

JOINT MEETING OF  
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
BOARD OF DIRECTORS  
and  
OFFICE OF RURAL COMMUNITY AFFAIRS  
EXECUTIVE COMMITTEE

9:20 a.m.  
Thursday,  
May 15, 2003

Waller Creek Office Building  
Room 437  
507 Sabine  
Austin, Texas

BOARD MEMBERS:

MICHAEL JONES, Chairman  
ELIZABETH ANDERSON  
C. KENT CONINE, Vice Chairman  
VIDAL GONZALEZ  
NORBERTO SALINAS

STAFF PRESENT:

EDWINA CARRINGTON, TDHCA Executive Director  
SAM TESSEN, ORCA Executive Director

ALSO PRESENT (ORCA Executive Committee):

DAVID RICHEY ALDERS  
NICKI HARLE  
CAROL HARRELL  
WILLIAM M. JETER III  
WALLACE G. KLUSSMAN  
JIM ROBERTS  
PATRICK WALLACE  
MICHAEL COOPER WATERS

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P R O C E E D I N G S

MR. JONES: With everyone's permission, I will call to order the joint Board and Executive Committee meeting of the Texas Department of Housing and Community Affairs and the Office of Rural Community Affairs.

And, Chairman Jeter, thank you for being here with us.

MR. JETER: Thank you.

MR. JONES: We look forward to this meeting. The first order of business is the certification of a quorum, and I'll call roll.

Mr. Conine?

(No response.)

MR. JONES: Ms. Anderson?

MS. ANDERSON: Here.

MR. JONES: Mr. Bogany?

(No response.)

MR. JONES: Mr. Gonzalez?

MR. GONZALEZ: Here.

MR. JONES: Mr. Salinas?

MR. SALINAS: Here.

MR. JONES: And I'm here. And I certify that we have a quorum.

And I believe you'd like me to defer this to

Mr. Waters. Is that correct?

MR. WATERS: Mr. Chairman, I'll call the roll.

Mr. Roberts?

MR. ROBERTS: Here.

MR. WATERS: Ms. Harle?

MS. HARLE: Here.

MR. WATERS: Chairman Jeter?

MR. JETER: Here.

MR. WATERS: Mr. Wallace?

MR. WALLACE: Here.

MR. WATERS: Mr. Waters is here.

Mr. Alders?

MR. ALDERS: Here.

MR. WATERS: Vice Chairman Harrell?

MS. HARRELL: Here.

MR. WATERS: Dr. Klussman?

MR. KLUSSMAN: Here.

MR. WATERS: Ms. Saenz?

(No response.)

MR. WATERS: Mr. Chairman, eight out of nine are present; Ms. Saenz is not present.

MR. JONES: Thank you.

And at this point, the next thing on our order of the agenda is public comment. And I have one person

who has filled out a witness affirmation form.

Mr. Dennis Hoover?

MR. HOOVER: Yes.

MR. JONES: Mr. Hoover.

MR. HOOVER: Hello. My name is Dennis Hoover, and I'm representing the Rural Rental Housing association.

Since Socks can't be here, I got to come and get out of the offices for this morning.

MR. JONES: Tell him we said hi.

MR. HOOVER: He's in a training meeting. He's at work supposedly.

And I just wanted to address a little bit some of the stuff we talked about at the QAP meeting yesterday in reference really to the rural set-aside of 15 percent.

And we've been talking back and forth to Gus a little bit about whether or not that should be increased or, at least, open up a conversation about that.

And I guess it's our feeling right now that there hasn't been a lot of push from anybody to increase that, and the set-aside hasn't really been over-subscribed as much as the general. And so at least for this year, we think it's okay where it's at. You know, we can continue to talk about it.

You know, the -- I think there's -- probably is

more concern out there -- just in talking to people around yesterday -- about some of the legislation, some of it apparently well-meaning, but, depending on how the word-smithing goes, something that's well-meaning could actually end up being detrimental to the rural areas and their allocation of credits, one of those being something -- some proposed language that -- somebody help me out here, because we just talked about it for five minutes yesterday.

There's a lot of folks here that know more about it than I do: That the language says that those credits will be divided up into every region and will be allocated by rural and urban and ex-urban. And by the time you divide up what small amount of credits and 15 percent is in a particular area, it's such a small amount that you couldn't spend it. And therefore, it might -- if you couldn't aggregate it and spend it state wide, it might end up working against rural instead of for rural.

Am I saying that right?

VOICE: You've got it right.

MR. HOOVER: Okay.

And unless there's some more questions about that, that's all I can think of right now.

(Pause.)

MR. HOOVER: Okay.

MR. JONES: Thank you, Mr. Hoover.

MR. HOOVER: Uh-huh.

MR. JONES: Again, that was the only witness affirmation form I have. Would anybody like to speak to the two boards?

(No response.)

MR. JONES: Seeing that no one would, I will now then close the public comment portion of our meeting.

Chairman Jeter, we -- with that, we turn to Item 1, the only action item on our agenda. And I'd be happy to proceed any way you would like to. Usually, I always turn it over to our sterling executive director.

MR. JETER: That makes excellent sense.

MR. JONES: Ms. Carrington?

MS. CARRINGTON: Good morning.

Good morning, ORCA Executive Committee members, and welcome -- and Mr. Tessen and, also, TDHCA Board members and Chairman Jones.

The one item for our discussion and consideration today is to review and discuss the threshold of the selection and the scoring criteria for the 2004 qualified allocation plan. So that is the QAP that the Department will be using for the allocation of tax credits

for next year.

What we have provided for you in your packet is, first of all, a memorandum that explains the process that the Department is currently in the middle of in preparing the 2004 qualified allocation plan. We had working group meetings. The working groups were at -- the QAP working group members were identified in January of this year, and the QAP working group actually had their first meeting in February.

And if you go to the material that we have provided you and go to the very last page of that, you will see the time line for the 2004 QAP development. We have indicated on this time line for you all the meetings that ORCA has participated in.

As Dennis Hoover did allude to, we have a rural working group. That QAP working group was made up of about 50 or 55 members, I guess, and they divided themselves up into committees. And there is a rural committee, and that committee is Committee Number 11. And Gus Cannon and Oralia Cardenas from ORCA have been participating in that along with developers and syndicators who work in the rural areas. And so that committee is Committee Number 11.

If you will, look at your time line. The



schedule that we're working on is -- in June, there will be a presentation from the working groups to begin to formulate the draft QAP. August 14 would be the TDHCA Board meeting to approve the draft rules for public comment, and then that would be published in The Texas Register. And the final approval for the QAP has to be signed by the governor on December 1 of this year.

And, again, that is the qualified allocation plan for next year. More detail of that is listed in your time line.

So what we would like to do today is bring up Brooke Boston, who is our Director of Multi-family Production, and, also, Oralia Cardenas.

And, Oralia, I'm sorry; I don't know your title at ORCA.

MS. CARDENAS: I'm the director of CDBG.

MS. CARRINGTON: She's director of CDBG. And they will come up to the podium.

And we also have in your packet the information from this year's QAP related to threshold, selection and scoring criteria. So my staff is prepared to go through this in any way that the ORCA Executive Committee would like to go through this information.

To show you where we are, to tell you where we

are, on '03 on tax credits, of course, the application round closed. It closed on March 28 -- March 29. We received \$79,095,720 worth of requests for tax credits; that was 117 submissions to the Department.

As you all know, we do allocate credits on a regional basis, and the state is divided into 13 service regions. We also have a variety of set-asides in the tax credit program. The rural set-aside is \$5,717,222, and credits requested for that rural set-aside were \$8,936,476. So we are over-subscribed in the rural set-aside.

We're obviously over-subscribed in the whole tax credit program. We have approximately 38 million to allocate this year and received a little more than 79 million in requests for allocation of tax credits.

So with that, unless there are any particular questions of me, I would like to turn it over to our staff and your staff so that we can begin a discussion related to these items.

Oralia, Brooke?

MS. BOSTON: My name's Brooke Boston; I'm the Director of the Multifamily Finance Production Division at TDHCA. And Oralia was just going to brief you all a little bit on what has been going on, and then we'll turn

it back to you.

MS. CARDENAS: Again, my name is Oralia Cardenas; I'm the Director of CDBG at ORCA. We have had representatives from our agency assist in the coordination for the tax credit rural set-aside. Gus Garcia and Erica Leos have been our representatives who have been working closely with the group here at TDHCA.

Our staff has participated in reviewing the applications, including identifying deficiencies and the thresholds for the applications. They have assisted in the scoring and then, more recently, assisted in conducting site visits for the rural projects. And throughout this process, Gus and Erica and I have attended the working group meetings, including the ERAC meetings, here at TDHCA.

So that has been our participation in the tax credit rural set-aside, including being part of that rural committee with the working group.

MS. CARRINGTON: May I apologize to Gus?

Gus, I'm sorry. I got your wrong last name. I'm sorry.

MS. BOSTON: In reference to the ERAC meetings, I wanted to just clarify for the ORCA Board -- ORCA Executive Committee that the ERAC meetings that we host

are the committee within our agency that approves what developments are going to go from the scoring phase into the underwriting phase. We've had several of those meetings, and there has been ORCA representation at those, and they've asked questions. And we've had dialogue about which deals would move forward from the rural set-aside.

The rural set-aside has been around since 1993; it was the first set-aside besides the federal nonprofit set-aside, and it was done at the request of the rural development community and has stayed in there as such. I -- in terms of threshold and selection, I'm just going to jump right into that.

As it relates to threshold, that's our minimum that we require from every applicant coming in for tax credits. We generally do not get much feedback as it relates to threshold from the rural community or any other set of developers. We try and tweak it, but, generally, most people find that they're able to accomplish our threshold.

In the past, when we have had any concerns about our threshold from the rural community or USDA, we have been very -- we've been easily able to accommodate those requests. Examples of that would be in our -- we have a set of amenities that are a minimum threshold of

amenities. And for small developments, which tend to be rural, and USDA developments, we allow to do half as many so that they're able to do it without an excessive financial burden.

And then, additionally, as it relates to the market study and environmental site assessment, we have worked out an agreement with USDA that we do not need to have the applicant pay that cost, that the environmental site assessment will come directly from USDA and that we allow the appraisal that USDA does to serve as our market study.

So we've tried to work out compromises. Usually whenever someone suggests something, we try to get it in there, and I think we've done that very successfully.

So if you'd like, I can take you through each threshold item or not. We can do it however you all prefer.

MR. JONES: Chairman Jeter?

MR. JETER: Do you all want to go through the threshold items one by one?

David?

MR. ALDERS: My recommendation would be, since this is the first time we've done this, maybe we ought to

hit them briefly.

MR. JETER: Yes.

If you don't -- yes, that would be my --

MS. BOSTON: Okay.

MR. JETER: Well, does anybody disagree with that?

(Pause.)

MS. BOSTON: Great.

As I said, we have our threshold criteria -- did you want --

MS. CARRINGTON: The threshold criteria would start on Page 1 of 17, at the bottom of the information that you have in your packet. So if you'd like to follow along, this is where Brooke is going to be starting.

MS. BOSTON: In addition to our threshold that are identified here, we also have what we call eligibility requirements, and those are in another section of the QAP. And they relate primarily to just basic -- you know, that you can't have fraud violations. It's just general ineligibility issues, and so those aren't part of threshold, but they are part of our review each year.

Let's see. The first threshold item is the -- well, the way they're in order is that some of it is just documents that you're required to turn in.

So if you're looking at Section E, which is on Page 3 of 17 from your handout, we require that you turn in the uniform application. We also require that you turn in a set of documents with all your site information, which is what we turn around and give to the people who do the site inspections, whether that's ORCA staff on the rural set-aside or our compliance division for all the other set-asides.

We have a document that we require that we turn in that just proves up that they're eligible for whatever set-asides they have requested. The way the 2003 QAP is set up is that people can apply for any set-aside for which they're eligible; they're not mutually exclusive. And so in this case, they would have to show that they're in a rural area or, if they're going for the at-risk set-aside, they need to actually give us documentation that the development is at risk.

Then we get into the certification that they have to turn in. That includes the amenities that I mentioned for which they have to do two if they have 36 or fewer units or if it's USDA, and they have to do four of those amenities if they're larger or non-USDA.

Then as you go through, B all the way through G just relate to certifications; most of these are

legislated. They tie back to Fair Housing, federal laws, 504 accessibility, energy conservation and that you will have a general contractor that has experience. And for the applicants, that's just a sheet that they sign off on.

Then under H, which is at the top of page 5, we request architectural drawings, a site survey or a drawing which -- we allow just a rendering; they don't have to put a whole lot of money into getting an actual survey at this point -- then plans for the units, as well as the buildings -- the common buildings. Then it goes through into -- for rehabs, we require photographs.

Then the next item, which is Five, about half-way down your page, gets into development costs and credit information. So we ask them to write up, you know, Overall, what's your financing structure; Describe it to us. We actually have this cost schedule that breaks it down by line item, documentation from the syndicator in terms of their equity that they'll be able to get from the tax credit syndication.

If they're in a QCT, that is one of the ways that tax credit developers can get a boost. If their eligible basis -- they normally are eligible for 100 percent. Being in a QCT allows them to be at 130 percent. So we ask for the documentation to prove up that they're



actually able to get that boost.

Then we also have a specific write-up for rehabs getting into a little bit more detail about specifically what they're going to do. We ask for information as it relates to off-site costs or -- and if it's on-site, relating to site work. If it's excessive, we ask for documentation for that so that our underwriter is able to justify the costs and understand them.

Then the next section is readiness to proceed, and that includes site control and zoning -- and this past year, our zoning requirements changed a little bit; we've asked that people be able to prove that up earlier on in the process -- then, also, just letters regarding utilities. Then we also ask for proof of interim and permanent financing.

Then on page 7, E, we also ask for a full legal description of the property. Then Item 7 is public notifications. We require our applicants to notify the public through running newspaper ads, and then we also require that they notify the mayor or county judge. And then, as well, we also require that they notify their state elected officials.

And additionally, I should just mention we do that again. After the applications come in, we re-notify

those same individuals to make sure they've heard it from us, and we give them a chance to give us feedback. We also require that they talk with the PHA and let the PHA know that they're proposing the building and that if they are to get the award, they will tell them about it so that their Section 8 voucher holders know that it's an opportunity to come and look for housing there.

Then under Number 8, we have a whole set of information which just ties back to the ownership structure: Who the owners are, who has any type of an interest and the structure. If they are nonprofits, they have to do certain things and provide extra documentation.

We need to see articles of incorporation, articles of organization and those types of documents.

That takes you pretty much through all of page 8. Page 9 -- Excuse me. (Perusing document.)

Yes. On page 9, Number Nine, at the top, we also ask for income and operating expense information. That helps the underwriter be able to go through and figure out how the financing's going to work.

Then, as I mentioned, Number Ten is that nonprofits have to turn in some additional information. Quite a bit of this was legislated through Senate Bill 322, so we've just integrated that into our rule to make

sure that the nonprofit entities are providing what the legislation requires.

One of the set-asides that we have is qualified nonprofits, and that's a federal set-aside. And so we have a certain level of due diligence that the federal government requires of us on those. So that's kind of why they're singled out and have a larger chunk of documentation than any other set-aside applicant.

In Section 11, which is on page 10, there is information. If it relates to acquisition of a property, basically we're just asking for an appraisal and a valuation report from the appraisal district; again, this helps us with our underwriting of the project. Then Item 12 is financial statements, just so that we can evaluate the financial capacity of the owners behind this and make sure they're going to be able to move forward with the development.

And then Item 13, which is the last threshold item, is Phase One environmental assessment and a market study. And as I mentioned, for the USDA developments, they do not have to turn these in to us, although we do get the information from USDA. And then the last thing is just that we require them to turn in a sheet that tells us what their scoring is.

Are there any questions on threshold?

MR. ALDERS: Brooke, I have a couple of questions. In the development of these threshold criteria, how many of them originate with the Internal Revenue Code, and how many of them are TDHCA?

MS. BOSTON: The IRS does not micro manage a whole lot. And so very few of them derive directly from the IRS. However, the IRS does require that we evaluate the financial feasibility of these at three points, which is at application, at carryover and at cost cert, which is at the very end. For us to be able to evaluate the financial feasibility on these, that substantiates probably more than half of what's in here.

The -- another portion is that we have a requirement relating to material non-compliance, which is not an IRS requirement but a TDHCA policy that has been generated, which says that we don't want to continue to give funds to developments who have a past history that we find excessively egregious.

And part of what we ask for in these relating to all the ownership structure and the percentage interest ties back to that system so that we can run to find out who in that ownership ties back to other developments that may have poor performance.

MR. ALDERS: Okay. I'm kind of interested in examining -- this is probably -- this is a fairly imposing list of threshold criteria, not that I would, you know, cast a stone at any one of them. Just in the aggregate, it's a pretty -- you know, it's a pretty imposing list of criteria.

I'm just thinking about rural communities. When we go around the state in our Board meetings, rural -- we often go to very small rural communities, communities that perhaps need some housing, but they don't need a lot of housing. You know, they're not within maybe 50 or 75 miles of a major US MSA. And so perhaps these need a dozen or two dozen units. I'm just being hypothetical here.

I'm just wondering if there is inherent in the process here, whether it's threshold or scoring, either one, any barriers to the incentives for a developer to develop a fairly small number of units.

MS. BOSTON: I couldn't say for certain. The minimum number of units in the tax credit program is 16. We generally see -- we see some that small. They -- and, actually, even in some areas we see that. And it goes up to -- roughly, 36 would be considered small.

You know, probably a good source for us to get

information on that would be from the 2004 QAP work group, that sub-committee working on rural issues. We've never heard specific complaints from our rural applicants indicating that they can't, but that may be because they're already our applicants.

MR. ALDERS: Yes.

MS. BOSTON: We've been working on a capacity-building effort with ORCA staff, as well. And our -- we have a new division or a new section within our agency that is the capacity-building services section. And we've been working on trying to find more people to apply to the rural set-asides.

As Edwina mentioned, the over-subscription -- it's about at 8 million. And depending on the activity that happens, that may get close to -- we may end up going about that far down the list if some of the people are found not to be financially feasible or if they withdraw.

So we'd like to see that group grow.

We've been working with the Rural Rental Housing Association and -- I know I'm going to say the name wrong -- Donna Chatham's rural group. We've been working with a series of different rural capacity-building groups trying to put out a press release saying that if people want to come in and learn about the tax credit

program early on, we'd be happy to do that. That doesn't necessarily make them not have to do it; it just helps us educate them on what would need to be completed.

But we can definitely try to bring that up in our working group.

MR. ALDERS: Well, I'm just curious, maybe, for your overall impression of whether the developers and -- I mean, there -- I assume that there's a fairly sophisticated group of developers and investors that deal with these LIHTC projects. And if you have to jump through that many hoops, you know, whatever they are -- environmental, financial, or what have you -- I'm just wondering if there's not inherent in the process some barriers to developing -- I mean, why would you go through this much expense and headache for two dozen units in Albany, Texas?

MR. CONINE: Actually, if I could speak up on the subject?

MR. ALDERS: Sure.

MR. CONINE: I think the department has been diligent in its efforts -- she mentioned the two groups -- rural groups that are out there that -- especially the Rural Housing Association of Texas. You'd be surprised how sophisticated those guys are.

And we've been diligent in getting feedback from those particular groups, who represent basically all developers in rural Texas. And the feedback has been very cooperative and supportive of the current QAP and the considerations. We always ask for feedback; we have round-tables annually.

So I'd suggest you might visit with those folks just to see what they may think of the system as it currently stands.

MR. ALDERS: Yes. I don't dispute that at all. I'm not necessarily implying that there's anything sinister going on; I'm just wondering if -- I mean, I'm just wondering if there's a pretty high fence here, a pretty high threshold, for relatively inexperienced developers that, you know, might be interested in the business.

MS. BOSTON: Yes. And --

MS. ANDERSON: I --

MS. BOSTON: Go ahead.

MS. ANDERSON: I think that's -- I think that you're perhaps more on target there. I mean, for any developer that's not experienced, whether they're working in rural Texas or urban Texas, I mean, the program as -- you know, overall is complex. But that's because



there's -- you know, there's a fairly high bar to get over because we are the public stewards of this, and they're getting this huge, very significant tax benefit in return for the public benefit they create with the affordable housing.

And so I mean my experience in being on this Board, you know, less than two years is that, you know, the developers in it for the first time have -- you know, just like anything we do, you know, you learn about something, and you get more skilled with it as you go along.

I'd -- I particularly remember that in last year's round, though, there were two -- a couple of small developments we awarded, for example, outside of -- right outside of El Paso in very small communities in the adjacent -- Socorro and there was one other one.

And they were small -- you know, very small developments. Now, they were done by a pretty experienced developer, but -- and I'm sure those aren't the only two.

They just -- they're very vivid in my mind that they were very small developments but we voted them because we felt like that housing was really needed in those west Texas counties adjacent to El Paso County.

MS. HARRELL: Are the applications developer

driven, or are they rural community driven?

MS. BOSTON: Well, we've seen both take place. They're primarily developer driven. Developers go and look for property.

However, we've also -- we know of applications where a city or a community will call us and ask potentially, you know, Do you have a list of developers or consultants who have done this who we can start talking to who can get us hooked up with the right people to do this in our community. So it can work both ways, but the applicants are definitely coming from developers.

MS. HARRELL: Okay. Is there an outreach to educate the really rural areas to the opportunities that they might have? I know that's a responsibility of ORCA, but are we truly -- I guess my question is: Are we truly reaching in to those rural, isolated communities that even -- don't even know that there is an opportunity that exists?

MS. BOSTON: We've definitely been trying to do that recently through all these press releases that we've done. We've asked -- and I only named a couple, but I want to say we sent it out to about eight different rural entities, asking them to pass it on to their memberships and their groups.

And we also sent it to the COGs, just saying, you know, If you know of anyone out there who's interested in even thinking about tax credits, send them our way, and we'll meet with them; ORCA can meet with them; We'll try and talk through what would be the best way to get them into the program. So we're trying.

MS. CARRINGTON: One comment I might make, Ms. Harrell: We do see applications for the tax credit program in some instances coming from the housing authorities or a subsidiary of the housing authority, a nonprofit that a housing authority would have created to be the applicant, as opposed to the housing authority.

And the Marble Falls Housing Authority has been particularly active in the tax credit program, and the gentleman has been particularly successful and has done a development in Kingsland and, I think, has maybe gone to Fredericksburg. And he has had several other smaller housing authorities around the Marble Falls area ask him for assistance in being able to put together a tax credit application.

So I think -- as you, you know, asked, "Are they developer driven, or are they community driven," I think probably the housing authority is perhaps a third piece of this that we see. And I would consider that very

much community driven, but it's obviously housing authorities that are fairly entrepreneurial and have some initiative and have said, Yes, we can go out and do this.

MS. HARRELL: Well, yesterday, in one of our sub-committee meetings, we had a discussion of outreach and, How do we truly educate and inform the rural aspects of our state to the resources that are available, and housing being one of them, because it's very hard to stimulate economic development if you don't have quality housing, but it's hard to get housing if you don't have the economic development to encourage the developers to make the investment.

So it's really a cycle, and I know it's not something that we're going to solve, you know, in a meeting today, but that is an issue of, How do we make the connect.

(Pause.)

MR. WATERS: Thank you, Mr. Chairman. It's a pleasure to be with you this morning, too. We -- this is our first time to do this. So if we ask questions that may seem foolish to you, I hope you'll forgive us because we're -- this is the first time through for us.

MR. JONES: And we'll try to make this room a little warmer for you next time.

MR. WATERS: Thank you. I --

(Laughter.)

MR. JONES: We did our best.

MR. WATERS: Mr. Chairman, I have a comment, and then I do have a question. I do want to come in behind Mr. Alders' comment about smaller units.

There are some communities where ten affordable units might be a real economic boon to that community. And so I would comment that this next year, I think, our Office of Rural Community Affairs Executive Committee will be looking at these.

And we may want to come next year and say we need to -- we'd like to ask you to make some adjustments so that it would be easier for smaller units to be built by developers, and so forth. And I hope you'll welcome that if we do that in the future.

I do have a question. In looking at the successful applicants, there were several that were from out of state: Los Angeles and Florida and places like that. And at a time when we in Texas are trying to put business in Texas, in the state of Texas, the question is: Why would we award to out-of-state contractors these tax credits?

Now, I do realize that it -- when I ask that, there are probably Texas contractors that receive awards out of state. So we may be a net gainer in the total system, and that's something I don't know. But would someone comment on that to us?

MR. JONES: Well, who wants to start?

(Laughter.)

MR. JONES: We've noticed, too.

MS. CARRINGTON: The Department in any of our selection criteria does not at this point have anything that would favor or disallow any developer who meets our criteria and who's experienced in doing business in Texas. I don't know what the percentage is.

I did have a question asked of me at Urban Affairs a couple of months ago about non-compliance issues by one of the Urban Affairs members, and he -- they asked, Do you have any idea of your in-state and out-of-state developers which ones have the better compliance history?

So that was sort of an interesting question from them, and we got the answer to that. And it appeared that our out-of-state developers had a little-bit-higher incidence of non-compliance than the in-state developers. My guess is it's probably about 75 percent Texas-based developers and probably 25 percent out-of-state.

There are certainly many large development companies around the country that work in multiple states in the Low Income Housing Tax Credit Program. You know, that's their business, and so they go to the states that have very large allocations of tax credits. And, of course, Texas has the second-largest allocation of tax credits in the country, so that's -- you know, that's why we see them.

There's a large allocation here. It's their business. It's -- in many instances, it's their core business. And so they come and participate in the program.

MR. CONINE: I'd make a couple of comments if I might regarding that. One: Let's not forget that we're dealing with a distribution of a federal resource. And along with federal resources come antidiscrimination sorts of issues that abound, and you have to be open and equal to just about everybody. So I wouldn't want to put myself or the -- or anything that we might do in the way of an equitable allocation of those resources.

And our mission here is to get affordable housing in Texas; whether or not it happens to be a Florida guy doing it or a Texas guy doing it, the citizens of Texas still win. So we need to be real careful, again,

in the fact that we're just a conduit of this federal resource and certain federal laws have applicability.

MS. BOSTON: If I could --

MR. JONES: If I --

MS. BOSTON: Oh. Go ahead.

MR. JONES: If I could echo Mr. Conine's comments? And then I'll turn it right over to you, Brooke, because I know what you have to say is much more salient than what I would have to say.

(Laughter.)

MR. JONES: But -- and, Brooke, after you say what you have to say, Mr. Klussman has a question.

MS. BOSTON: Okay.

MR. JONES: But I would just say that to write a threshold requirement like that, I think, would be a very challenging legal experiment, because there are all kinds of legal issues arising out of that. And it's something that certainly comes up all the time. But I think that to do that might well be impossible.

So, Brooke?

MS. BOSTON: And from a financing perspective, I'd just like to note that the credits usually go -- on probably like 99 percent of our deals, the credits go to syndicators, and those are big, national firms. And then



they infuse the cash back into the development. And so the money is coming in to Texas. It's -- other than the developer fee potentially on that percentage of deals where the developer is from out of state, it's not that the whole credit amount would be leaving the state, so -- just to clarify.

Mr. Klussman?

MR. KLUSSMAN: A comment, and then a specific question. I do appreciate the opportunity to meet with the Board and discuss some common issues this morning.

And one of my concerns, I guess, in the whole area of housing is that a housing project, in my mind, cannot stand alone; we need to integrate that with the whole infrastructure that might exist in that local community. It has to be jobs, expanding population and all of those -- the whole matrix, I think, needs to be looked at if we're really going to make a difference.

We had a perfect example, I think, down in Carrizo Springs, where a prison was built. And housing was needed, but housing wasn't thought about. Well, you don't build a housing first until you have the jobs.

So I'm not sure how you solve the chicken-and-the-egg problem, but we certainly have one here, I think, that needs to be addressed as to how we do the best we can

with these housing dollars in places where the people are and have the money to get into the housing and pay for it.

And my specific question is on page 3 under Item 4: "Description of Type of Amenities." In one place, you have to have two. And in another place, if you're more, you have to have four. And some of those amenities down there, like perimeter fencing, are indeed high-cost.

And when you look on the next page, a telephone available all day wouldn't be much cost at all. But there's a lot of difference in what it would do for the unit. And it says if you don't do at least two or four of these, you get penalized. I guess my question is: How significant are developing these amenities that make a difference in the success of a proposal?

MS. BOSTON: Well, right now, if they don't do the two or the four, then they actually aren't eligible; it's a threshold requirement. But the 2003 QAP work group that we mentioned earlier has actually been -- one of the committees has been kind of breaking down every threshold requirement and every selection scoring item and trying to really say like, "Is this good policy; Does this make sense; Are they equivalent," which is your question, you know, or, "Do they seem to balance out dollar for dollar."

MR. KLUSSMAN: Well, one costs \$100, and the other one costs 100,000, you know, here.

MS. BOSTON: Right. And they are proposing changes to that. And the group has not come up with its final recommendations yet, but I know that they will be proposing changes to this amenities list as well as -- we actually have other amenities that we give points for beyond these. And they're proposing changes to both.

MR. KLUSSMAN: And it seems that, you know, some of those would be very positive in a rural setting, and others wouldn't make much difference at all. We don't need a full perimeter fencing with a controlled gate in rural Texas, you know.

MS. BOSTON: Are there some in rural that you think aren't on here that would be more helpful as choices? Because we can definitely --

MR. KLUSSMAN: Well, honestly, I haven't had time to think through that. So I would -- you know, there might be some room for thought there.

MS. CARRINGTON: That is the kind of feedback that we want from the ORCA Executive Committee, because as we prepare the 2004 QAP, the work groups are going to be reporting out in June and will be working on the draft QAP in July and going to the Board in August.

And so changes for consideration, ideas and thoughts -- that's what we're hoping this conversation will generate now so that between now and the middle of June, I guess, when the work groups are going to report out, if the ORCA Executive Committee does have suggestions that they would like us to consider, now and -- from now until June is the time to do that.

MR. KLUSSMAN: Edwina, it would seem to me that we need a good conversation between your staff and the Texas Department of Agriculture staff that are working on putting jobs in rural communities. You know, the -- both ought to know what each other is doing here and how one might assist the other, because I think -- that's where my concern is coming from. How do we dove-tail our programs that might make a difference to rural communities? And jobs and housing are the -- obviously, jump right out in front.

MR. JONES: Mr. Alders?

MR. ALDERS: Thank you, Mr. Chairman.

Brooke, is there -- again, pardon my ignorant question here, but is there a requirement in a statute or just practical experience that threshold requirements have to be one-size-fits-all? Is -- in other words, is there a possibility that there could be a set of threshold

requirements -- threshold criteria for rural developments?

I know that a lot of developments will put down four different set-asides. Is that at all a possibility or something that you've ever entertained, given the unique characteristics of certain rural developments, at least?

MS. BOSTON: There's definitely no legislative restriction on doing that at all. And I know when we talked with the Rural Rental Housing Association in the past about what kind of revisions to the QAP we might need, we had conversations about that, and then they -- it moved back, saying, No, we're okay with it the way it is. But, definitely, the possibility exists.

MR. ALDERS: You mentioned earlier that the minimum number of units is 16. And that applies across the board with all LIHTC developments. Is that correct?

MS. BOSTON: Correct. And, again, that's a state --

MR. ALDERS: That's a --

MS. BOSTON: That's the QAP. That's -- there's no other restriction on that.

MR. ALDERS: That's something that's subject to the discretion of the TACA board?

MS. CARRINGTON: That's correct. It's a QAP

item. You know, the federal law does not have any minimum on the number of units.

MR. ALDERS: That's good.

MS. CARRINGTON: I think it becomes -- Mr. Alders, having worked for a nonprofit syndicator for eight years before I came to TDHCA, it becomes a question of economics, you know: Is the syndicator willing to buy the credits. And for a ten-unit transaction that might be in a very remote area, it would be very difficult for them to monitor. So --

MR. ALDERS: Yes. I understand that, and I -- that's the part of it that we have such little experience with. Is it possible to pool developments in -- have you ever had an application proposing developments of ten units in multiple rural communities?

MS. CARRINGTON: No, we haven't.

MR. ALDERS: For example --

MS. CARRINGTON: The QAP wouldn't allow it. And I'm not sure -- under federal law -- help me out here --

MS. BOSTON: The --

MS. CARRINGTON: -- staff.

(Laughter.)

MS. BOSTON: The restriction on scattered

site --

MR. ALDERS: That would be a scattered site --

MS. CARRINGTON: It would be a scattered site.

MS. BOSTON: -- under Section 42 is: If you do scattered site, then they have to be all low income. So they couldn't -- there couldn't be any market rate.

MR. ALDERS: That's in the IRS Code?

MS. BOSTON: Uh-huh. And we do have developers who -- particularly rural developers who apply for five or six developments in a round. And so I think they are expecting to manifest some economies on the ones that they do get. But each one is an individual application.

MR. ALDERS: Okay. Now let me back up a little bit. The way this works is that -- you have investors that want to invest in these developments for the tax credits, obviously -- they're investing with a single developer?

Take me through that process a little bit, Ms. Carrington, in terms of how -- for example, you mentioned that there is a handicap on very small developments, because it's hard to secure the investment dollars and the capital. Is there any way which that could be ameliorated or -- just take me through that process if you could -- how the system works from the investor to the application

to the developer -- development.

MS. CARRINGTON: A partnership would receive an allocation of low-income housing tax credits -- for 16 units or 400 units -- and then a syndicator who has raised money through the corporate -- through the syndication structure through the corporate sector would have money to invest and would actually buy those low-income housing tax credits. So what the developer has to sell is an allocation of credits.

A syndicator is going to look at the type of properties that they are interested in investing in, because different syndicators have different profiles of properties they're looking for. Some syndicators will only structure -- look for nonprofits. Some want to go only into metro areas. But then the syndicator is the one who actually injects the equity in the transaction.

There certainly are syndicators -- and the one that I used to work for was one of them -- who -- you know, our primary purpose was investing in more rural transactions, nonprofit transactions. And I think probably the smallest investment we made was a transaction, I think, that was a 24-unit transaction. So they're looking for the economies of scale that the developers are also looking for.



Does that answer your question?

MR. ALDERS: Yes. So there's just -- the syndicators who track the investment capital don't really want to pursue a smaller development, because they have to go through all the hassles and all the process of developing -- attracting that money for a smaller allocation?

MS. CARRINGTON: Some of them certainly will do investments that have smaller numbers of units. I do not by any stretch want to tell you that there's, you know, no syndication money and no equity money available for those areas.

There are some syndicators who basically specialize in rural deals in Texas and in other places; they are certainly not as prevalent as the syndicators who are looking for the 50 units or the 100 units, because they have an asset management responsibility for 15 years for compliance, both on the asset side and, also, for delivering the credits.

So, you know, they're looking for the economies, also. But, I think, probably the rural developers in the audience would tell you that, you know, there are those syndicators out there.

MR. ALDERS: Well, what are the -- generally

the minimum investment requirements -- investments required of -- from the syndicators of the investors?

MS. CARRINGTON: It's usually whatever the state says is the minimum number of units. I mean, some syndicators would have a larger number, but then there would be others that would probably go out and do a 16- or a 20-unit transaction if that's what the State of Texas is allocating credits to.

MR. ALDERS: So there's a single investor that would invest in that 16-unit that -- that's not pooled money? That's a single investor that is putting up the capital for the tax credits for that single development?

MS. CARRINGTON: That's right.

MR. ALDERS: And there's --

MS. CARRINGTON: That's right.

MR. ALDERS: And there's no avenues, no ability, to pool money for a single development from more than one investor?

MS. ANDERSON: Yes. You can do that. You might have two or three syndicators that would buy into a particular transaction. There's certainly a cost associated with becoming the limited partner and, I think, again, economies of scale, but I certainly have seen larger transactions that have more than one equity

provider.

Mr. Conine has been trying to jump in here --

MR. ALDERS: I'm sorry.

MS. CARRINGTON: -- for a couple of minutes.

MR. CONINE: Let me see if I can help you come down the path, because I think you're heading down a path that a lot of us think a lot about sometimes. And the issue is: If you do one unit in rural Texas that costs \$60,000 to put on the ground, you're going to get \$40,000 worth of tax credits, or some number close to that, over ten years, which is \$4,000 a year. What that probably restricts the debt level to in my little example here is -- we'll call it -- \$20,000.

So the fact that you can't sell the credit to a syndicator does not foreclose the opportunity to do a tax credit single unit, let's just say, if we had the -- if we had it in the QAP, but whoever's developing that unit needs to show the resources available to be able to cover the gap between the 20,000 in debt that's the maximum allowable, because of what -- the rents that are going to be charged, and the \$60,000 cost.

Now, the reason the syndicator market is out there in such proliferation today is because of economies of scale, as Ms. Carrington has alluded to. Again, that

doesn't foreclose the individual developer in rural USA from getting multiple people in some syndication group that would want to provide that \$40,000 worth of equity to purchase those tax credits.

Now, as individuals, you run into IRS restrictions of alternative minimum tax, as well as a cap of \$7,500 a year on tax credits. So it has kind of had a governor on the engine of individuals actually investing in tax credits, but because you're talking about rural and you're talking small, you may have a window of opportunity available to gather several individuals in a partnership in that local community that would want to see that one or that five or that ten units be developed.

If you have a group of several C corporations in that town -- you don't have the alt min or the \$7,500 restrictions. You're unlimited on C corporations. So those several C corporations could form a syndicate to make sure that that community gets affordable housing in that town -- obviously, they care about the community, and it would make sense -- rather than those C corporations developing or buying pieces of large, national syndicates, they could do it on a local basis.

But there are certain monitoring and compliance issues that those people need to be aware of. You

can't -- if you have a hiccup anywhere in the 15 years, you're subject to recapture of all ten years of the tax credit. And folks tend to get a little unhappy when that happens.

So that's why you have this layer of syndication people in the market place all across America to help buffer that problem. If that -- if a project has a problem, you're seeing syndications come in and provide money to make sure that project doesn't go into any compliance or default issues because of the recapture provisions that the Internal Revenue Code has relative to the tax credits.

So it can be done. It's tough, but it's not impossible.

MS. CARRINGTON: If I may go down Mr. Conine's path a little bit farther? One of the things that I had worked on previously was putting together local financial institutions to create this investment, to create this equity partnership, for transactions that were located in their communities. Those financial institutions receive Community Re-investment Act credit, CRA credit, for investments in these types of vehicles.

And I've always thought that it was a really good match, because you wouldn't have a larger syndicator

coming in to make the investment; the investment was made out of the financial institutions who were in the local communities. We find that many local financial institutions are willing to make the construction loan because it's a business they understand. They understand construction lending, you know, and they'll be in and out in 18 or 24 months.

The piece of actually getting those lenders together to form basically a partnership that they would invest in that particular tax credit development is certainly another step beyond that. And it's going to be an -- it would be an education process for them.

I think it's -- it would be a very worthwhile endeavor for maybe ARCIT and some of the other rural groups out there --

Donna, are you listening?

MS. CHATHAM: I am.

MS. CARRINGTON: -- to take this on as a project, to work with rural lenders and, obviously, TDHCA in an understanding of the tax credit process in the investment. And I think it begins to address some of these concerns.

MR. ALDERS: Well, thank you. That's what I'm trying to get to, and I appreciate that.

What we've found -- what we find if you look at those applications from 2003, for example, on the list that we saw yesterday is that a fair number of them come from metropolitan counties. They fit the rural designation, but they come from metropolitan counties.

And I'm not trying to deny them housing, either, but I'd like to -- if there are economies of scale that flow from the QAP or from the threshold criteria, I'd like to see us do something to break up those economies of scale, whether it's lowering the number of units -- not necessarily for every category, but for rural at least, lower that number.

And do some of these education issues that you're talking about, Ms. Carrington, and try to -- I mean, I'm all for letting those folks at the grass roots solve their own problems; I think that's the way it ought to be. And if there's something we can do to develop that initiative that you just alluded to, then I think that ORCA would very much like to be partners with you on that.

MR. JETER: It seems to me, as well, though, that in this, you're going to have to creatively look at that and you could bring it down to one unit, but if the economics aren't there, you're not going to get the players.

So the bigger issue may be to, How do you design the educational process to put together the players rather than -- I mean, the deals are -- I mean, the -- whether we outreach in rural communities enough or not is a different question, but the deals are there, and it's a matter of how you make the economics work, which is what we've kind of dealt with before.

And I think -- I don't know exactly how we'd do that, but I think from an ORCA standpoint, that's an issue that we have to -- we can look at because maybe creatively, we can come up with some ways to address that economic issue, because that's -- what it seems to me that it is is an economic issue, you know, notwithstanding that it is a rural issue, but you've got to solve the economics to solve the rural issue, I think, David.

MR. ALDERS: Yes.

MR. JETER: That would be --

MR. ALDERS: Well, I understand that. It seems to me that just on the face of it, the economics are there, though, on a per-unit basis. And I know that the administrative costs and the monitoring of compliance costs are thinner when you spread those costs over, you know, 50 units.

But I'd just like to see -- you know, maybe



that's not an issue out there. Maybe really rural communities have all the housing they need and that's the reason why things are not being developed.

But I tend to think it's more the issue you raised, Ms. Carrington: That the local lenders, the local C corporations and the local rural leaders don't know what's available to them. And maybe it'll take a little hand-holding there, but I -- what I want to do is -- if we educate them and they're willing, then I'd like for there not to be any restrictions in the QAP that keep them from moving forward with ten units or 12 units.

MS. CARRINGTON: Duly noted.

MR. JETER: But, as well, it seems to me that just one other issue is to look at some of these threshold criteria. And the one I did -- I don't know who came up with it -- was -- and I don't know the legality of this, but it may be that rural threshold criteria should be somewhat different from those other criteria. I don't know that, but I -- it would be something of interest to have people look at, I would think.

MS. BOSTON: We can definitely do that.

Are there any other questions on threshold?

MS. HARRELL: Okay. I have a question. I appreciate you-all's patience. The learning curve is

steep, but -- eventually.

I know that I read somewhere in the -- maybe the 2003 QAP that there was incentives for GED training and education. I -- am I overlooking that in this proposed 2004?

MS. BOSTON: It's in the points section.

MS. HARRELL: Okay.

MS. BOSTON: And we give points for supportive services, and the GED education is one of -- I want to say -- maybe a list of like 20 or more that we allow to get points for that.

MS. HARRELL: Okay. In those points, I know that there's to work with the work force commission to develop jobs.

I also would like for us to pursue looking at the programs that have been set up within the public education system, public schools, community colleges and universities to align the work force issues with educational issues so that they get high school and college credit and industry certification and that be maybe an incentive or a point system. That's a pilot project that has been done in the state that is being adopted throughout --

MS. BOSTON: We can definitely add something

like that to the supportive services category.

MS. HARRELL: It creates a win, and it uses -- it aligns the educational dollars with the work force dollars and leverages the industry dollars into the process. And it is technology-based, so it supports the reason for putting computer facilities into the facilities so that they can easily access the education and continuing education.

VOICE: Would you speak into the mic?

MS. HARRELL: Speak into the mic? Okay.

VOICE: We can't hear you over here.

MS. HARRELL: Oh. You mean I gave my 30-minute dissertation and it didn't get heard?

(Laughter.)

MS. HARRELL: But basically there are some projects that -- within the public education system that are -- that possibly would strengthen the educational opportunities, the resource rooms and the facilities that are being put into the housing units.

MS. CARRINGTON: We will do that.

MS. BOSTON: Any other questions on threshold?

(Pause.)

MS. BOSTON: Okay.

I have -- before I go through the selection

that was itemized here, I wanted to just take you through -- I had done an analysis from last year's scoring results, comparing the metropolitan developments in Houston and Dallas to rural developments like -- and that was every rural development -- and then, also, breaking that out and comparing it to the USDA sub-set-aside.

And Edwina and I talked this through the other day, and I had come up with some interesting findings. So we thought that I would mention them to you all. I'll try and go through this pretty quickly.

And, granted, this was the 2002 QAP and there have been a few changes since then. And I haven't had a chance to do this analysis on the batch that we're currently still reviewing.

Development location, which was the category of, you know, tax increment, financing, public improvement districts, DBAs, QCTs and colonias -- in that category, about two-thirds of the metropolitan deals were getting those points and only about half of the rural set-aside did. And within those, that was pretty fairly distributed between USDA and non-USDA. In 2003, we did remove points for QCTs. And so I think this has -- spread may have changed a little bit.

MS. CARRINGTON: Qualified Census Tracts.

MS. BOSTON: I'm sorry.

QCTs are Qualified Census Tracts.

The next category was the development location ratio. We found in metropolitan areas, in Houston and Dallas, they only got two points for that, but in -- on an average, rural developments tended to get about four to six points. So that is actually one of the areas where they got a little bit of a boost.

The 2004 QAP work group is discussing or -- they're proposing that they might want to delete this item because they feel like it's kind of duplicative with the next item, which is the housing needs score, but that is not an official recommendation yet.

On the next item, which was the housing needs score, the metropolitan areas generally tended to be up in the high teens, and the rural developments are generally a little bit lower -- they're in the lower teens -- in terms of the number of points. The reason for that is that the housing needs score is based on -- it's similar to the way we do our regional allocation. And the housing needs score -- because it's based on a proportion of the population with a particular amount of need, it ends up being higher in metropolitan areas.

The next item was the consolidated plan. And

everyone in metro and rural -- they get that on the same proportion.

Community support letters, which included both state and federal elected officials, as well as your local officials and community organizations -- the metropolitan and rural deals both generally tend to go for the maximum.

The exception is that the USDA deals only go for almost none, like zero to one out of six.

Square footage minimums is a requirement, and everyone gets those. There are a couple of items, federally assisted buildings and at-risk. And they are just very, very rare, and so kind of nobody gets them. But that's equitably distributed between the groups.

The next item was serving families with children. And in 2002, this was a larger point item. And the metropolitan deals tended to go for this much more often than the rural deals. Only about half of the rural deals did this, and only one USDA development did. The way it's measured is by three-bedroom or larger units. And because some of the USDA deals were older rehabs, they may not have had that number of units, so they didn't qualify.

In the 2003 QAP, we adjusted that down to only a one-point item, and it had actually been discussed that

we would take it out. But it's a federal requirement that we have to have it in there, so we put one point to try and make it as -- to have the least impact as possible.

Cost per square foot is another point, and that ended up being the same between the different groups. The unit amenities, which we've touched on -- this was the additional category of amenities that's actually point-based, not the one we were just talking about in threshold. And of those, metros and non-USDA deals tend to go for the bulk of the list and max out; the USDA deals, however, only go for about six of the points.

And within this category, we set up last year based on feedback from rehabs which -- most of the USDA deals are rehabs -- they had indicated that it would be nice to get double the points for each item. So you could do half as many items and still get up to the ten-point maximum a little bit more easily, and we did implement that last year.

Existing developments, which just means it's an existing housing development. Very few people go for that in metro or rural.

Mixed income. We definitely have more metropolitan deals decide to move forward with mixed income, which means that a portion of the units actually

are market rate. Very few rural deals went for that, and, when they do, there was like different ranges like -- if you were this much percentage market, you could get up to so many points.

And on the metropolitan areas, they tended to go for the maximum number of points. And in the rural areas, they tended to go for the lower range of two to four points. And none of the USDA deals went for it, but, of course, that's because they already have a subsidy and they can't do market rate.

Small developments. Very few metropolitan deals go for the small development points, and, as you can imagine, more of the rural deals do. And most of the USDA deals fall under that category.

Getting funds from HOPE 6 Section 202 or Section 811. That was equitable across the different set-asides or -- excuse me -- the different geographic areas.

The category of doing HUBs or joint venture points: That was that you could do one or the other and get three points. Definitely, most of the metropolitan deals go for those. And from the rural, only about half of the rural deals actually requested the points, and very few of those were USDA. The 2004 QAP work group -- it's my understanding that their recommendation is going to be



to take out this whole set of points entirely, but that -- I think they're still trying to finalize that.

The next item is supportive services, which is what you had been asking about. Generally, it's the same in metropolitan and rural areas; however, the exception is the USDA applications. They tend not to go for these points, and, if they do, they go for just a couple of the points instead of the full category of seven points. Transitional housing very few people go for.

Low-income units. In 2002, it had been set up where the maximum number of points for this was very high; it went up into the 50s. And in the metropolitan areas, we saw people going for the range of 40 to 50 points. And in the rural areas, we saw people going more for that middle range, maybe 15 to 35. And those were pretty well distributed between USDA and non-USDA.

The affordability period. We were giving points for how long people were willing to keep it affordable beyond the federal requirement. All of the metropolitan deals go for those, most non-USDA rural deals would go for them, but only about half of the USDA, which is interesting, because they're already required to stay affordable, anyway. We talked about that at the 2004 work group yesterday, and the comment was that it's just more

paper work.

The next item was right of first refusal, which means that at the end of 15 years, there's an option: That they can try to find a purchaser for the property, a nonprofit potentially, or selling it back to the tenants.

And in metropolitan, everybody went for those. And all of the non-USDA rural went for that, but then only about half of the USDAs go for those points.

The last two categories. Pre-application points -- we had set it up originally based on input from the USDA developers that they did not want to have to do the pre-ap because the idea behind the pre-ap was to -- for people who were in areas that were highly competitive, some of the people would back out based on what they saw at pre-ap and then would not invest their funds and go forward into the full -- more expensive full application.

And because the USDA set-aside is generally under-subscribed, there's no reason for them to back out at that point. So we had agreed to that. And so they don't get those points because they agreed that they didn't want them.

And then the last one is point reductions. And right now, we are legislated by our state statute to penalize developers who request extensions on developments

from the prior year. And interestingly, there are very few penalty points for the metropolitan deals; there are definitely more in rural, and the USDA deals -- almost a third of them -- had point deductions. And that whole third were like 8- to 10-point deductions, which is pretty substantial.

In discussing it with some folks, it sounds like the thought is that because of the limitations potentially on the USDA funding and other aspects of the financing, it's taking them longer than our deadlines to do the required tasks. And so they aren't meeting the deadlines, and then they file for the extension. And even though they end up moving forward, the extension gives them the penalty point.

So that is the breakdown from last year. We did -- in talking about this, it did look like once we went through all this that -- I think we had originally had some conversations and potential concerns that the lower points somehow equated to lower quality or not as good of a product.

And I think from hearing this, you'll see that it has more to do with potentially sponsor characteristics or some other issues which have nothing to do with the quality of the product. And so I think that's a very good

finding that we've seen come from this.

And, you know, the other comment that we tend to hear from Socks and some of the other rural developers is: As long as they have the set-aside, then they don't mind if their scores are lower, because they're only competing against each other within their set-aside. So that's just the last comments on that. And if you'd like, I can take you through the actual selection items from the 2003 QAP. Or if you just want to ask questions -- whatever you'd like.

MR. ALDERS: Brooke, could -- is it possible for us to get a copy of that that you just read from, or is it just handwritten? Or --

MS. BOSTON: Am I on?

MS. CARRINGTON: We --

VOICE: We have it.

MR. ALDERS: Do we have it?

MS. CARRINGTON: We absolutely can provide a copy of that. And the reason it is not in your Board book is because we finished it on Friday of last week and our Board was -- our Board book was posted on Thursday. But we -- now that it's part of the public record, we will be happy to share a copy of that with all of the ORCA Executive Committee members and Mr. Tessen, also.

MR. KLUSSMAN: What is this that I have then that goes from page 1 to 17, Edwina? That's --

MS. CARRINGTON: That --

MR. KLUSSMAN: She -- I followed her all the way through.

MS. CARRINGTON: Well, she did track the scoring in the QAP with the information that she was providing, but what you actually have is the 2003 QAP and the scoring for the 2003 QAP. But she was giving you 2003 -- 2002 actuals on what happened last year and making the comparison between the rural transactions and then two metro areas, Houston and Dallas.

Because -- one of the discussions that my board has had is -- as Brooke said, is: If we have these lower-scoring transactions, why are they lower-scoring, you know; Does it have to do with the quality of the housing that's being developed, or does it have to do with other factors?

And so I had asked Brooke to do this little analysis, and I think we were pleased with what we found, in that it does not relate to the quality of the housing; it has to do with some sponsor characteristics, it has to do with HUBs, it has to do with larger units, and it has to do with units with families, et cetera, but not a

lesser quality of housing because it's being developed in the rural areas.

MR. JONES: MR. Waters?

MR. WATERS: Thank you, Mr. Chairman.

I have a question relative to the eight-million-nine-thirty-six requested this year, if I could ask that, from the rural areas. You mentioned that our set-aside this year was right at 5.7 million and about 8.9 million requested. I assume that does include the colonias.

MS. CARRINGTON: It includes any area that qualifies as rural --

MR. WATERS: Rural?

MS. CARRINGTON: -- based on the definition that's in our qualified allocation plan.

MR. WATERS: Well, what about colonias? Do you know how much of that 8.9 million was from -- was for colonia projects?

MS. BOSTON: No. I can definitely run you the analysis. I mean, we have -- we give points if people are in a colonia. So I would --

MR. WATERS: Yes?

MS. BOSTON: -- guess that if I run the report based on the people who went out for points, that would be

reflective of who is in a colonia.

MR. WATERS: I would be curious about that and would like to have that information. They're -- colonias are not -- they're mentioned in the QAP, but they're -- the standards and the requirements and the thresholds are the same for the colonias as for downtown Houston, aren't they -- or Dallas?

MS. CARRINGTON: Yes, they are.

MR. WATERS: Right.

MS. CARRINGTON: Yes, they are.

MR. WATERS: And I would be interested in how many in the applications were for colonia projects.

MR. SALINAS: Excuse me. Some of those colonias in the -- especially in west Texas, are not -- do not apply simply because they have not followed the rules especially through the attorney general's office and people that -- county commissions courts. They are not recorded.

There are people that -- as a matter of fact, we are working very closely with the people in Fort Hancock right now and trying to see if we can probably set an example through this Board in trying to bring some services there. I know that they got a planning grant.

But most of those people -- and the reason we

found out about it was because -- we had a meeting in El Paso and we had about a hundred people there. Well, it's impossible for us to help people that do not have a deed to their lot. And, apparently, some of the problems in west Texas are terrible, because they're behind about ten to 15 years on the law.

And hopefully, we can ask ORCA to probably make the first effort in Fort Hancock. I know I've been talking to Anival [phonetic] in El Paso and -- through the Chairman's support and the Board's support. And we've always done -- we also have gotten some grants to people in El Paso about contracts-for-deed conversions. So that's how bad it is, you know.

But I don't know when they're going to stop the selling of contracts for deeds because -- we keep giving them money, and they keep on doing it. So somehow, it has got to come to an end. We have some good people in El Paso that are nonprofits that are really helping us there.

But I know we have some in Webb County. Do we have any Webb County cases? I think we do have -- in Webb. I know Avila has been real forceable. They -- we've had some lawsuits. And everybody's -- as a matter of fact, there's nobody that does any contracts for deed in the valley.



But I know the reason they came to our meeting was because they wanted some help from housing. And then we couldn't give them any help because the elected officials in those areas neglected their responsibility of enforcing the law. So hopefully -- I know the water development board had another meeting over there and the same thing happened. There's no way they can give them the money, because they're not really enforcing the law.

The last time I was going to be there, but I didn't go, which was about a week-and-a-half ago. And the good thing about it that -- the county judge in El Paso has done a task force that is being real close to this guy, Anival, that works for the agency. And they're cracking down, and they have a plan.

But in the rural areas that we are going to be dealing with, of course, your board is the one that is going to be looking at that. And we would like to start with an example as Fort Hancock. Some of those county commissioners there didn't want to help simply because they thought there were more going to come. Well, those people don't have lights, don't have water and don't have anything. But hopefully, with this task force and with your support, we can go ahead and start the first one.

But according to the governor's office, Paul

Houston is that -- we've got to stop them from creating the illegal subdivisions. And the elected officials in those areas are going to have to be more accountable for their actions as far as letting them do that. So that's where we're at on the colonias.

MR. ALDERS: Brooke, those scoring discrepancies that you outlined for us -- well, discrepancy is not the correct word, but differences -- were those from all applicants, or just from those that received allocations of credits?

MS. BOSTON: Those are from all applications. And it compared Houston and Dallas to -- so it wasn't the whole population. It was just Houston and Dallas compared to rural and then USDA, but it was all applications.

MR. ALDERS: Oh. Because -- I'm a little confused in the last statement that you made regarding the fact that scoring -- the scoring differences at that point didn't affect whether they were allocated credits or -- elaborate on that if you don't mind.

MS. BOSTON: All right. Because the rural deals are only competing among themselves and they tend to compare -- they tend to score comparatively competitively with each other and just not the larger population, they like -- a high-scoring rural deal might, let's say, have a

90. And a high-scoring metro deal might have a 110. But the 90 is still going to get its award in the rural set-aside because it's not having to compete against the other deals.

MR. ALDERS: I understand.

MR. JONES: Yes, sir?

MR. TESSEN: I was just going to ask a question on 11017, the reference to Young versus Martinez. Is that still necessary relative to the settlement?

MS. BOSTON: I -- we were discussing that actually in the work group. And I'm not -- I don't know that there's a final determination on that yet.

MS. CARRINGTON: I certainly think it was relevant when this QAP was developed --

MR. TESSEN: It was, yes.

MS. CARRINGTON: -- last year and signed by the governor by the 1st of December.

MR. TESSEN: Right.

MS. CARRINGTON: I think, as Brooke has indicated, we are looking at it to determine if it needs to be in the '04 QAP.

MR. TESSEN: Okay.

MS. BOSTON: Can I answer anything else?

MR. ALDERS: I might -- is that the discussion

on the scoring criteria? I guess I'm asking -- I'm not sure I'm asking the correct person here, but I guess I have maybe one other question on scoring, and I guess it's similar to my question on threshold criteria. Given that there might be, again, unique characteristics of rural developments, would it be possible for us to have a rural scoring criteria which would contain unique scoring, you know, elements just for that set-aside?

MS. BOSTON: It's definitely possible. The only things we would have to make sure stayed in that category as well as the other category would be the federal ones, like I mentioned, the units for families. And there are certain areas where we're required to give preferences. And that part we need to carry through.

Thank you.

MS. CARRINGTON: Any more questions for Brooke?

(Pause.)

MS. CARRINGTON: Okay.

Mr. Chairman?

MR. JONES: Chairman Jeter?

MR. JETER: Well, I don't know.

We've covered the QAP. Any other questions with regard to this group that we might air within the context of the agenda?

MR. JONES: Any other questions?

MR. JETER: You can sure take a shot at the apple here.

(Pause.)

MR. JETER: I guess we'll go to -- I guess we'll adjourn. We --

MR. JONES: That would be great.

MR. JETER: If there's no other questions, we'll adjourn.

MS. CARRINGTON: If I might say, Chairman Jeter, that for the next month, we will be working on making the recommendations. The work groups will be making the recommendations.

Brooke and I have certainly noted the questions and concerns on the items that you all have asked. And if there are any more items, issues or recommendations from the ORCA Committee between now and the next month or so -- actually, now and the next couple of months, you can convey those to Oralia or to Gus, and then those will come to TDHCA. And we will be incorporating those in the draft QAP for next year.

MR. JETER: As we sat here, we discussed with the Executive Director that he would look at these others maybe in a more appropriate selection criteria and scoring

criteria for rural Texas and come up with something and circularize that to what we're doing here and maybe submit those -- to you some new ideas and see if we can incorporate that in that QAP. So we'll get high behind there.

It would be an interesting thing for us. You have to determine the -- and we all have to look at the practicability of it, but I think that's something that we all picked up on.

MR. JONES: Thank you, sir. It has been a pleasure.

MR. JETER: It's ours.

MR. JONES: Thank you all for being here.  
Thank you.

I guess we're adjourned. Thank you.

MR. CONINE: Good meeting.

MR. JONES: I adjourn the meeting.

Thank you, Mr. Conine.

(Whereupon, at 10:30 a.m., the joint board/executive committee meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA/ORCA joint board/executive committee  
LOCATION: Austin, Texas  
DATE: May 15, 2003

I do hereby certify that the foregoing pages, numbers 1 through 71, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs and Office of Rural Community Affairs.

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(Transcriber) 5/21/2003  
(Date)

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