A written narrative describing the current corporation's financial structure can support housing development activities; and

(vii) A written narrative describing the organization's ability to manage additional rental development activities, if applicable.

(B) Demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:

(i) Documentation that describes the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds; or

(ii) Contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with HOME funds, to train appropriate key staff of the organization.

(C) Has a history of serving the low income residents of the city or county in which housing to be assisted with HOME funds is to be located as evidenced by:

(i) Documentation of at least one year of experience providing services; or

(ii) For newly created organizations formed by local churches, service or community organizations, a statement that documents that its parent organization has at least one year providing services; and

(iii) The documentation provided in subparagraphs (i) or (ii) of this paragraph must document and describe the organization's history (or its parent organization's history) of serving the city or county, such as, developing new housing, rehabilitating existing housing stock and managing housing stock, or delivering non-housing services that have had lasting benefits for those receiving services, such as counseling, food relief, or childcare facilities. The statement in the submission package must be signed by the president or other official of the organization.

(8) An Applicant must have an organizational structure that meets the federal requirements in 24 CFR §92.2. Compliance with this paragraph shall be evidenced by:

(A) A written provision or statement in the organizations Bylaws, Charter or Articles of Incorporation;

(B) An affidavit signed by the organization's Executive Director and notarized; and

(C) A current roster of all Board of Directors, including names and mailing addresses. The required one-third low-income residents or elected representatives must be marked on list as such.

(9) The Applicant must provide a formal process for low-income individuals, including potential program beneficiaries to advise the organization in all of its decisions regarding the design, siting, development, and management of affordable housing projects. The formal process should include a system for community involvement in parts of the private nonprofit organization's service areas where housing will be developed, but which are not represented on its boards. Input from the low-income community is not met solely by having low-income representation on the board. The formal process must be in writing and approved or adopted by the private nonprofit organization, as evidenced by:

(A) An organization's Bylaws; or

(B) A written statement of operating procedures approved by the governing body. Statement must be original letterhead, signed by the Executive Director and evidence date of board approval; and

(C) A Resolution with evidence of date of board approval.

(11) If the CHDO's creation was sponsored by a for-profit organization the for-profit entity's primary purpose cannot include the development or management of housing, as

evidenced in the for-profit organization's Bylaws. If an Applicant is associated or has a relationship with a for-profit entity or entities, the CHDO must prove it is not controlled, nor receives directions from individuals, or entities seeking profit as evidenced by the documentation required in subsection (a)(1) or an memorandum of understanding or similar agreement.

(12) CHDOs that are in partnership agreements associated with the Development must maintain effective Control and decision making control over the Development. All legally binding ownership and/or partnership agreements must clearly state the CHDO's role in the Development, as evidenced by an affidavit from the CHDO and any other developer, general partner, or special limited partner (except for entities related to a tax credit investor limited partner) that the CHDO will maintain effective Control and decision making control over the Development. In addition, the CHDO or entity wholly owned by the CHDO must receive at least 50% of the cashflow from the property (for multifamily developments) or 50% of the developer fee which must also be evidenced by the affidavit.

(b) An Application for CHDO Certification will only be accepted if submitted with an Application to the Department for HOME funds. If all requirements under this section are met, the Applicant will be certified as a CHDO upon the award of HOME funds by the Department. A new Application for CHDO certification must be submitted to the Department with each new Application for HOME funds under the CHDO Set-Aside.

§53.91. Recertification of CHDO

A CHDO must be recertified every 12 months during the Contract Period of any Contract with a commitment of CHDO funds with the first recertification application submitted at least 30 days prior to 12 months from the beginning of the contract period. Failure to be recertified as a CHDO may result in the Department withholding any draws until the CHDO obtains the recertification. Such recertification application shall include:

(a) Submission of a CHDO Application to document compliance with this section; or

(b) An affidavit from the CHDO that it continues to meet all of the requirements of this section and that there have been no changes in the organizational structure or Board membership that would violate the federal requirements in 24 CFR Part 92; and

(c) A legal opinion from the CHDO’s legal counsel that the organization continues to meet the federal definition of a CHDO in 24 CFR §92.2.

~~*§53.85. Administrative and Soft Costs Limitations*~~

~~(a) The Department has established cost guidelines and limitations for administrative and soft costs related to the OCC, TBRA, and HBA Program Activities.~~

~~(1) Administrator must use funds for Administrative Costs in accordance with 24 CFR §92.207. For the OCC, HBA, and contract for deed conversion Program Activities, funds~~

~~for Administrative Costs cannot exceed 4% of the total project costs for the entire Contract term. For the TBRA Program Activity, funds for Administrative Costs cannot exceed 4% of the total project funds per year of the Contract term. For Program Activities that are serving Persons with Disabilities, funds for Administrative Costs cannot exceed 6% of the total project costs for the entire Contract term.~~

~~(2) With the exception of Administrative Costs per Contract, these costs are maximums per Activity or Project and may not be exceeded without approval by the Department. Upon prior approval of the Department, exceptions may be allowed in the case of Rehabilitation activities for lead-based paint hazard reduction and/or relocation and cost categories and limitations not identified in the proposed rule.~~

~~(3) Contract Administrators must certify that the amount being disbursed is for the actual amount of costs.~~

~~(4) Costs that may be categorized as either a project soft cost or an administrative cost are identified below. No duplicate disbursement of costs is allowed. Costs may only be disbursed as either a project soft cost or administrative cost but not both. Additionally, costs may only be disbursed once per occurrence when providing both acquisition and construction type of assistance to the same Project or Activity as may take place with, but not limited to, contract for deed conversions.~~

~~(5) Unless otherwise noted, all items are limited to one (1) occurrence per Project or Activity.~~

~~(6) Third-party project soft costs related to loan closing requirements, such as appraisals, title reports or insurance, tax certificates, and recording fees, are not subject to a maximum per Activity or Project. However, these soft costs are subject to the maximum amount of assistance established for the Program Activity.~~

~~Figure: 10 TAC §53.85(a)(6)~~

~~**OCC and HBA with Rehabilitation**~~	~~**Reconstruction**~~	~~**Rehabilitation**~~
~~Project Soft or Administrative Cost per ACTIVITY~~		
~~Application intake and processing~~	~~$ 600~~	~~$ 600~~
~~Credit Report~~	~~$ 50~~	~~$ 50~~
~~Construction and disbursement documentation preparation~~	~~$ 250~~	~~$ 250~~
~~Environmental review~~	~~$ 400~~	~~$ 400~~
~~Exempt administrative environmental~~	~~$ 50~~	~~$ 50~~
~~Final inspection~~	~~$ 300~~	~~$ 300~~
~~Information services~~	~~$ 400~~	~~$ 400~~
~~Initial inspection~~	~~$ 500~~	~~$ 500~~
~~Procurement of contractor~~	~~$ 300~~	~~$ 300~~
~~Progress inspections (up to 7 at $300 max each, minimum of 4 required)[1]~~	~~$ 2,100~~	~~$ 2,100~~
~~Pre-construction conference~~	~~$ 300~~	~~$ 300~~
~~Project document preparation~~	~~$ 100~~	~~$ 100~~
~~Punch list verification inspection~~	~~$ 300~~	~~$ 300~~
~~Schedule of values~~	~~$ 100~~	~~$ 100~~
~~Work write-up~~	~~N/A~~	~~$ 500[2]~~
~~Work write-up summary/cost estimate~~	~~$ 400[2]~~	~~$ 400[2]~~
~~Administrative Cost Only per CONTRACT~~		
~~Affirmative marketing plan~~	~~$ 200~~	~~$ 200~~
~~Financial management~~	~~$ 200~~	~~$ 200~~
~~Procurement of professional service provider~~	~~$ 300~~	~~$ 300~~
~~Recordkeeping~~	~~$ 800~~	~~$ 800~~
~~Project Soft Cost Only per ACTIVITY~~		
~~Plans (market value)~~	~~N/A~~	~~$ 200~~
~~Plans and specification manual (market value)~~	~~$700[2]~~	~~N/A~~
~~Specification manual~~	~~N/A~~	~~$ 200~~

~~[1] A maximum of two (2) progress inspections are allowed when a housing unit is replaced with an MHU.~~

~~[2] Work write-up, Work write-up summary/cost estimate, plans and specifications are not allowable costs when a housing unit is replaced with an MHU.~~

~~HBA~~	
~~Project Soft or Administrative Cost per ACTIVITY~~	
~~Application intake and processing~~	~~$ 600~~
~~Preparation of loan documents~~	~~$ 100~~
~~Environmental Review~~	~~$ 400~~
~~Exempt administrative environmental~~	~~$ 50~~
~~Information services~~	~~$ 200~~
~~Project document preparation~~	~~$ 100~~
~~Property Inspection~~	~~$ 350~~
~~Schedule of values~~	~~$ 100~~
~~Administrative Cost Only per CONTRACT~~	
~~Affirmative marketing plan~~	~~$ 200~~
~~Financial management~~	~~$ 200~~
~~Procurement of professional service provider~~	~~$ 300~~
~~Recordkeeping~~	~~$ 800~~
~~Project Soft Cost Only per ACTIVITY~~	
~~Credit Report~~	~~$ 50~~
~~Homebuyer Counseling~~	~~$ 300~~

~~(b) The allowable activities for each cost category are defined as follows:~~

~~(1) Administrative costs are costs incurred for activities performed directly by the Administrator and include general management and oversight, salaries, wages and related costs of staff, travel costs incurred for official business in carrying out the Contract, public information, and other costs required for the administration of the program such as purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (not purchase) of office space;~~

~~(2) Affirmative marketing plan is the cost incurred to develop a written plan for ensuring that marketing, advertising, and outreach activities are provided to all protected classes and to the populations being served by the Contract. This includes the development of advertising materials and hand-outs and public presentation;~~

~~(3) Application intake and processing is the cost incurred for the completion of all intake application documentation and forms, verification of all sources of income, employment verification, asset verification and imputation and re-verification of all expired documentation. This includes all Department-required forms, worksheets, addenda and certifications required for the household's application intake and processing;~~

~~(4) Construction and disbursement documentation preparation is the cost incurred in the preparation of forms required by the Department that are related to construction or~~

~~disbursement documentation and include electronic entry into the TDHCA Contract System, support documentation preparation and completion of Department-required forms including, but not limited to, the Contractor Request for Payment, Lien Waiver Affidavits, Final Bills Paid Affidavit and Certification of Completion;~~

~~(5) Environmental review is the cost incurred for the preparation and completion of all required forms, checklists and certifications, publication activities and Request for Release of Funds and Finding of No Significant Impact and Eight Step Process, if applicable;~~

~~(6) Exempt administrative environmental is the cost incurred in the completion of an exemption form for administrative expenses;~~

~~(7) Final inspection is the cost incurred in performing a final walk through and physical inspection of the assisted housing unit noting any deficient items that must be corrected before final payment and the completion of any Department-required forms or checklists;~~

~~(8) Financial management is the cost incurred in the management of all project and program accounts using a fund type accounting system that can trace each expense to an individual Project or to the program as a whole and ensures compliance with OMB circulars. A written or printed journal of all transactions including receipt and disbursement of funds should be included;~~

~~(9) Homebuyer counseling is the cost incurred to provide a minimum of eight hours of counseling provided by a certified homebuyer counselor. Instruction may include, but is not limited to, financial management, credit management, homebuyer education, and/or job training;~~

~~(10) Information services is the cost incurred to provide information to homeowners, prospective homebuyer and/or tenants. These may include the following:~~

> ~~(A) Fair housing--cost incurred to provide information to prospective homebuyers and tenants (not applicable to OCC);~~
>
> ~~(B) Loan procedures--cost incurred to provide information pertaining to fair lending practices, loan requirements, and closing procedures to participants in OCC and HBA (not applicable to TBRA);~~
>
> ~~(C) Warranty (Project cost only)--cost incurred to provide an explanation of the builder's homeowner warranty (must comply with Texas Residential Construction Commission requirements) to households assisted with Reconstruction or Rehabilitation activities;~~
>
> ~~(D) Lead-based paint--cost incurred to provide lead-based paint hazard notification to all applicants in all HOME Program Activities;~~

~~(11) Initial inspection is the cost incurred in the completion of the initial physical inspection of the housing unit to be assisted and Department-required forms and checklists. The~~

~~inspection must identify all health and safety concerns regarding the housing unit, all sub-standard conditions that require repair or replacement to comply with applicable codes and standards and the TMCS, and provide enough detail to complete a work write-up, and if applicable, a justification of Reconstruction;~~

~~(12) Plans is the cost incurred to obtain a complete set of plans, which shall include a site plan for each housing unit showing known easements and lot set-backs, a floor plan, a front elevation, a foundation plan, a plumbing and electrical plan and a mechanical and energy efficiency plan. If these plans are purchased from or donated by a licensed architect or engineer they should bear the appropriate stamp. While builders may require less complete plan sets and it is understood that some of these details may be combined on the same sheet, any plans set that does not include this level of detail will be pro-rated accordingly;~~

~~(13) Pre-construction conference is the cost incurred in conducting a meeting with the homeowner and building construction contractor to explain and discuss the construction process being undertaken. This meeting should include a description of construction activities and procedures, expectations of the final product, an explanation of the roles and duties for all parties, detail and review of the timelines and contractual milestones, required access and use of utilities, provision of appropriate security measures, selection of products and improvements to be provided, and a discussion of appropriate handicap accessibility features;~~

~~(14) Procurement of contractor is the cost incurred in the preparation of bid documents, pre-bid advertising, conducting of the pre-bid conference, the verification of required builder certifications, conducting of the walk-through of housing units to be assisted, conducting checks of bidder qualifications and references, conducting bid opening including keeping minutes and tabulations, the review of the bids, conducting contract negotiation and verification, the notification of award and the completion of any Department-required forms;~~

~~(15) Procurement of professional service provider is the cost incurred to procure a professional service provider (i.e. consultant). The Administrator must use negotiated bidding procedures for the procurement of professional service providers (i.e. consultants) and provide for independent procurement of professional service providers (i.e. consultants may not participate in any aspect of procuring consultants);~~

~~(16) Progress inspections is the cost incurred in performing inspections at logical points during the construction process or prior to approving each draw that verify quality and completeness of work to date and are signed by the inspector and Contract Administrator. Upon completion of the progress inspection, the Contract Administrator must send a copy of the completed inspection report to the homeowner. The homeowner must also sign to acknowledge receipt of the completed Progress Inspection Report. Logical points of inspection include but are not limited to:~~

~~(A) Foundation--prior to pouring a monolithic foundation and after initial curing or alternatively after completion of piers;~~

~~(B) Framing--completion of framing;~~

~~(C) Rough in--after completion of electrical and plumbing but before covering and placement of fixtures; and~~

~~(D) Substantial completion.~~

~~(17) Progress inspections should each require at least one hour and include inspection forms, filed notes, sketches, and/or photographs adequate for verification of that stage of completion;~~

~~(18) Project documentation preparation is the cost incurred in the preparation of forms required by the Department that are not related to income eligibility or construction and include, but are not limited to, the TDHCA Contract System Access Request, Direct Deposit Authorization, Texas Application for Payee Identification, and Audit Certification;~~

~~(19) Property inspections is the cost incurred to perform an inspection of the subject property in order to certify that no sub-standard conditions exist according to TMCS using the Department's forms;~~

~~(20) Punch list verification inspection is the cost incurred in performing a final physical inspection of the assisted housing unit to verify the completion of punch list items only;~~

~~(21) Recordkeeping is the cost incurred to develop, prepare and maintain a recordkeeping system in the order prescribed by the Departments which includes three separate types of filing for program, environmental, and project areas;~~

~~(22) Schedule of values is the cost incurred to prepare a line-item description of each work activity and its associated cost and enter electronically into the Department's Contract System as the budget;~~

~~(23) Specification manual is the cost incurred to prepare or obtain a single generic manual to be used for multiple sites or projects detailing the methods and materials to be used on all construction jobs. The homeowner's choices may be included but should be detailed for each job. All trade areas and construction activities must be included in the specification manual. In cases where there are no local requirements for specifications and TMCS are used, no additional cost should be requested for disbursement;~~

~~(24) Work write up is the cost incurred to prepare or obtain a complete description of the work activity specific to Rehabilitation required to bring the entire structure into compliance with the applicable construction standards. It must include all units of measurement, materials to be used, methods of application, and all necessary construction detail and/or may be used in conjunction with a specification manual; and~~

~~(25) Work write-up/cost estimate is the cost incurred in performing the Feasibility Analysis which is a budgetary justification for Reconstruction which compares the cost of Rehabilitation to the replacement costs of a housing unit and in the completion of~~

~~Department required forms. The analysis must include a summary of the steps and costs required to correct the deficiencies identified in the initial inspection.~~

DISASTER RECOVERY DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve the request for an amendment to CDBG Disaster Recovery Contract No. 7060001 with the Houston-Galveston Area Council (H-GAC), a housing contract administered by TDHCA for CDBG Hurricane Rita Round 1 Funding

> **RESOLVED**, that the Executive Director and his designees are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the amendment, in the form presented to this meeting, to be provided to H-GAC for Disaster Relief Contract, No. 7060001 to extend the end date to August 31, 2010 and to deobligate $358,610 of unutilized funds, to be drafted as approved and presented to this meeting, and to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

Background

The Houston-Galveston Area Council previously received a contract extension to May 31, 2010 to complete construction on their two remaining applicants that will be served under approved for earlier contract end dates. As all three Councils of Government begin to finalize activities under their respective contracts, it has become necessary to make final adjustments to DETCOG's and H-GAC's contracts that will allow them to be in-line with SETRPC's contract end date. H-GAC has also requested minor budget adjustments to support the extension of activities under the contract. Below is a summary of their requests.

Houston-Galveston Area Council C 06 0001

Summary of Request
On May 24, 2010, H-GAC notified TDHCA that the final two (2) homes that will be served by H-GAC could not be completed by the current end date of the contract, May 31, 2010. The final two (2) homes are located along the coast on Bolivar Peninsula, and H-GAC encountered unanticipated construction delays, including permitting delays. Therefore, H-GAC is requesting an extension to August 31, 2010. H-GAC is not requesting additional funds to extend the contract through August 31, 2010. With this amendment, H-GAC will also be releasing $358,610 in unutilized funds from this contract that may be used to serve other areas with need.

DISASTER RECOVERY DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve a modification to the State of Texas Action Plan for Disaster Recovery (Action Plan) related to Public Law 110-329 to reflect final allocations of Community Development Block Grant (CDBG) Disaster Recovery funds for rental activities.

> **RESOLVED,** that the adoption of the proposed modification to the Action Plan, is hereby ordered and it is approved, together with the Texas Department of Rural Affairs (TDRA) as lead entity for these funds, and
>
> **FURTHER RESOLVED,** that the Executive Director and his designees are hereby authorized, empowered, and directed, for and on behalf of the Department, to cause the modification, in the form presented to this meeting, to be provided to the U.S. Department of Housing and Urban Development (HUD) in accordance with the Federal Register, Vol. 74, No. 29 Published February 13, 2009, and to make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

Background

The Action Plan states that at least 10.6 percent ($139,743,911) of the total State Allocation will be used for affordable rental housing programs, as required by federal statute. To meet this requirement, the Action Plan provides for a 4.47 percent set-aside ($58,834,914) under the TDHCA Affordable Rental Housing Stock Restoration Program (Rental Set-Aside), with the remaining 6.15 percent ($80,908,997) to be met at the regional level by Subrecipients through allocations approved under Council of Government (COG) Methods of Distribution (MOD).

Subsequent to Action Plan and MOD approvals, TDHCA awarded $59,926,832 under the Rental Set-Aside Award, and awarded $129,260,834 to Subrecipients for proposed rental activities, for a rental activity total of $189,187,666, or $49,443,755 more than originally estimated in the Action Plan.

Activities funded with CDBG Disaster Recovery funds must correspond to the allocations approved in the Action Plan. If allocation adjustments are necessary, the State must determine whether or not the adjustments constitute a substantial change that would require an Action Plan Amendment. The criteria specified in the Action Plan that would require an amendment are:

- addition or deletion of any allowable activity described in the plan; or
- a change in the allowable beneficiaries.

If the State determines that the changes are not substantial, then the State can modify the Action Plan accordingly.

Staff has determined that the required adjustments are not substantial for the following reasons:

- Rental activities are part of the Action Plan as approved; therefore these adjustments will not result in the addition or deletion of an activity.
- The additional funds that will be allocated for rental activities did not change the allowable beneficiaries. The result of these adjustments will be an increase in the beneficiaries served under the low-to-moderate income national program objective (NPO), which is also the primary objective of the CDBG Program.
- The Action Plan provides a minimum estimation of the amount of funds that will be allocated for rental activities, but does not limit rental funding to that amount.
- The adjustments to increase the Rental Set-Aside will come from funds reserved for State Administrative expenses; there will not be a corresponding decrease in funds set-aside for other activities.
- The allocation of funds by Subrecipients for rental activities was part of the regional allocations in the Action Plan. Therefore, increasing the amount awarded for rental activities by the Subrecipients did not have an impact on the regional allocations in the Action Plan.

Although modifications do not require public comment, the proposed modification is being made available for public comment to ensure that the public is fully aware of all actions related to these funds. Further, public comment on the allocation of funds for rental activities by Subrecipients was part of the COG MOD process as well. Prior to this modification, the public has had several opportunities to comment on the use of the funds for all housing activities, including during the TDHCA award process. Favorable public comment was received for to use these funds for affordable rental housing activities.

The proposed modification is included as Appendix 1 to this item.

Appendix 1

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009
Public Law 110-329

Modification #1

June 4, 2010

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Modification to Adjust Rental Allocations to Final Amounts

National Objective:	**Benefit to Low and Moderate Income persons**
Activity Amount:	**TDHCA Rental Set-Aside - $59,926,832**
	Subrecipient Rental Activities - $129,260,834

Relevant Modification History:

the Action Plan states that **at least** 10.6 percent ($139,743,911) of the total State Allocation must be used for affordable rental housing programs, as required by federal statute. The State committed to meet the requirement by providing for a 4.47 percent set-aside ($58,834,914) under the TDHCA Affordable Rental Housing Stock Restoration Program (Rental Set-Aside), and the remaining 6.15 percent ($80,908,997) would be met at the regional level by Subrecipients through allocations approved under Council of Government (COG) Methods of Distribution (MOD).

Subsequent to Action Plan and MOD approvals, TDHCA awarded $59,926,832 under the Rental Set-Aside Award, and awarded $129,260,834 to Subrecipients for proposed rental activities, for a rental activity total of $189,187,666, or $49,443,755 more than originally estimated in the Action Plan.

Modification Summary:

Modifications are necessary to the Method of Distribution Section under State Process as follows:

As reflected in Table 1, out of the initial $1,314,990,193 allocation to Texas (State Allocation), the state has set-aside 4.5 percent (approximately $59,669,773) for State- Administrative expenses, including contract administration, compliance monitoring, and the provision of technical assistance to Applicants and Subrecipients. The state has also set-aside 2.78 percent (approximately $36,559,240) for Planning activities and 4.93 percent (approximately $64,914,651) for the state administered TDHCA Affordable Rental Housing Stock Restoration Program.

The remaining 87.75 percent ($1,153,846,529) will be distributed to the 11 regions, as further described in the Method of Distribution section.

At least 10.6 percent ($139,743,911) of the State Allocation total funds awarded must be used for affordable rental housing programs, as required by the federal statute. The state will meet part of this requirement with the 4.93 percent set-aside ($64,914,651) for the TDHCA Affordable Rental Housing Stock Restoration Program mentioned above. The remaining 6.15 percent ($80,908,997) will be met or exceeded at the regional level through allocation, as determined by the COG allocations. If the combined COG allocations for qualifying affordable rental housing programs do not meet or exceed the 6.13 percent remainder necessary to meet the federally required rental minimum, then the state may require the regions to adjust their allocations to include rental programs on a pro rata basis by the minimum amount necessary. Should any COG have funds that are unallocated to eligible entities, those funds will be returned to the state for reallocation at the state's discretion. (Detailed regional allocation information may also be found in Appendix D).

TABLE 1: REGIONAL ALLOCATIONS

Region	Percent of Total Damage	Initial Allocation Amount	Additional Allocation Amount	Total Allocation to Regions
ATCOG	0.11 %	$ 1,164,673	$ -	$ 1,164,673
BVCOG	0.85 %	$ 8,952,164	$ -	$ 8,952,164
CBCOG	0.30 %	$ 3,121,376	$ -	$ 3,121,376
CTCOG	0.01 %	$ 86,207	$ 163,793	$ 250,000
DETCOG	5.64 %	$ 59,310,711	$ 10,689,289	$ 70,000,000
ETCOG	0.88 %	$ 9,224,823	$ -	$ 9,224,823
GCRPC	0.03 %	$ 327,612	$ 672,388	$ 1,000,000
H-GAC	77.39 %	$ 814,133,493	$ -	$ 814,133,493
SETRPC	13.30 %	$ 139,940,688	$ 50,059,312	$ 190,000,000
LRGVDC	1.46 %	$ 15,347,037	$ 39,652,963	$ 55,000,000
STDC	0.04 %	$ 383,370	$ 616,630	$ 1,000,000
Subtotals		$1,051,992,154	$ 101,854,375	**$1,153,846,529**

Total Allocation	**$ 1,314,990,193**
Program (Total Regional Allocations) (87.75%)	$ 1,153,846,529
Administration (4.9 %)	$ 64,657,592
State Planning/ Project Delivery (2.78 %)	$ 36,559,240
TDHCA Affordable Rental Set Aside (4.56%)	$ 59,926,832

NOTE: Allocations have been rounded to the nearest whole dollar. See Appendix D for full detail.

Citizen Participation and Public Input

Written comments on this modification were accepted by mail, e-mail, and facsimile through June 28, 2010. The TDHCA Board Meeting served as a public hearing to receive public comment for the proposed modification to the Action Plan. The following summarizes public comment received:

[To be inserted after public comment period concludes]

DISASTER RECOVERY DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Ratify a contract with a consulting firm, as coordinated through the Governor's Office, to perform an updated Analysis of Impediments to Fair Housing

> **RESOLVED,** that the execution of a contract with a consulting firm to perform an updated Analysis of Impediments to Fair Housing is hereby ratified, and
>
> **FURTHER RESOLVED,** that the Executive Director and his designees are hereby authorized, empowered, and directed, for and on behalf of the Department, to execute a contract with Southwest Fair Housing Council for an updated Analysis of Impediments to Fair Housing.

Background

On May 25, 2010 the Conciliation Agreement was fully executed and approved by the US Department of Housing and Urban Development (HUD) in order to bring about the resolution of a Fair Housing complaint. The Conciliation Agreement required that an updated Analysis of Impediments (AI) to Fair Housing be conducted and completed within 120 days from the execution of the Agreement plus a reasonable amount of time for procurement. The Department requested and received approval from the Office of the Governor to treat this as an emergency procurement. This allowed the Department to enter into contract negotiations without the typical posting and notification processes which would further delay the completion of the AI.

Six firms identified by the complainants as acceptable in experience and ability were contacted by the Department regarding the solicitation to perform the analysis. Ultimately, only one firm had the relevant experience and capacity to perform the function and this firm was included in the request for the procurement waiver.

The AI contract will be with Southwest Fair Housing Council, a non-profit corporation in Tucson, Arizona. The contract requires two phases of AI update. The first is an AI targeted to the areas directly impacted by Hurricanes Ike and Dolly. The second is a balance of state model where less detailed information will be gathered in existing entitlement communities to support our programs in those communities. The total budget for these two phases is $425,000 with potential incentives of $8,750 for every 7 day period they produce the AI in less than 120 days from the start of the contract. In addition, there are liquidated damages in the amount of $8,750 for each part of a seven day period that exceeds the 120 day deadline. TDRA will pay a prorated share of the Phase 1 AI expense.

Rebuilding Texas: **Disaster Recovery from Hurricanes Rita and Katrina**

Hurricane Rita First Supplemental ($74.5 million) - Public Law 109-148

Referred to Round I, these funds represent the first of two awards to help restore and rebuild in areas of the State most directly impacted by Hurricane Rita. These funds are administered by regional Council of Governments.

Construction Activities as of June 21, 2010

- 526 single family homes rehabilitated or reconstructed
- 5 single family homes are under construction, and will be completed by September 2010

Financial Summary

	Current Budget	Admin $ Drawn To Date	Project $ Drawn To Date	Total Drawn	% of Funds Drawn
DETCOG	$6,674,546.00	$674,361.00	$6,000,185.00	$6,674,546.00	100.00%
H-GAC	$7,015,706.00	$928,253.75	$5,314,868.64	$6,243,122.39	88.99%
SETRPC	$27,198,536.00	$3,116,016.18	$22,391,927.13	$25,507,943.31	93.78%
Totals	**$40,888,788.00**	**$4,718,630.93**	**$33,706,980.77**	**$38,425,611.70**	**93.98%**

Hurricanes Rita and Katrina 2nd Supplemental ($428.6 million) - Public Law 109-234

The 2nd Supplemental is referred to as Round II and is the second allocation of CDBG funding to help restore and rebuild in areas of the State most directly impacted by Hurricane Rita. These funds also address needs of Katrina evacuees in Houston and Harris County.

Construction Activities as of June 21, 2010

Homeowner Program

- 1,573 homes rehabilitated or reconstructed
- 224 homes currently under construction

Rental Program

- 1,180 rental units have been rehabilitated or reconstructed
- 958 rental units are currently under construction

Financial Summary

	Current Budget	Cumulative Expenditures	Balance Remaining	Percentage Expended
Homeowner Assistance Program (HAP)	$210,371,273.00	$137,718,547.40	$72,652,725.60	65.46%
Sabine Pass Restoration Program (SPRP)	$12,000,000.00	$8,317,967.17	$3,682,032.83	69.32%
Rental Housing Stock Restoration Program (RHSRP)	$82,779,333.00	$68,457,546.29	$14,321,786.71	82.70%
City of Houston	$41,500,000.00	$32,134,398.28	$9,365,601.72	77.43%
Harris County	$20,000,000.00	$11,335,929.89	$8,664,070.11	56.68%
Restoration of Critical Infrastructure Program (TDRA)	$42,000,000.00	$29,893,815.76	$12,106,184.24	71.18%
State Administrative Funds (Admin Funds)	$19,933,592.00	$11,196,134,13	$8,737,457.87	56.17%
	$428,584,198.00	**$299,054,338.92**	**$129,529,859.08**	**69.78%**

Hurricane Ike and Dolly First Supplemental Appropriation ($1.3 billion) Public Law 110-329

The Texas Department of Housing and Community Affairs (Department/TDHCA) has awarded $621,448,377 for housing activities related to CDBG Disaster Recovery Funding in the hurricane impacted areas with reported housing damage. This funding is comprised of $562,613,464 that has been awarded to 18 Subrecipients and $58,834,914 for rental set-aside.

Summary of Activities as of April 26, 2010

Rental Program

- Over $58 million has been awarded to 14 multifamily developments in the hurricane impacted area. Eleven of the fourteen are going through the environmental review process.
- 2,181 rental units are anticipated to be rehabilitated or reconstructed by the Ike awardees; no rental activities were proposed in the Dolly area.

Subrecipient Program

- Subrecipients are beginning to receive approval on project set-ups and draws.
- To date, 11 of the 18 Subrecipients have drawn funds for start-up expenses and some project funds totaling $12.4 million.
- Under Houston's downpayment assistance program, 225 households have been approved for assistance, and under Galveston County, 2 households have been approved for rehabilitation/reconstruction assistance and are under construction.

Financial Summary

Subrecipient Awards	Current Budget	Cumulative Expenditures	Balance Remaining	Percentage Expended
City of Galveston	$160,432,233.00	$960,890.69	$159,471,342.31	0.60%
Galveston County	$99,503,498.00	$91,985.00	$99,411,513.00	0.09%
South East Texas Regional Planning Commission	$95,000,000.00	$311,202.78	$94,688,797.22	0.33%
City of Houston	$87,256,565.00	$7,916,134.34	$79,340,430.66	9.07%
Harris County	$56,277,229.00	$3,068,920.97	$53,208,308.03	5.45%
Houston-Galveston Area Council of Governments	$11,076,980.00	$0.00	$11,076,980	0.00%
Liberty County	$8,878,923.00	$0.00	$8,878,923	0.00%
Montgomery County	$6,909,237.00	$13,375.91	$6,895,861.09	0.19%
Deep East Texas Council of Governments	$5,931,070.00	$23,788.25	$5,907,281.75	0.40%
Cameron County	$3,093,750.00	$0.00	$3,093,750	0.00%
Hidalgo County	$2,000,000.00	$47,951.58	$1,952,048.42	2.40%
City of Brownsville	$1,635,318.00	$0.00	$1,635,318	0.00%
Fort Bend County	$1,582,107.00	$8,887.78	$1,573,219.22	0.56%
Brazos Valley Affordable Housing Corporation	$948,930.00	$0.00	$948,930	0.00%
Willacy County	$541,287.00	$0.00	$541,287	0.00%
East Texas Council of Governments (ETCOG)	$415,117.00	$9,597.64	$405,519.36	2.31%
City of Mission	$209,638.00	$812.80	$208,825.20	0.39%
Chambers County	$20,921,582.00	$0.00	$20,921,582	0.00%
Total:	**$562,613,464.00**	**$12,453,547.74**	**$550,159,916.26**	**2.21%**

FEMA Alternative Housing Pilot Program

The Disaster Recovery Division is responsible for administration of the Federal Emergency Management Agency (FEMA) award of $16,471,725 for the Alternative Housing Pilot Program (AHPP). The purpose of the AHPP is multi-faceted; including testing alternative housing types that can be quickly constructed in areas of disaster, exploring housing types that readily accepted in communities and testing the energy efficiency components. The AHPP program provides assistance to those with on-going housing needs due to Hurricane Katrina or Rita. A one-time exemption to the Stafford Act, AHPP permits the use of FEMA funding to study alternatives by examining cost-effective solutions that meet a variety of housing needs. Pursuant to FEMA requirements, the pre-fabricated units must be awarded within the 22 counties affected by the 2005 Hurricanes.

The Heston Group was selected to pilot a pre-fabricated, panelized solution which can be deployed quickly and built to accommodate a diverse population.

On July 31, 2009, TDHCA issued a notice of contract termination to the Heston Group for failure to provide sufficient responses to the requests outlined in the default notices issued on May 12, 2009 and June 25, 2009. The Department is currently working with the Heston Group as well as with their legal representation to build a transition to close out the contract. As a result of the contract termination, the Department has posted a Request for Proposal (RFP) for a contractor to complete the remaining portion of the program. The response deadline for the RFP has been extended to March 1, 2010 in order to allow more time to coordinate with the City of Houston (the City) with regard to the logistics of the group site.

Following an extended negotiation and planning period with the City, the City and TDHCA have decided not to pursue the group site application of AHPP any further due to the difficulty the City has encountered with locating the funding necessary for the currently approved group site.

Due to the difficultly encountered with the City's group site and the decision to remove the City from the program, the previously posted Request for Proposals (RFP) to solicit the participation of a replacement contractor for the Heston Group to install the AHPP units on the group site has been cancelled.

TDHCA staff held a conference call with FEMA HQ on Tuesday, June 8, 2010 to discuss next steps for the program in light of the decision made regarding the Houston group site. FEMA and TDHCA both agreed that it would be appropriate at this point to begin grant close out activities, bringing to an end the Houston group site planning and the Texas AHPP as a whole.

NEIGHBORHOOD STABILIZATION PROGRAM

BOARD ACTION REQUEST

June 28, 2010

Recommended Action

Authorization of emergency action by the Executive Director, as necessary for adherence to deadlines established by law under the Neighborhood Stabilization Program.

WHEREAS, the deadlines imposed by federal laws and rules for the committing of funds under the Neighborhood Stabilization Program are fast approaching and any funds that are not timely committed will be lost to the State of Texas and

WHEREAS, awards previously made are not in all instances being moved forward expeditiously and there are concerns that previously awarded funds may be returned or deobligated with very limited time to reobligate them, placing the State of Texas at risk of losing such funds and

WHEREAS, this Board has, through previous actions, established clear policy as to how the Neighborhood Stabilization Program is to be administered and it is the clear and express policy of this Board that the Department, to the fullest extent possible, utilize all available funding under the Neighborhood Stabilization Program for the benefit of the State of Texas and

RESOLVED, that the Executive Director and his designees be and they hereby are authorized, empowered, and directed, for and on behalf of the Department to issue one or more notices of funding availability ("NOFAs" and each a "NOFA") to make available funds under the Neighborhood Stabilization Program ("NSP") which have been de-obligated or voluntarily returned, any such NOFA to provide and allow for as much flexibility under the federal regulations and guidance for NSP while still providing reasonable assurance that the Department will comply with the overall objectives and requirements of NSP which may apply to it, including, but not limited to the objective of serving households at or below 50% of area median income and providing assistance to purchasers of abandoned and foreclosed properties at discounts that meet federal requirements.

FURTHER RESOLVED, that eligibility for funding under any such new NOFA shall not extend to any person or entity that has either returned NSP funds to the Department voluntarily or had such funds de-obligated. An applicant must establish to the Department's satisfaction that they will be able to administer all funds awarded on a lawful and timely basis.

Background

The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan (Action Plan). The purpose of the program is to redevelop into affordable housing or acquire and hold abandoned and foreclosed properties in areas that are documented to have the greatest need for arresting declining property values as a result of excessive foreclosures.

HUD has imposed an 18-month obligation deadline on all NSP Grantees. For TDHCA, the obligation deadline falls on September 3, 2010 – at which time any funds that have not been obligated to properties or households are subject to recapture by HUD. Due to the very short time available in which to obligate the NSP funds, and time requirements inherent in bringing actions to the Governing Board for approval, approval is requested for emergency action by the Executive Director.

The requested approval extends only to actions necessary to obligate NSP funds under these extraordinary circumstances, and will expire at the obligation deadline. The Executive Director will consult with the Chair prior to taking action, and the Governing Board will be provided with interim reports at each meeting while this authority is in effect and a final report of all actions at the September 9, 2010 meeting.

MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
June 28, 2010

Requested Action

Issue a list of Approved Applications (as of June 21) for Housing Tax Credits ("HTC") in accordance with §2306.6724(e) of Texas Government Code from the 2010 State Housing Credit Ceiling.

> WHEREAS, in accordance with §2306.6724(e) of Texas Government Code, 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.

It is hereby:

RESOLVED, that the List of Approved Applications for the 2010 Competitive Housing Tax Credit Cycle eligible for consideration for award is hereby approved in the form presented in this meeting.

Background

The Texas Department of Housing and Community Affairs' (the "Department") Board is required by §2306.6724(e) of Texas Government Code to "review the recommendations of department staff regarding applications and shall issue a list of approved applications each year in accordance with the qualified allocation plan no later than June 30." Based on existing legal interpretation, attached hereto, this requirement is satisfied by staff recommending to the Board all existing approved applications, which include all active applications not currently withdrawn by the applicant or terminated by the Department. This statutory language does not require that the list approved by the Board during the June Board meeting be split into a preliminary determination of those applications that may be recommended for a commitment of housing tax credits. In July, as required by §2306.6724(f) of Texas Government Code, the Board "shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31." At the July 29, 2010 Board meeting the list presented to the Board will clearly identify those applications being recommended for a Commitment Notice.

There are two lists for Board approval of all current approved applications from which the July 29, 2010 awards of housing tax credits will be selected. These include the At-Risk and Regional Lists. There were 233 Pre-Applications submitted reflecting a total request for housing tax credits of $315,096,185.

Subsequently there were 134 full applications submitted of which 16 applications have been withdrawn or terminated. There are 14 active applications remaining under the "At-Risk" and

“USDA” set-asides totaling $12,035,018 in requests. There are 103 active applications remaining in the Competitive Regions totaling $133,244,409 in requests.

Not all of the 115 approved applications will receive a commitment of housing tax credits; this list today merely reflects the pool of applications from which awarded applications may be selected. The lists attached include the current score for each active application as well as relevant application information.

In addition to the 115 approved applications currently competing for housing tax credits, the attached lists include applications that received forward commitments by the Board in 2009 out of the 2010 State Housing Tax Credit Ceiling. The Developments that received forward commitments are indicated by an “A” in the column titled “Status” as they have already received an award from the 2010 cycle. The approved applications to be considered by the Board for an award at the July 29, 2010 meeting are indicated by a “PA” or “APP” in the “Status” column excluding the applications that have TERM or WITH indicated in the “Notes” column on the right of the report.

At this time, not all applications have been reviewed for financial feasibility or compliance history; all applications are subject to those reviews. Through this review some applications may be found to be financially infeasible or ineligible based on compliance history, in which case they will be removed from the list of approved applications. Further, the credit amount reflected on this list is the requested credit amount and may change to reflect a recommended credit amount and/or may have conditions placed on the allocation at the time of the July 29, 2010 commitments. In addition to applications that may be removed from the list for issues of financial feasibility, applications may also be added to or removed from the list of approved applications by the Executive Director as determinations are made on appeals.

Staff Recommendation

Staff recommends that the Board issue the attached recommended list of approved applications for 2010 Competitive Housing Tax Credits pursuant to §2306.6724(e).

2010 Competitive HTC At-Risk Set-Aside Application Submission Log June 21, 2010
Sorted by Applicant Score

Estimated State Ceiling to be Allocated: $7,806,425*

File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	AR	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
10058	9	P	Guild Park Apts	779 W. Mayfield	San Antonio	Urban	☐	☑	☑	114	114	G	RH	$1,129,624	Gilbert M. Piette	☐	223.0	PA
10238	8	P	Prince Hall Plaza	700 Doris St.	Navasota	Rural	☐	☐	☑	60	60	G	RH	$640,710	K.T. (Ike) Akbari	☑	219.0	PA
10239	3	P	Prince Hall Gardens	1800 E. Robert	Fort Worth	Urban	☐	☐	☑	100	100	G	RH	$1,096,944	K.T. (Ike) Akbari	☐	211.0	PA
10020	9	P	La Posada del Rey Apts	3135 Roosevelt Ave.	San Antonio	Urban	☐	☑	☑	145	145	G	RH	$1,392,259	Jennifer Chester	☐	207.0	PA
10212	8	P	Longbridge Apts	921 N. Tyus St.	Groesbeck	Rural	☑	☐	☑	28	28	G	RH	$206,362	Dennis Hoover	☑	206.0	PA
10150	9	P	Woodlawn Ranch Apts	330 W. Cheryl Dr.	San Antonio	Urban	☐	☐	☑	200	252	G	NC	$2,000,000	Stephen J. Poppoon	☐	205.0	PA
10044	3	P	Wynnewood Seniors Housing	Approx. 1500 Block of S. Zang Blvd. (W. side of street)	Dallas	Urban	☐	☑	☑	140	140	E	NC	$1,606,374	Brian L. Roop	☐	204.0	PA
10226	3	P	Red Oak Apts	413 & 507 West Red Oak Rd.	Red Oak	Rural	☑	☐	☑	116	116	G	RH	$1,029,742	Paul Patierno	☑	203.0	PA
10112	10	P	Country Village Apts	1500 Hackberry Ln.	Mathis	Rural	☑	☐	☑	36	36	E	RH	$270,645	Dennis Hoover	☑	197.0	PA
10274	4	P	Grand Manor Apts	2700 N. Grand Ave.	Tyler	Urban	☐	☐	☑	120	120	G	RH	$1,197,939	Ross Stiteley	☐	196.0	PA
10213	6	P	Heritage Square Apts	7626 Hwy 60 #25	Wallis	Rural	☑	☐	☑	24	24	G	RH	$206,231	Dennis Hoover	☑	196.0	PA
10225	6	P	North MacGregor Arms	3533 N. MacGregor	Houston	Urban	☐	☐	☑	64	64	G	RH	$690,966	Janet Miller	☐	190.0	PA
10211	4	P	Riverplace Apts	1304 Ave. A	Hooks	Rural	☑	☐	☑	28	40	G	RH	$245,813	Dennis Hoover	☑	184.0	PA
10253	6	P	Brookswood Apts	444 Jefferson St.	West Columbia	Rural	☑	☐	☑	50	50	E	RH	$321,409	Ronald Potterpin	☑	183.0	PA
									Total:	**1,225**	**1,289**			**$12,035,018**				
10252	5	N	Terracewood Apts	300 Cobb Mill Rd.	Woodville	Rural	☑	☐	☑	40	40	G	RH	$253,088	Ronald Potterpin	☑	168.0	WITH
10231	3	N	Prince of Wales SRO Residential Hotel	4515 Live Oak St.	Dallas	Urban	☐	☐	☑	63	63	S	RH	$604,606	Graham Greene	☐		TERM
10237	5	N	Prince Hall Manor	1100 MLK Jr. Blvd.	Crockett	Rural	☐	☐	☑	70	70	G	RH	$796,235	K.T. (Ike) Akbari	☑		TERM
10255	6	N	Gentry House Apts	9001 Kempwood Dr.	Houston	Urban	☐	☐	☑	238	280	G	RH	$1,500,000	Daniel Betsalel	☐		TERM
									Total:	**411**	**453**			**$3,153,929**				
	18		**Total Applications**	**Sum of Awarded Credits:**	**Sum of Pending Credits: $12,035,018**					**1,636**	**1,742**			**$15,188,947**				

1 = Status of Award Abbreviation: Development Previously Awarded 2009 Housing Tax Credits=A, Pending/ Non-Awarded Applications=P, Not Active=N
2 = Allocation: Rural Regional Allocation or Urban Regional Allocation
3 = Set-Aside Abbreviations: TRDO-USDA=USDA, Nonprofit=NP, At-Risk=AR. Only USDA applications proposing Rehabilitation are reflected on this log. USDA applications proposing New Construction will be attributed to, and come from, the applicable Uniform State Service Region, and are located on the "Regional" log.
4 = Target Population Abbreviation: Intergenerational=I, Elderly=E, General=G, Supportive Housing=S
5 = Housing Activity: New Construction=NC, Rehabilitation=RH, Adaptive Reuse=ADR, Single Room Occupancy=SRO
6 = Notes: 2009 Applications Awarded from the 2010 Ceiling=FWD, Pending Applications=PA, Terminated Applications=TERM, Withdrawn Applications=WITH, Applications under Appeal=APP
* = The State Housing Credit Ceiling is an estimated amount based on 2009 population figures. This number represents the estimated 15% of the State Housing Credit Ceiling that must be allocated under the At-Risk Set-Aside and must be deducted from the State Housing Credit Ceiling prior to the application of the regional allocation formula. The remaining estimated 85% must be allocated regionally.

2010 Competitive HTC Regional Application Submission Log June 21, 2010
Sorted by Region, Allocation and Applicant Score

Estimated State Ceiling to be Allocated: $44,236,409*

File #	Region Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 1

Allocation Information for Region 1: **Total Credits Available for Region: $1,695,981** **Urban Allocation: $1,038,702** **Rural Allocation: $657,279**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 1: Urban

File #	Region Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10236	1 P	Viking Road Apts	Intersection of Viking Rd. and Ventura Rd.	Amarillo	Urban	☐	☐	132	132	G	NC	$1,417,000	Justin Zimmerman	☐	191.0	PA
					Total:			**132**	**132**			**$1,417,000**				

Applications Submitted in Region 1: Rural

File #	Region Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10107	1 P	Tenth Street Apts	SE Corner Tenth St. and Whittenburg St.	Borger	Rural	☐	☐	48	48	G	NC	$583,000	Justin Zimmerman	☐	157.0	PA
					Total:			**48**	**48**			**$583,000**				
2 Applications in Region					**Region Total:**			**180**	**180**			**$2,000,000**				

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** = Located in Hurricane Ike eligible county

Region: 2

Allocation Information for Region 2: **Total Credits Available for Region:** **$802,317** **Urban Allocation:** **$236,453** **Rural Allocation:** **$565,863**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	Set-Asides[3] NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
Applications Submitted in Region 2:			**Urban**														
10246	2	P	Green Briar Village Phase II	901 Airport Dr.	Wichita Falls	Urban	☐	☐	36	36	G	NC	$438,723	Randy Stevenson	☐	202.0	PA
10108	2	P	Griffith Road Apts	SE corner of Griffith Rd. and Scottish Rd.	Abilene	Urban	☐	☐	84	84	G	NC	$923,000	Michael B. Wilhoit	☐	200.0	PA
								Total:	**120**	**120**			**$1,361,723**				
Applications Submitted in Region 2:			**Rural**														
10000	2	A	Mustang Heights Apts	Intersection of Arizona Ave. & I-20 frontage Rd.	Sweetwater	Rural	☐	☐	80	80	G	NC	$950,000	Lucille Jones	☐		FWD
								Total:	**80**	**80**			**$950,000**				
10023	2	P	Burkburnett Pioneer Crossing for Seniors	109 Williams Dr.	Burkburnett	Rural	☐	☐	80	80	E	NC	$927,718	Noor Jooma	☑	205.0	PA
								Total:	**80**	**80**			**$927,718**				
4	**Applications in Region**							**Region Total:**	**280**	**280**			**$3,239,441**				

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 3

Allocation Information for Region 3: **Total Credits Available for Region:** **$10,270,113** **Urban Allocation:** **$9,209,414** **Rural Allocation:** **$1,060,699**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 3: **Urban**

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10119	3	P	Race Street Lofts	2817/2905 Race St. and 2812/2820/2822/2902 McLemore St.	Fort Worth	Urban			36	36	G	RH	$592,207	Jesus "Jay" Chapa		228.0	PA
10153	3	P	Britain Way	1954 Shoaf	Irving	Urban			168	168	G	RH	$1,627,680	Deepak Sulakhe	✓	219.0	PA
10079	3	P	Steeple Chase Farms	S. FM 1417 and Park Ave.	Sherman	Urban			156	156	G	NC	$1,996,605	Chris Dischinger		217.0	PA
10117	3	P	Terrell Homes I	Scattered Sites (N. of Hwy 287, E. of Hwy 35W, S. of Hwy 30 and W. of MLK Jr. Hwy)	Fort Worth	Urban			54	54	G	NC	$1,136,782	Jesus "Jay" Chapa		217.0	PA
10158	3	P	Sedona Ranch	6101 Old Denton Rd.	Fort Worth	Urban			172	172	E	NC	$1,940,000	Chris Applequist		216.0	PA
10171	3	P	HomeTowne at Garland	1520 Castle Dr.	Garland	Urban			144	144	E	NC	$1,434,894	Carla Simmons		216.0	PA
10284	3	P	Atmos Lofts	1900 Jackson St.	Dallas	Urban			107	107	G	ADR	$1,336,488	Ted Hamilton		215.0	PA
10137	3	P	Evergreen at Wylie	Approx. the 600 to 700 Block of S. McCreary Rd.	Wylie	Urban			160	160	E	NC	$1,936,192	Don Maison	✓	215.0	PA
10093	3	P	Greenhaus at East Side Apts	4611 E. Side Ave.	Dallas	Urban		✓	24	24	G	NC	$412,525	Maria Machado	✓	213.0	PA
10009	3	P	Creekside Village	3601 Miller Rd.	Rowlett	Urban			116	116	E	NC	$1,311,710	Charles Holcomb		211.0	PA
10136	3	P	Evergreen at Richardson	SWC of Renner Rd. & N. Star Rd.	Richardson	Urban			170	170	E	NC	$2,000,000	Don Maison	✓	210.0	PA
10075	3	P	Vermillion Park	Eastern Terminus of Emporium Square	Mesquite	Urban			96	96	E	NC	$1,000,000	Clifton Phillips		210.0	PA
10232	3	P	Evergreen Residences-3800 Willow	3800 Willow	Dallas	Urban			100	100	G	SRO	$1,151,210	Graham Greene		210.0	PA
10200	3	P	Hillside West Seniors	Near 32 Pinnacle Park Blvd.	Dallas	Urban			130	130	E	NC	$1,632,728	Brandon Bolin		209.0	PA

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
10113	3	P	Promenade at Mercer Crossing	NWC of Whittington Pl. and Senlac Dr.	Farmers Branch	Urban	☐	☐	124	124	E	NC	$1,518,354	Brad Kyles	☐	209.0	PA
10202	3	P	Brae Estates	3715 NE 28th St. and 3650 Kimbo Rd.	Fort Worth	Urban	☐	☐	68	68	G	NC	$1,292,507	Kim McCaslin Schlieker	☐	208.0	PA
10027	3	P	The Huntington at Greenville	300 Block S. Greenville Ave.and Main St.	Allen	Urban	☐	☐	114	114	E	NC	$1,387,546	Mark Musemeche	☐	207.0	PA
10233	3	P	Kleberg Commons	12700 Klegerg Rd.	Dallas	Urban	☐	☐	200	200	E	NC	$2,000,000	Dale Lancaster	☐	203.0	PA
10062	3	P	Willow Bay Apts	E. side of Boat Club Rd. and Cromwell Marine Creek Dr.	Fort Worth	Urban	☐	☐	124	124	E	NC	$1,631,681	Mark Lechner	☐	202.0	PA
10134	3	P	Champion Homes at Copperridge	5602 Maple Ave.	Dallas	Urban	☐	☐	107	107	G	ADR	$1,378,758	Saleem Jafar	☐	200.0	PA
10045	3	P	North Court Villas	10 acres on the S. side of Stonebrook Pkwy. Between Woodstream Dr. and Preston Rd.	Frisco	Urban	☐	☐	150	150	G	NC	$2,000,000	Dru Childre	☐	197.0	PA
10221	3	P	Residences at Rowlett Creek	SWC of Firewheel Pkwy. & Castle Dr.	Garland	Urban	☐	☐	160	160	G	NC	$2,000,000	Dan Allgeier	☐	194.0	PA
10089	3	P	Silver Spring at Chapel Hill	SWC of Bonds Ranch Rd. and Business 287/Saginaw Blvd.	Fort Worth	Urban	☐	☐	100	100	E	NC	$914,179	Alice Wong	☐	190.0	PA
								Total:	2,780	2,780			$33,632,046				
10173	3	N	Sphinx at Lawnview	4120 Lawnview Ave.	Dallas	Urban	☐	☐	120	120	E	NC	$1,493,356	Jay Oji	☐		TERM
10240	3	N	L'Atriums on the Creek Apts	1676 Carter Dr.	Arlington	Urban	☐	☐	484	484	G	RH	$1,200,000	Sean Kiehne	☐		TERM
10068	3	N	McAlister Gardens	NEC of McAlister Rd., and West I-35	Fort Worth	Urban	☐	☐	124	124	E	NC	$1,625,246	Mark Lechner	☐		TERM
10203	3	N	Jackson Square	1710 Jackson St.	Dallas	Urban	☐	☐	100	100	G	NC	$1,566,101	Jim Truitt	☐		WITH
								Total:	828	828			$5,884,703				

Applications Submitted in Region 3: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10130	3	P	Meadow Vista	White Settlement Rd. (1/4 mile E. of FM 730)	Weatherford	Rural	☐	☐	80	80	E	NC	$896,376	Justin MacDonald	☑	210.0	PA
10090	3	P	Silver Spring at Forney	SEC of FM 548 and Reeder Ln.	Forney	Rural	☐	☐	80	80	E	NC	$802,682	Alice Wong	☐	209.0	PA

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	Set-Asides[3] NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
10050	3	P	West Park Senior Housing	West Park Row and 44th St.	Corsicana	Rural	☐	☑	48	48	E	NC	$544,559	Emanuel H. Glockzin, Jr.	☑	207.0	PA
10257	3	P	The Colony at Lake Granbury	SWC Hwy 4 & Thorp Springs Rd.	Granbury	Rural	☐	☐	80	80	E	NC	$964,787	Rick J. Deyoe	☑	207.0	PA
10092	3	P	Silver Spring Grand Heritage	SWC of Hwy 78 and C.R. 484	Lavon	Rural	☐	☐	80	80	E	NC	$866,244	Alice Wong	☐	203.0	PA
10059	3	P	Westway Place	44th St., off West Park Row	Corsicana	Rural	☐	☑	40	40	G	NC	$546,741	Emanuel H. Glockzin, Jr.	☑	201.0	PA
10018	3	P	Granbury Seniors	1300 N. Meadows Dr.	Granbury	Rural	☐	☐	80	80	E	NC	$1,019,323	Ryan Wilson	☐	200.0	PA
								Total:	**488**	**488**			**$5,640,712**				
10174	3	N	Westgate Senior Villas	901 W. Brown St., NWC or Brown St. and Westgate Way	Wylie	Rural	☐	☐	120	120	E	NC	$1,551,137	Joseph Agumadu	☑		TERM
								Total:	**120**	**120**			**$1,551,137**				
35	**Applications in Region**							**Region Total:**	**4,216**	**4,216**			**$46,708,598**				

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 4

Allocation Information for Region 4: **Total Credits Available for Region: $1,632,208** **Urban Allocation: $718,146** **Rural Allocation: $914,062**

These are estimated amounts and do not consider amounts returned from previous awards at this time.
Apps in this region that are located in Ike counties may be funded utilizing the Ike allocation or state credit ceiling.

Applications Submitted in Region 4: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10028	4	P	Pecan Ridge	NWC of Milam and 15th St.	Texarkana	Urban	☐	☐	124	124	G	RH	$1,953,734	Naomi Byrne	☐	225.0	PA
10198	4	P	Pinnacle at North Chase	E. side of N. Broadway, S. of Loop 323	Tyler	Urban	☐	☐	120	119	G	NC	$1,473,851	Lisa Stephens	☐	216.0	PA**
								Total:	**244**	**243**			**$3,427,585**				

Applications Submitted in Region 4: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10033	4	P	Sulphur Springs Pioneer Crossing for Seniors	Gossett Ln.	Sulphur Springs	Rural	☐	☐	80	80	E	NC	$929,204	Noor Jooma	☑	211.0	PA
10026	4	P	Silverleaf at Chandler II	801 FM 2010	Chandler	Rural	☐	☐	44	44	E	NC	$518,601	J Michael Sugrue	☑	211.0	PA
10039	4	P	Paris Retirement Village II	1500 W. Washington St.	Paris	Rural	☐	☐	78	80	E	NC	$864,182	Joe Chamy	☑	169.0	PA
								Total:	**202**	**204**			**$2,311,987**				

5 Applications in Region **Region Total: 446 447 $5,739,572**

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 5

Allocation Information for Region 5: **Total Credits Available for Region:** **$1,211,591** **Urban Allocation:** **$545,971** **Rural Allocation:** **$665,619**

These are estimated amounts and do not consider amounts returned from previous awards at this time.
Apps in this region that are located in Ike counties may be funded utilizing additional funding of $14,906,160.

Applications Submitted in Region 5: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10031	5	P	The Crossing	3705 E. Lucas	Beaumont	Urban	☐	☐	150	150	E	NC	$1,592,948	Robert L. Reyna	☐	201.0	PA
							Total:		**150**	**150**			**$1,592,948**				

Applications Submitted in Region 5: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10283	5	P	Lufkin Pioneer Crossing	1805 N John Reddit	Lufkin	Rural	☐	☐	80	80	G	NC	$945,626	Noor Jooma	☑	211.0	PA
10271	5	P	Hudson Manor	4280 Old Union Rd.	Hudson	Rural	☐	☐	80	80	E	NC	$955,313	H. Elizabeth Young	☑	208.0	PA
10279	5	P	Hudson Green	840 Mt. Carmel Rd.	Hudson	Rural	☐	☐	80	80	G	NC	$919,550	H. Elizabeth Young	☑	208.0	PA
10126	5	P	Auburn Square	11 acre parcel E. of 2390 North Main St.	Vidor	Rural	☐	☑	80	80	G	NC	$1,102,290	Vivian L. Ballou	☑	204.0	PA
10241	5	P	Timberland Trails Apts	2205 N. Timberland Dr.	Lufkin	Rural	☐	☑	80	80	G	NC	$858,909	John D. Mathews	☑	198.0	PA
							Total:		**400**	**400**			**$4,781,688**				
6	**Applications in Region**						**Region Total:**		**550**	**550**			**$6,374,636**				

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Region: 6

Allocation Information for Region 6: **Total Credits Available for Region: $9,630,248** **Urban Allocation: $8,734,450** **Rural Allocation: $895,798**

These are estimated amounts and do not consider amounts returned from previous awards at this time.
Apps in this region that are located in Ike counties may be funded utilizing additional funding of $14,906,160.

Applications Submitted in Region 6: **Urban**

File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
10003	6	A	Champion Homes at Marina Landing	7302 Heards Ln.	Galveston	Urban			256	256	G	RH	$1,643,824	Saleem Jafar			FWD
								Total:	**256**	**256**			**$1,643,824**				
10142	6	P	Mason Senior Apartment Homes	W. side of Mason Rd., N. of Franz Rd.	Houston	Urban			120	120	E	NC	$1,451,258	Kenneth G. Cash		216.0	PA
10084	6	P	Perry Street Apts	4415 Perry St.	Houston	Urban		✓	160	160	G	NC	$920,833	Joy Horak-Brown		216.0	PA
10035	6	P	Zion Gardens	St. Charles & Webster St.	Houston	Urban		✓	70	70	G	NC	$953,930	L. David Punch		214.0	PA
10266	6	P	Travis Street Plaza Apts	4500 Travis	Houston	Urban			192	192	G	NC	$1,374,101	Tim Cantwell		210.0	PA
10124	6	P	Golden Bamboo Village III	W. side of Synott Rd. (approx. 900LF N. of intersection of Synott Rd. & Bellaire Rd.	Houston	Urban		✓	130	130	E	NC	$1,611,321	Michael CaoMy Nguyen		210.0	PA
10178	6	P	Cypress Creek at Fayridge	NEC of Beltway 8 and Fayridge Dr.	Houston	Urban			148	152	G	NC	$2,000,000	Stuart B. Shaw		210.0	PA
10184	6	P	Cypress Creek at Veterans Memorial	Approx. 8500 Block of Veterans Memorial Dr.	Houston	Urban			148	152	G	NC	$2,000,000	Stuart B. Shaw		208.0	PA
10115	6	P	Tuscany Place	N. side of Northpark Dr. (Approx. 1200LF East of TX Loop 494)	Kingwood	Urban			152	152	G	NC	$2,000,000	Ben Amor		208.0	PA
10094	6	P	Providence Town Square	3801 Center St.	Deer Park	Urban			188	188	E	NC	$1,721,277	Chris Richardson		206.0	PA
10051	6	P	Parkway Ranch II	E. side of the approx. 10000 Block W. Montgomery	Houston	Urban			44	45	G	NC	$962,946	W. Barry Kahn		205.0	PA
10064	6	P	Cypress Gardens	Wallisville Rd. and Maxey Rd.	Houston	Urban			100	100	E	NC	$1,386,662	Scott Brian		204.0	PA

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
10096	6	P	The Orchard at Westchase	3802 Rogerdale	Houston	Urban		✓	153	153	E	NC	$1,921,416	Stephan Fairfield		200.0	PA
10290	6	P	Magnolia Place Apts	Wenda St. at the 9500 Block of Cullen Blvd.	Houston	Urban			144	144	E	NC	$1,995,026	Bert Magill		199.0	PA
10227	6	P	Tarrington Court Apts	Approx. 1/2 mile NEC of I-45 and S. Sam Houston Pkwy. E. on the SEC of the approx. 8000 Block of Sam Houston Pkwy. East	Houston	Urban			153	153	E	NC	$1,990,250	J. Steve Ford		195.0	PA
10186	6	P	Mariposa at Calder Drive	N. side of FM 517 approx. 1/5 mi W. of FM 646	Dickinson	Urban			172	176	E	NC	$2,000,000	Stuart B. Shaw		193.0	PA
10080	6	P	Rolling Meadows	S. Side of FM 518 Hwy	Kemah	Urban			124	124	E	NC	$1,698,491	Chris Dischinger		192.0	PA
10101	6	P	Lafayette Park Apts	Approx. 200 Block of Aldine Bender and 16000 Block of Cotillion Dr.	Houston	Urban			150	150	E	NC	$1,930,643	William D. Henson		192.0	PA
10250	6	P	Willow Meadow Place Apts	10630 Beechnut	Houston	Urban			328	328	G	RH	$2,000,000	M. Dale Dodson		179.0	PA
10128	6	P	Ventana Pointe	Red Oak Dr. & Butterfield Rd.	Houston	Urban			96	96	E	NC	$1,232,530	Monique Allen		178.0	PA
10229	6	P	Hannover Estates	Approx. 2828 FM 2920	Spring	Urban			142	142	I	NC	$2,000,000	Paula Burns		175.0	PA
10228	6	P	Intersprings Apts	Approx. 6000 Block of Atascocita Rd.	Humble	Urban			156	156	E	NC	$1,998,701	J. Steve Ford		173.0	PA
								Total:	**3,070**	**3,083**			**$35,149,385**				
10197	6	N	Grand Harbor Apts	NEC of Katy Ft. Bend Rd. & Harbor Dr.	Houston	Urban			176	176	G	NC	$1,946,317	Ray Smith			WITH
10054	6	N	Imperial Ranch	S. side of the approx. 11300 Block of E. FM 1960	Houston	Urban			72	74	G	NC	$1,475,000	W. Barry Kahn			WITH
10189	6	N	Villas at Fannin Station	2050 Mansard St.	Houston	Urban			160	160	E	NC	$2,000,000	Amay Inamdar			WITH
10187	6	N	Eastwood Square	500 Eastwood	Houston	Urban			160	160	G	NC	$2,000,000	Amay Inamdar			TERM
10011	6	N	Artisan Valley	N. side of Scarsdale Blvd.; West of I-45 S.	Houston	Urban			152	152	G	NC	$2,000,000	Ryan Wilson			WITH
10272	6	N	Dixie Gardens	1216 Dixie Farm Rd.	Houston	Urban			150	150	E	NC	$1,706,584	H. Elizabeth Young			WITH

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File #	Region Status[1]		Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
10036	6	N	Zion Bayou	5300 - 5390 Airport	Houston	Urban	☐	☑	84	84	G	NC	$987,354	L. David Punch	☐		TERM
10193	6	N	Copperfield Apts	SWC of Spencer Rd. & Shining Sumac Ave.	Houston	Urban	☐	☐	176	176	G	NC	$1,942,153	Ray Smith	☐		WITH
10170	6	N	HomeTowne at Kingwood	Winford Square Dr., N. of Kellington Dr.	Porter	Urban	☐	☐	128	128	E	NC	$1,662,162	Kenneth W. Fambro	☐		WITH
								Total:	**1,258**	**1,260**			**$15,719,570**				

Applications Submitted in Region 6: Rural

File #	Region Status		Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10061	6	P	Magnolia Trails	31000 Block of Nichols Sawmill Rd.	Magnolia	Rural	☐	☐	80	80	E	NC	$908,909	David Mark Koogler	☐	212.0	PA
								Total:	**80**	**80**			**$908,909**				

32 Applications in Region — **Region Total: 4,664 4,679** — **$53,421,688**

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Region: 7

Allocation Information for Region 7: **Total Credits Available for Region:** **$2,996,957** **Urban Allocation:** **$2,372,058** **Rural Allocation:** **$624,898**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	Set-Asides[3] NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]
Applications Submitted in Region 7:			**Urban**														
10002	7	A	Wildflower Terrace	NEC of Berkman Dr. & Tom Miller St.	Austin	Urban	☐	☐	170	200	E	NC	$2,000,000	Diana McIver	☐		FWD
								Total:	**170**	**200**			**$2,000,000**				
10152	7	P	Shady Oaks	4320 S. Congress Ave.	Austin	Urban	☐	☑	238	238	G	RH	$1,339,983	Walter Moreau	☐	225.0	PA
10162	7	P	Promontory Pointe	NWC I-35 and Fleischer Dr.	Austin	Urban	☐	☐	200	200	G	NC	$1,875,000	Sarah Andre	☐	203.0	PA
10183	7	P	Cypress Creek at Four Seasons Farm	0.1 Miles East of Intersection of FM 150 and Lehman Rd.	Kyle	Urban	☐	☐	148	180	G	NC	$2,000,000	Stuart B. Shaw	☐	203.0	PA
								Total:	**586**	**618**			**$5,214,983**				
Applications Submitted in Region 7:			**Rural**														
10143	7	P	Oak Creek Townhomes	1110 Broadway St.	Marble Falls	Rural	☐	☐	80	80	G	RH	$1,019,154	Dennis Hoover	☑	193.0	PA
10235	7	P	Villas of Giddings	40 lots in the Rolling Oaks subdivision	Giddings	Rural	☐	☐	36	36	G	NC	$751,056	Jeffrey S. Spicer	☑	192.0	PA
								Total:	**116**	**116**			**$1,770,210**				
6	**Applications in Region**							**Region Total:**	**872**	**934**			**$8,985,193**				

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 8

Allocation Information for Region 8: **Total Credits Available for Region:** **$2,289,689** **Urban Allocation:** **$1,683,816** **Rural Allocation:** **$605,873**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 8: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10077	8	P	Fairways at Sammons Park	SWC of West Adams and 43rd St.	Temple	Urban	☐	☐	92	92	E	NC	$1,000,000	Clifton Phillips	☐	210.0	PA
								Total:	**92**	**92**			**$1,000,000**				

Applications Submitted in Region 8: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10007	8	P	Mexia Gardens	NEC N. Bailey at E. Sumpter	Mexia	Rural	☐	☐	80	80	G	NC	$812,214	Richard Brown	☐	184.0	PA
								Total:	**80**	**80**			**$812,214**				
2 Applications in Region								**Region Total:**	**172**	**172**			**$1,812,214**				

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File #	Region Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 9

Allocation Information for Region 9: **Total Credits Available for Region: $3,600,094** **Urban Allocation: $2,958,972** **Rural Allocation: $641,123**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 9: Urban

File #	Region Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10169	9 P	La Risa	800 Babcock Rd.	San Antonio	Urban	☐	☑	237	237	G	RH	$1,963,404	Jerry Du Terroill	☐	225.0	PA
10040	9 P	Ashton Senior Village	SEC of Borgfeld Rd. and FM 3009 (Roy Richard Dr.)	Schertz	Urban	☐	☐	176	176	E	NC	$2,000,000	Colby Denison	☑	215.0	PA
10076	9 P	Darson Marie Terrace	3142 Weir Ave.	San Antonio	Urban	☐	☐	56	57	E	NC	$703,739	Richard Washington	☐	212.0	PA
10120	9 P	Montabella Senior	NWC of tract of land at NWC of Lakeview Dr. & Foster Rd.	San Antonio	Urban	☐	☑	90	90	E	NC	$1,161,397	Susan Sheeran	☐	212.0	PA
10160	9 P	Creekside Place	Near Creekside Way	New Braunfels	Urban	☐	☑	176	176	E	NC	$1,959,715	Fernando S. Godinez	☐	206.0	PA
10114	9 P	The Terrace at Haven for Hope	N. San Marcos & Perez St.	San Antonio	Urban	☐	☑	140	140	G	NC	$1,638,351	Meghan Garza-Oswald	☐	194.0	PA
10118	9 P	San Juan Square III	2200 Block of S. Calaveras St.	San Antonio	Urban	☐	☑	139	139	G	NC	$1,908,261	David Casso	☐	190.0	PA
							Total:	**1,014**	**1,015**			**$11,334,867**				

Applications Submitted in Region 9: Rural

File #	Region Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10131	9 P	Guadalupe Crossing	End of Sunflower Ln.	Comfort	Rural	☐	☐	68	68	G	NC	$858,688	Granger MacDonald	☐	209.0	PA
10121	9 P	Mesquite Place	Tract of land on S. side County Rd. 4010 (Gilliam Rd.) approx. 1950LF	Pearsall	Rural	☐	☐	80	80	G	NC	$1,096,573	Lucille Jones	☑	203.0	PA
							Total:	**148**	**148**			**$1,955,261**				
		9 Applications in Region					**Region Total:**	**1,162**	**1,163**			**$13,290,128**				

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 10

Allocation Information for Region 10: **Total Credits Available for Region:** **$1,511,929** **Urban Allocation:** **$914,936** **Rural Allocation:** **$596,993**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 10: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10125	10	P	Costa Tarragona II	2240 N. Padre Island Dr.	Corpus Christi	Urban	☐	☐	96	96	G	NC	$1,333,459	John D. Bell	☑	211.0	PA
10132	10	P	Seaside Manor	SWC of FM 1069 and Gallion St.	Ingleside	Urban	☐	☐	100	100	E	NC	$1,103,591	Justin MacDonald	☑	206.0	PA
								Total:	**196**	**196**			**$2,437,050**				

Applications Submitted in Region 10: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10220	10	P	Casa Ricardo	200 W. Yoakum Ave.	Kingsville	Rural	☐	☐	60	60	E	RH	$650,580	Socorro "Cory" Hinosoja	☑	218.0	PA
								Total:	**60**	**60**			**$650,580**				
			3 Applications in Region					**Region Total:**	**256**	**256**			**$3,087,630**				

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 11

Allocation Information for Region 11: **Total Credits Available for Region: $5,506,759** **Urban Allocation: $3,498,043** **Rural Allocation: $2,008,716**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 11: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10222	11	P	Citrus Gardens	2100 Grapefruit	Brownsville	Urban	☐	☐	148	148	G	RH	$1,807,115	Antonio Juarez	☐	222.0	PA
10122	11	P	La Terraza at Lomas del Sur	E. side of Ejido Blvd. (approx. 2000LF S. of the intersection of Ejido Blvd. & Wormser Rd.	Laredo	Urban	☐	☐	128	128	G	NC	$1,714,465	Carlos Villarreal	☐	211.0	PA
10135	11	P	Champion Homes at Canyon Creek	1700 N. Minnesota Ave.	Brownsville	Urban	☐	☐	100	100	G	NC	$1,348,738	Saleem Jafar	☐	199.0	PA
10223	11	P	Sunset Terrace Senior Village	700 W. Egly	Pharr	Urban	☐	☑	80	80	E	RH	$837,980	J. Fernando Lopez	☑	193.0	PA
								Total:	**456**	**456**			**$5,708,298**				

Applications Submitted in Region 11: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10013	11	P	Artisan at Queens Retreat	501 S. Texas Ave.	Mercedes	Rural	☐	☐	111	111	E	RH	$1,330,470	Ryan Wilson	☐	221.0	APP
10014	11	P	Artisan at Port Isabel	100 Hockaday and 100 Ash Dr.	Port Isabel	Rural	☐	☐	73	73	G	RH	$1,396,089	Ryan Wilson	☑	216.0	PA
10262	11	P	Las Brisas Manor	1970 US Hwy 277 S.	Del Rio	Rural	☐	☐	48	48	E	NC	$698,724	Mark du Mas	☑	215.0	PA
10151	11	P	Sunflower Estates	404 Lion's Villa Ave.	La Feria	Rural	☐	☐	77	80	G	NC	$1,010,136	Sunny K. Philip	☑	211.0	PA
								Total:	**309**	**312**			**$4,435,419**				
	8 Applications in Region							**Region Total:**	**765**	**768**			**$10,143,717**				

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File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 12

Allocation Information for Region 12: **Total Credits Available for Region:** **$953,654** **Urban Allocation:** **$383,720** **Rural Allocation:** **$569,934**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 12: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10103	12	P	Gateway Plaza Apts	NWC of Loop 250 and W. Hwy. 80	Midland	Urban	☐	☐	96	96	G	NC	$1,077,000	Michael B. Wilhoit	☐	200.0	PA
								Total:	**96**	**96**			**$1,077,000**				

Applications Submitted in Region 12: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10289	12	P	Comanche Crossing	Intersection of Parkway and Hearn St.	Big Spring	Rural	☐	☐	68	68	E	NC	$827,011	Granger MacDonald	☐	162.0	PA
10270	12	P	Gateway to Eden	Grant/Rudder and Kelly St.	Eden	Rural	☐	☐	17	17	G	NC	$268,527	Ethan Horne	☑	136.0	PA
								Total:	**85**	**85**			**$1,095,538**				

3 Applications in Region **Region Total: 181 181 $2,172,538**

1 = Status of Award Abbreviation: Development Previously Awarded 2009 Housing Tax Credits=A, Pending/ Non-Awarded Applications=P, Not Active=N
2 = Allocation: Rural Regional Allocation or Urban Regional Allocation
3 = Set-Aside Abbreviations: TRDO-USDA=USDA, Nonprofit=NP. Only USDA applications proposing New Construction are reflected on this log. USDA applications proposing Rehabilitation will be attributed to, and come from, the At-Risk Set-Aside, and are located on the "At-Risk" log.
4 = Target Population Abbreviation: Intergenerational=I, Elderly=E, General=G, Supportive Housing=S
5 = Housing Activity: New Construction=NC, Rehabilitation=RH, Adaptive Reuse=ADR, Single Room Occupancy=SRO
6 = Notes: 2009 Applications Awarded from the 2010 Ceiling=FWD, Pending Applications=PA, Terminated Applications=TERM, Withdrawn Applications=WITH, Applications under Appeal=APP
* = The State Housing Credit Ceiling is an estimated amount based on 2009 population figures. This number represents the estimated 85% of the State Housing Credit Ceiling that must be allocated regionally. The remaining estimated 15% must be allocated under the At-Risk Set-Aside and must be deducted from the State Housing Credit Ceiling prior to the application of the regional allocation formula.

** = Located in Hurricane Ike eligible county

File #	Region	Status[1]	Development Name	Address	City	Allocation[2]	Set-Asides[3] USDA	NP	LI Units	Total Units	Target[4] Pop	Housing[5] Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes[6]

Region: 13

Allocation Information for Region 13: **Total Credits Available for Region: $2,134,870** **Urban Allocation: $1,533,161** **Rural Allocation: $601,709**

These are estimated amounts and do not consider amounts returned from previous awards at this time.

Applications Submitted in Region 13: Urban

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10176	13	P	Canyon Square Village	8622 & 8624 N. Loop Rd.	El Paso	Urban	☐	☐	104	104	G	NC	$1,293,104	Ike J. Monty	☐	209.0	PA
10024	13	P	Canutillo Palms	Parcel directly South of Canutillo High School. 200 ft West of I-10	El Paso	Urban	☐	☐	172	172	G	NC	$2,000,000	R.L. "Bobby" Bowling IV	☐	192.0	PA
								Total:	**276**	**276**			**$3,293,104**				

Applications Submitted in Region 13: Rural

File #	Region	Status	Development Name	Address	City	Allocation	USDA	NP	LI Units	Total Units	Target Pop	Housing Activity	Credit Request	Owner Contact	TDHCA HOME	Awd Score	Notes
10022	13	P	Presidio Dolores Apts	12473 Cuatro Aces Circle	San Elizario	Rural	☑	☑	36	36	G	NC	$725,184	Albert Davalos	☐	161.0	PA
								Total:	**36**	**36**			**$725,184**				
10025	13	N	Presidio Palms II	12950 Alnor St.	El Paso	Rural	☐	☐	80	80	G	NC	$1,071,954	R.L. "Bobby" Bowling IV	☐		WITH
								Total:	**80**	**80**			**$1,071,954**				
			4 Applications in Region					**Region Total:**	**392**	**392**			**$5,090,242**				
			119 Total Applications	**Sum of Awarded Credits: $4,593,824**	**Sum of Pending Credits: $133,244,409**				**14,136**	**14,218**			**$162,065,597**				

1 = Status of Award Abbreviation: Development Previously Awarded 2009 Housing Tax Credits=A, Pending/ Non-Awarded Applications=P, Not Active=N
2 = Allocation: Rural Regional Allocation or Urban Regional Allocation
3 = Set-Aside Abbreviations: TRDO-USDA=USDA, Nonprofit=NP. Only USDA applications proposing New Construction are reflected on this log. USDA applications proposing Rehabilitation will be attributed to, and come from, the At-Risk Set-Aside, and are located on the "At-Risk" log.
4 = Target Population Abbreviation: Intergenerational=I, Elderly=E, General=G, Supportive Housing=S
5 = Housing Activity: New Construction=NC, Rehabilitation=RH, Adaptive Reuse=ADR, Single Room Occupancy=SRO
6 = Notes: 2009 Applications Awarded from the 2010 Ceiling=FWD, Pending Applications=PA, Terminated Applications=TERM, Withdrawn Applications=WITH, Applications under Appeal=APP
* = The State Housing Credit Ceiling is an estimated amount based on 2009 population figures. This number represents the estimated 85% of the State Housing Credit Ceiling that must be allocated regionally. The remaining estimated 15% must be allocated under the At-Risk Set-Aside and must be deducted from the State Housing Credit Ceiling prior to the application of the regional allocation formula.

** = Located in Hurricane Ike eligible county

MULTIFAMILY FINANCE DIVISION
BOARD ACTION REQUEST
June 28, 2010

Recommended Action

Approve the extension of deadlines for the Housing Tax Credit Exchange Program.

> **WHEREAS**, the Board adopted a Housing Tax Credit Exchange Policy on July 30, 2009 to implement the Exchange Program authorized under the American Recovery and Reinvestment Act of 2009 (the Act), and
>
> **WHEREAS**, due to delays in receiving and processing documents, the Board extended the deadline for closing at the November 9, 2009 meeting, the March 11, 2010 meeting, and subsequently the May 13, 2010 meeting, and
>
> **WHEREAS**, the Department has closed forty-six of the eighty-seven Developments originally awarded funds, and
>
> **WHEREAS**, an additional non-refundable $2,500 extension fee per development will be required to be submitted and be, along with any prior extension fee and payment of any other past due fees before and additional extension is provided, and
>
> **WHEREAS**, the Board recognizes the urgency of closing these developments and completing construction in furtherance of the goals of the Policy and the Act.

It is hereby:

RESOLVED, that applicants may, upon payment of a $2500 extension fee and payment of any other past due fees, that the extensions presented in this meeting relating to Applications presented here be and are hereby approved in the form presented to this meeting.

FURTHER RESOLVED that Principals of Exchange applicants who have not closed by July 28, 2010 receive a five point deduction on any application in the next subsequent application round pursuant to §50.9(i)(30)(A) and (C).

Background

Since the inception of the Housing Tax Credit Exchange Program (Exchange), the Board has made several concessions concerning deadlines for owners that have received an award of Exchange funds. Some of these considerations have been due to the Department's inability to deliver the required documents or services needed to meet specific deadlines set forth in the policy. Others were due to the owner's inability to deliver required documents or completion of services.

Staff is pleased to report that forty-six of the eighty-seven awards have closed and are expected to have fifty-three closed by June 30, 2010. This will account for $387,716,594 of the $594,091,929 funds exchanged with the Treasury. The remaining thirty-four owners have specific issues that have caused their developments to be further delayed and need additional time to close their transactions. The following is a short summary of the specific issues for each owner that has requested addition time to close.

Section 50.9(i)(30) of the QAP provides for penalties to be assessed to applicant's who have requested extensions of Carryover or 10% test and did not meet the original submission deadline relating to developments from the preceding round. The Exchange Subaward, having been awarded in 2009, requires a Subaward Agreement to be executed at closing and this Agreement acts effectively as the requisite Carryover document for Exchange awardees. The Subaward Agreement is one of the closing documents and thus transactions that have not closed have not executed a Carryover Agreement for Exchange. The Board has not imposed this five (5) point penalty up to now, but there have been 2 prior blanket extensions of the Board's original closing deadline and reference to the imposition of a penalty with a third extension at the last Board meeting. Therefore, staff recommends the assessment of a five (5) point penalty to any 2010 application which has not closed its Exchange transaction by July 28, 2010 in accordance with the QAP. The QAP provides that the penalty is not applied to developments whose unclosed prior year award involves rehabilitation, TDHCA as the primary lender, USDA financing or where the delay is caused by the Department.

09350 **Tremont Apartments**
Anticipated Closing Date: July 16, 2010
Site Control Expiration: July 16, 2010
Requested Extension Date: July 30, 2010
Explanation: Recently finalized construction and permanent financing with JP Morgan (construction lender) and Daugherty Mortgage's (permanent lender). The banks have completed their underwriting and are awaiting commitments. All plans have been submitted to the city for approval and they anticipate issuance of the letter mid next week.

09353 **Hyatt Manor I & II -** USDA (exempt from penalty)
Anticipated Closing Date: July 30, 2010
Site Control Expiration: August 20, 2010
Requested Extension Date:
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09356 **Legacy Senior**
Anticipated Closing Date: July 16, 2010
Site Control Expiration: December 31, 2010
Requested Extension Date: July 30, 2010
Explanation: Delay in securing financing and final approval from permanent lender. Waiting in queue to close

09357 **Weslaco Hills Apartments**
Anticipated Closing Date: July 15, 2010
Site Control Expiration: July 30, 2010
Requested Extension Date: July 30, 2010
Explanation: Delay was due to the availability to secure construction and permanent financing in this financial market.

09901 **Las Palmas Gardens –** 2007 Award
Anticipated Closing Date: Sometime in July
Site Control Expiration: December 10, 2010
Requested Extension Date: July 30, 2010
Explanation: Request is due to the delay caused by our construction lender. This was out of the owner's control. The original lender pulled out in April and the owner was left hanging. Consequently, they had to pursue another lender. Although the new lender (Stearns Bank) has worked very quickly, this obviously has to be approved by their board. Owner is hopeful that all the Exchange documents will be uploaded next week for this deal.

09903 **West End Baptist Manor Apartments –** 2007 Award
Anticipated Closing Date: Sometime in July
Site Control Expiration: December 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Request is due to the delay caused by our construction lender. This was out of the owner's control. The original lender pulled out in April and the owner was left hanging. Consequently, they had to pursue another lender. Although the new lender (Stearns Bank) has worked very quickly, this obviously has to be approved by their board. Owner is hopeful that all the Exchange documents will be uploaded next week for this deal.

9904 **LULAC Hacienda Apartments –** 2007 Award
Anticipated Closing Date: Sometime in July
Site Control Expiration: December 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Request is due to the delay caused by our construction lender. This was out of the owner's control. The original lender pulled out in April and the owner was left hanging. Consequently, they had to pursue another lender. Although the new lender (Stearns Bank) has worked very quickly, this obviously has to be approved by their board. Owner is hopeful that all the Exchange documents will be uploaded next week for this deal.

09905 **Aurrora Meadows –** 2007 Award
Anticipated Closing Date: June 29, 2010
Site Control Expiration: Own land
Requested Extension Date: June 30, 2010
Explanation: Numerous delays with financing structure and lenders. Owner had difficulty with market conditions and economy.

09909 **Champion Homes at La Joya** – 2007 Award – PIS Extension
Anticipated Closing Date: July 16, 2010
Site Control Expiration: Owns land
Requested Extension Date: July 30, 2010
Explanation: Delay due to difficulty securing financing with HUD. Owner did not received a TDHCA underwriting report for Exchange until March 2010; therefore, is requesting the extension be without penalties.

09910 **Lexington Square** – 2007 Award – PIS Extension
Anticipated Closing Date: July 28, 2010
Site Control Expiration: Owns land
Requested Extension Date: August 30, 2010
Explanation: Owner has not cleared the environmental process for the CDBG disaster funding.

09911 **Trinity Garden Apartments –** 2007 Award – PIS Extension
Anticipated Closing Date: July19, 2010
Site Control Expiration: Owns land
Requested Extension Date: July 30, 2010
Explanation: Delays in securing construction and permanent financing. All documents are in-house and under review by the Department.

09913 **Villas on Raiford –** 2007 Award - HUD
Anticipated Closing Date: July 9, 2010
Site Control Expiration:
Requested Extension Date: July 30, 2010
Explanation: Owner has had difficulty securing permanent financing and recently secured an FHA commitment with HUD.

09916 **Mid-Towne Apartments –** USDA (exempt from penalty)
Anticipated Closing Date: July 7, 2010
Site Control Expiration: September 9, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09917 **Alta Vista Apartments –** USDA (exempt from penalty)
Anticipated Closing Date: July 7, 2010
Site Control Expiration: March 9, 2011
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09919 **Premier on Woodfair**
Anticipated Closing Date: July 9, 2010
Site Control Expiration: Owns property
Requested Extension Date: July 30, 2010
Explanation: Delays due to organizational structure changes, amendments, and multiple funding sources. Owner is working diligently with staff to close the transaction.

09929 **Buena Vida Senior Village**
Anticipated Closing Date: July 20, 2010
Site Control Expiration: July 30, 2010
Requested Extension Date: July 30, 2010
Explanation: Sterns Bank (construction lender) is still working on the final commitment. They have to have the permanent loan locked-in prior to closing.

09936 **Lake View Apartment Homes**
Anticipated Closing Date: July 16, 2010
Site Control Expiration: July 16, 2010
Requested Extension Date: July 30, 2010
Explanation: Recently finalized construction and permanent financing with JP Morgan (construction lender) and Daugherty Mortgage's (permanent lender). The banks have completed their underwriting and are awaiting commitments. All plans have been submitted to the city for approval and they anticipate issuance of the letter mid next week.

09938 **Stardust Village**
Anticipated Closing Date:
Site Control Expiration:
Requested Extension Date:
Explanation: This one will probably be returning their allocation

09951 **Canyons Retirement Community**
Anticipated Closing Date: August 30, 2010
Site Control Expiration: Owns property
Requested Extension Date: August 30, 2010
Explanation: Needs additional time to close with HUD.

09955 **Oakwood Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: July 20, 2010
Site Control Expiration: August 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09957 **Woodland Park at Decatur**
Anticipated Closing Date: July 28, 2010
Site Control Expiration: Owns land
Requested Extension Date: July 30, 2010
Explanation: Delay is securing permanent financing.

09965 **Peachtree Senior**
Anticipated Closing Date: August 31, 2010
Site Control Expiration: Owns land
Requested Extension Date: August 31, 2010
Explanation: Owner had major difficulty securing permanent financing under current TDHCA guidelines with the Exchange program. The owner worked with several financial institutions but was unsuccessful. Recently, with lower interest rates, the owner was able to secure permanent financing with Freddie Mac; however, they need time to be able to underwrite and complete their due diligence to close.

09968 **Arbor Pines Apartment Homes**
Anticipated Closing Date: July 19, 2010
Site Control Expiration: owns land
Requested Extension Date: July 30, 2010
Explanation: Delays in securing construction and permanent financing. All documents are in-house and under review by the Department.

09970 **Lufkin Pioneer Crossing for Seniors**
Anticipated Closing Date: Documents in Escrow
Site Control Expiration: June 9, 2010
Requested Extension Date: June 30, 2010
Explanation: Documents held in escrow.

09974 **Courtwood Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: June 28, 2010
Site Control Expiration: July 2, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09978 **Floral Gardens**
Anticipated Closing Date: June 30, 2010
Site Control Expiration: August 15, 2010
Requested Extension Date: August 15, 2010
Explanation: Owner is experiencing delays in issuing building permits due to some easement agreement issues. Owner would like to close by the end of June but is not confident that will be possible.

09983 **Brazos Bend Villas – HUD/USDA (exempt from penalty)**
Anticipated Closing Date: July 16, 2010
Site Control Expiration: Owns Land
Requested Extension Date: July 30, 2010
Explanation: Delays in processing with the original MAP lender. They now have a firm commitment for another lender.

09987 **Heritage Crossing**
Anticipated Closing Date: July 15, 2010
Site Control Expiration: Owns land
Requested Extension Date: July 30, 2010
Explanation: Additional time needed to finalize construction pricing

09992 **Northgate Apartments and Rhomberg Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: July 30, 2010
Site Control Expiration: July 27, 2011
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09995 **Village Place Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: July 15, 2010
Site Control Expiration: August 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09996 **Whispering Oaks Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: July 15, 2010
Site Control Expiration: August 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09997 **Autumn Villas -** USDA (exempt from penalty)
Anticipated Closing Date: July 20, 2010
Site Control Expiration: August 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09998 **Prairie Village Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: July 25, 2010
Site Control Expiration: August 15, 2010
Requested Extension Date: July 30, 2010
Explanation: Working diligently with USDA, TDHCA and legal counsel to draft appropriate closing documents. The subordination agreement is final so they should be able to finalize the rest of the documents and move to closing.

09999 **Cherrywood Apartments -** USDA (exempt from penalty)
Anticipated Closing Date: July 28, 2010
Site Control Expiration:
Requested Extension Date: July 30, 2010
Explanation: Owner is having difficulty with USDA in transferring the property and securing the financing for the Exchange closing.

Staff will continue to report the status of the Exchange program application to the Board on a monthly basis and advising the Board of any issues that need Board resolution.

OFFICE OF RECOVERY ACT ACCOUNTABILITY AND OVERSIGHT

BOARD REPORT ITEM
June 28, 2010

Report Item

Presentation and Discussion on a Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). This item provides an update on the status of the activity relating to each of the Recovery Act programs as well as a summary of the quarterly Section 1512 jobs reporting submitted for January through March 2010.

Recovery Act Program Summary

Program	Activities	Program Status	Total Funding Expended to Date* Percent Expended	Served to Date** Jobs Created or Retained ^	Timeline / Contract Period
Weatherization Assistance Program	Minor home repair to increase energy efficiency, maximum $6,500 per household. Households at or below 200% of poverty.	• Amended WAP Plan submitted to DOE in March was approved June 7. • Contracts executed for 49% of funds, subrecipients drawing funds. Remainder to be awarded to allocated subrecipients in next 30-45 days in most cases based on performance. • Deobligation/reobligation rule in effect. No deobligations to date. • Request for Applications published April 22. • As of June 16: 7,637 units reported complete.	$326,975,732 $39,596,187 12.1%	7,637 households 297.3 jobs	• Obligation required by September 30, 2010. • Recipients will be required to expend all funds within a two year contract period. • Federal funding expiration date is March 31, 2012.
Homelessness Prevention and Rapid Re-Housing Program	Rental assistance, housing search, credit repair, deposits, moving cost assistance, and case management. Persons at or below 50% AMI.	• All contracts executed and subrecipients currently drawing funds.	$41,472,772 $12,228,484 29.3%	15,615 persons 150.1 jobs	• HUD requires 60% of funds expended in 2 years; 100% in 3 years. • Recipients will be required to expend all funds within a two year contract period.
Community Services Block Grant Program	Assists existing network of Community Action Agencies with services including child care, job training, and poverty-related programs. Persons at or below 200% of poverty.	• All contracts executed and subrecipients currently drawing funds. Expenditure rates have increased.	$48,148,071 $30,009,624 62.3%	59,667 persons 264.2 jobs	• Obligation required by September 30, 2010. • Recipients required to expend funds within a one year contract period.

Program	Activities	Program Status	Total Funding Expended to Date* Percent Expended	Served to Date** Jobs Created or Retained ^	Timeline / Contract Period
Tax Credit Assistance Program	Provides assistance for 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	• Total of 60 TCAP awards (actual awards and conditional awards) so far. • Written Agreements executed for 50 out of 50 awards as of June 17, 2010. The ten (10) Round 3 conditional awardees have not executed Written Agreements. • Nineteen (19) loans have closed; eleven (11) more are waiting on the Development Owners to either return the completed loan document forms -OR- execute the documents at the title company; that makes 30 that should be closed.	$148,354,769 $9,309,138 6.3%	2,842 households 93.1 jobs	• Commitment of 75% of funds required by February 17, 2010. • Owners must expend 75% of funds by Feb 17, 2011. • Owners must expend 100% of funds by February 17, 2012.
Housing Tax Credit Exchange Program	Provides assistance to 2007, 2008 or 2009 Housing Tax Credit awarded developments. Households at or below 60% AMI.	• Written agreements have been executed for 44 out of 87 awards as of June 21, 2010.	$594,091,929 $50,399,482 8.5%	4,207 households 1,519 jobs	• Unused funds to be returned by December 2012.
Total			$1,159,043,273 $141,542,914 12.2%	79,489 persons 10,479 households 2,323.7 jobs	

*This table includes updated expenditure data as of 6/18/10.
**Total served data through 3/31/10 for HPRP; 6/18/2010 for CSBG; 6/16/10 for WAP, TCAP; and 6/21/2010 for HTC Ex. For TCAP and HTC Ex, households represent closed transactions.
^Jobs created or retained between 1/1/10 and 3/31/10. Note that Section 1512 reporting is not required for HTC Exchange and the figure includes total estimated jobs to be created or retained as reported to the U.S. Department of Treasury for 3/31/10.

REPORT ITEMS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Michael Gerber

From: Gordon Anderson

cc: Tim Irvine, Michael Lyttle

Date: June 15, 2010

Re: TDHCA Outreach Activities

The attached document highlights outreach activities on the part of TDHCA staff for the months of May 2010. The information provided focuses primarily on activities Executive and staff have taken on voluntarily; however, also included are mandated activities such as TEFRA and tax credit public hearings. 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.

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

TDHCA Outreach Activities, May 2010

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
First Thursday Eligibility Training	Austin	May 6	Compliance & Asset Oversight	Training
Housing & Health Services Coordination Council (HHSCC) Cross Agency Committee Conference Call	Austin	May 6	Housing Resource Center	Participant
Housing Tax Credit Program Compliance Workshop	Austin	May 6	Compliance & Asset Oversight	Training
Mental Health Planning Advisory Council	Austin	May 6-7	Housing Resource Center	Participant
HHSCC Council Meeting	Austin	May 10	Housing Resource Center	Participant
HOME OCC Technical Assistance Visit	Roma	May 11	HOME	Technical Assistance
HOME OCC Technical Assistance Visit	Combs	May 11	HOME	Technical Assistance
Community Resource Coordination Group	Austin	May 11	Housing Resource Center	Participant
HOME OCC Technical Assistance Visit	Rio Grande City	May 12	HOME	Technical Assistance
HOME OCC Technical Assistance Visit	Laredo	May 13	HOME	Technical Assistance
HHSCC Policy & Barriers Committee Conference Call	Austin	May 13	Housing Resource Center	Participant
Housing Tax Credit Program Compliance Workshop	Fort Worth	May 13	Compliance & Asset Oversight	Training
HOME OCC Technical Assistance Visit	La Feria	May 14	HOME	Technical Assistance
Texas Mortgage Bankers Association Conference	San Antonio	May 17-18	Homeownership	Exhibitor
HOME HBA Technical Assistance Visit	Carrolton	May 18	HOME	Technical Assistance
HOME OCC Technical Assistance Visit	Cooper	May 19	HOME	Technical Assistance
HOME OCC Technical Assistance Visit	Sulphur Springs	May 19	HOME	Technical Assistance
HHSCC Cross Agency Committee Conference Call	Austin	May 20	Housing Resource Center	Participant
HOME OCC Technical Assistance Visit	Commerce	May 20	HOME	Technical Assistance
Disability Advisory Workgroup	Austin	May 20	Housing Resource Center	Participant
Ike Round II Action Plan Public Hearing	Austin	May 21	Disaster Recovery	Public Hearing
Hidalgo County Energy Fair	Edinburg	May 22	Policy & Public Affairs	Exhibitor, Presentation
“Real Estate Zone” Real Estate Program/KLBJ-AM	Austin	May 23	Homeownership	Presentation
Disability Policy Consortium/ Housing & Transportation Conference Call	Austin	May 24	Housing Resource Center	Participant
National Foreclosure Mitigation Counseling Program Training	San Antonio	May 24-27	Homeownership	Sponsor, Training
Ike Round II Action Plan Public Hearing	Austin	May 25	Disaster Recovery	Public Hearing

Event	Location	Date	Division	Purpose
Rural Housing Workgroup	Austin	May 25	Housing Resource Center	Participant
TDRA/TDHCA Revised Action Plan for Ike Round II Funding	Austin	May 26	Disaster Recovery, Housing Resource Center	Public Hearing
Aging Texas Well Advisory Committee	Austin	May 26	Housing Resource Center	Participant
HHSCC Policy & Barriers Committee Conference Call	Austin	May 27	Housing Resource Center	Participant
Texas Supportive Housing Coalition	Austin	May 27	Housing Resource Center	Presentation
Center for Housing Policy Conference Call	Austin	May 28	Housing Resource Center	Participant

DISASTER RECOVERY DIVISION
BOARD REPORT ITEM
June 28, 2010

Texas Homeowners Assistance Program (THAP) and Sabine Pass Restoration Program

Presentation and report on homes considered and reviewed by the Executive Director for costs exceeding the accessibility cap of $15,000, to meet disability and Tex. Gov't Code §2306.514 requirements.

BACKGROUND

Accessibility Cap Change Order 5/11/2010

Application Number	City	Requirement	Total
5113	Galveston	Accessibility Bundling ($20,360-Lift Included)	$20,360.00

DISASTER RECOVERY DIVISION
BOARD REPORT ITEM
June 28, 2010

Texas Homeowners Assistance Program (THAP) and Sabine Pass Restoration Program

Presentation and report on homes considered and reviewed by the Executive Director for costs exceeding the elevation cap of $30,000, to meet flood zone requirements as determined by FEMA.

BACKGROUND

Elevation Caps Approved
6/1/2010

Application Number	City	Elevation Amount	Over Cap By	Total
5127	Port Bolivar	$38,000.00	$8,000.00	$38,000.00

DISASTER RECOVERY DIVISION
BOARD REPORT ITEM
June 28, 2010

Texas Homeowners Assistance Program (THAP) and Sabine Pass Restoration Program

Presentation and report on homes considered and reviewed by the Executive Director for services that exceed municipal requirements of the established cap of $10,000, to meet municipal requirements as determined by local, state, and federal regulations.

BACKGROUND

Municipal Caps Approved 4/30/2010

Application Number	City	Requirement	Total
1468	Doucette	Septic ($12,000)-Drip System, Tree Removal ($1,500)	$13,500.00
1835	San Augustine	Well Repairs ($3,299.10), Septic ($7,750)	$11,049.10
1995	Kirbyville	Well ($7,500), Septic ($8,500)	$16,000.00
5942	Warren	Well ($6,500), Septic ($7,500)	$14,000.00

Municipal Caps Approved 6/01/2010

Application Number	City	Requirement	Total
698	Magnolia Springs	Septic ($8500) Well ($5850)	$14,350
1223	Newton	Septic ($8500) Well (7500)	$16,000
1753	Kirbyville	Septic ($7350) Well ($7350) Water Line ($546) Underground Electrical Services ($2124)	$17,370
6243	Kirbyville	Septic ($7350) Well ($7350)	$14,700
7971	BURNETT	Well ($5,692), Septic ($8,500)	$14,192
7863	Newton	Septic ($8800) Well ($7300) Lot Clearing ($1950)	$18,050
8586	Orange	Septic ($11300)	$11,300
8354	Buna	Well ($7,500), Septic ($8,500)	$16,000
2408	PORT ARTHUR	IRC Windows ($2,200), Tree Removal ($800), TCEQ Clean Up ($14,094), Parking ($5,000), Additional Water & Sewer Line ($720)	$23,814
6300	KIRBYVILLE	Stabilization Piers ($6,150), Septic ($8,000)	$14,150
5943	WEIRGATE	Fill Dirt ($3,780), Septic ($8,150)	$11,930
1484	Hillister	Survey ($2,240) Tap Fee ($616.50), Septic ($7,750)	$10,607