

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD WORKSHOP

Embassy Suites Hotel
3880 W. Northwest Highway
Dallas, Texas

February 26, 2008
8:00 a.m.

MEMBERS:

C. KENT CONINE, Chair
DIONICIO VIDAL (SONNY) FLORES
LESLIE BINGHAM ESCAREÑO
GLORIA L. RAY
JUAN S. MUÑOZ
TOMAS CARDENAS

STAFF:

MICHAEL G. GERBER, Executive Director, TDHCA
WILLIAM DALLY, Deputy Executive Director of
Administration
KEVIN HAMBY, General Counsel
ROBBY MEYER
TOM GOURIS
JEANNIE ARELLANO
PATRICIA MURPHY
AMY OEHLER

A G E N D A

ON THE RECORD REPORTING
(512) 450-0342

	<u>PAGE</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	3
PUBLIC COMMENT	3
Item 1: Presentation and Discussion of the rules and statutes governing the Low Income Housing Tax Credit Program (LIHTC) and Multifamily Bond Rules	7
Item 2: Presentation and Discussion of sample issues regarding tax credit, bond transactions and underwriting issues heard during applications, award appeals and amendments	154
Item 3: Presentation and Discussion of sample issues regarding HOME and Housing Trust Fund (HTF) applications, awards, appeals and amendments	230
Item 4: Discussion of governance structure of the Board for future Board Meetings	371
Item 5: Presentation and Discussion of sample issues regarding compliance and enforcement actions	312
Item 6: Presentation and Discussion of issue related to Weatherization (WAP), Low Income Home Energy Assistance Program (LIHEAP) and Community Service Block Grant (CSBG) awards, appeals and	380

P R O C E E D I N G S

MR. CONINE: I call this meeting to order.
Thanks to everyone for being here. Appreciate it.

(Pause.)

MR. CONINE: I'll call roll.

Leslie --

MS. ESCAREÑO: Here.

MR. CONINE: -- Bingham is here.

Tom Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Here. Kent Conine's here,
Juan Muñoz, I saw him, he's here.

Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores?

MR. FLORES: Here.

MR. CONINE: We've got everybody here.

I guess we need to open it for public comment.
Do we have any public comment from anybody that's here
today?

MALE VOICE: No public comment.

MR. GERBER: That's a first.

MR. CONINE: We'll close the public comment.
And we won't be taking any motions or votes today. And,

again, thanks to everyone for being here.

I think this will be an important session in your life, and the development of your life as a Board member of the Texas Department of Housing and Community Affairs. I know staff has worked hard on the presentations, putting it together. And I'm sure I'll learn something too before the day's over.

So without further ado, I'll turn it over to our executive director, Mr. Gerber.

MR. GERBER: Thank you, Mr. Chairman.

And thanks to all the Board members who are coming in. It's a long way to go and we appreciate you doing it on such short notice.

The purpose of today's session is really to give you all the tools you need in order to make decisions. So the focus of today's sessions are really -- center around what critical information is staff going to be giving you, what parts of rules should you be looking at, what things do you need to be grounded in so that you can ultimately get to a decision point?

And obviously over the course of your service, you'll have a much more nuance understanding of those rules. But our goal today was to try to give you the key sections of rules, you know, rather than giving you the 95

page QAP, you know, what are the, you know, five, six, seven parts of it that really come up over and over again that require you to make informed decisions.

So what we've intended to do is -- we're intending to turn it over to each of the directors. They're going to give you a short presentation, really an overview of their programs, then give you a short overview of the key parts of rules, and then we're going to try to work through some different scenarios, fact patterns. And the goal is not to get you to a decision point, but to give you some sense of how the Board has approached issues in the past, give you a sense of precedent.

And then also to just make sure that you have a chance to sort of explore those rules with, again, not getting ultimately to a decision or you having to give anything of how this Board may ultimately decide an issue, because every board has its own, you know, unique make up and, you know, approaches each case differently.

But it's really an opportunity to just explore issues and to ask questions. Our first presentation is going to be Robbye Meyer, who is our director of multifamily, and it will be describing the competitive tax credit program, as well as the 4 percent tax credit program that is usually complimenting bonds.

And so, Robbye, I'll turn it over to you and --

MR. GOURIS: Mike, can we take just a moment
to --

MR. GERBER: Oh, sure.

MR. GOURIS: -- tell everybody who everybody is
so they'll know who they're talking in front of and --

MR. GERBER: Sure. Why don't we do that.

Bill, why don't you -- let's just go around the
table.

MR. DALLY: Bill Dally, deputy executive
director for administration.

MS. ARELLANO: Jeannie Arellano, director of
the HOME division.

MS. OEHLER: Amy Oehler, acting director of the
community affairs division.

MR. GOURIS: Tom Gouris, I'm the director of
real estate analysis and the acting deputy executive
director.

MS. MEYER: Robbye Meyer, I'm director of
multifamily finance.

MR. HAMBY: Kevin Hamby, general counsel.

MR. FLORES: Sonny Flores.

MR. CONINE: We know who you are.

MR. GERBER: And I think you all know Nidia

Hiroms is our executive assistant. I think you --

MR. HAMBY: As long as --

MR. GERBER: -- also know --

MR. HAMBY: -- Jim's here.

MR. GERBER: -- Jim Brown is the executive director of the Texas Affiliation of Affordable Housing Providers, which is one of the key industry groups that the Department works with.

The intent is for us also to, you know, just sort of toss out questions that would hopefully educate and enliven the discussion.

Without further ado, I will turn it over to Ms. Meyer to begin walking us through the multifamily issues.

MS. MEYER: Okay. This is Patricia Murphy, whenever she comes back. She's the director of portfolio management and compliance.

The first thing that I would like to say, our multifamily staff has 12 members. I am the director, I have two administrators, one of which we -- Mr. Gouris took my administrator in -- over into real estate analysis, so Audrey Martin is now moving to real estate analysis, and we promoted Sharon Gambill to the HTC administrator. So you will see her at Board meetings in the future.

Teresa Morales is the other administrator, and we have seven housing specialists, and then a database analyst and our executive assistant.

MR. GERBER: You'll come to know Teresa on the -- who handles the bond program --

MS. MEYER: The bond side.

MR. GERBER: -- and Sharon Gambill very, very well. They'll appear regularly before you.

Go ahead.

MS. MEYER: And they can answer any questions, so if you have any questions, you're welcome to call them.

I administer two programs, the housing tax credit program, which is actually two different programs.

You have the 9 percent competitive round, which you're in the middle of, and you'll be hearing a lot going through the competitive process; then we also have the 4 percent tax credit program which I'll explain the differences between the two; and the bond program.

All of those were -- the two programs were created by Congress with the Tax Reform Act of 1986, and they were made to encourage private investment and private developers to develop affordable housing.

How it works on a tax credit program, investors get a dollar -- receive a dollar for dollar tax benefit on

their federal income tax, on their income tax, and that equity investment is actually injected into the development at a reduced rate. Right now -- in the past we've had like 92 cents, 93 cents on the dollar last year, and this year it's dropped down to more like 83, 84, and Jim can correct me --

DR. MUÑOZ: Is that when these folks are before us and they start talking about it's going down from 80 cents on the dollar to 82 to et cetera? I mean there seems to be some concern about given the market, and the interest rate and what have you, that that's further being depressed.

MS. MEYER: It -- that was --

DR. MUÑOZ: That's what they're trying to represent?

MS. MEYER: That's correct. The presentation that was at the Board meeting in January is exactly that, those syndication prices have dropped. And that is a big concern, and we haven't talked to --

MR. GOURIS: We'll go through that a little bit in the underwriting section of the day. We'll talk a little bit about how that impacts -- what happens because of that, just a little bit more detail.

MR. CONINE: A little bit of history, though,

when the Tax Act of 1986 created the tax credit in the bond market, and, again, back -- if you look back that far, Congress took away the investment deductability, if you will, of losses on partnerships, being able to apply those to personal -- to your personal tax return.

So in return they created a tax credit to be able to attract private capital to the multifamily market, to try to compensate for what they took away.

When I got on the Board in 1997, the investment that syndicators were paying for the tax credits were about 34 cents, 37 cents. But the construction costs were a lot cheaper, and they -- as people have become familiar with them, and as the history of the tax credit has been so perfect, there's been very few defaults in the system over that 25 -- 20 -- however long it's been -- 22 years, the competitiveness of the credit took over, and so that's why prices went from 35 cents to over a dollar in some cases a couple of years ago.

And now they're starting to recede back to more tolerable and more reasonable levels probably. And a lot of that has to do with the capital markets, the way they are today, with the fact that Fanny and Freddie, who bought a huge chunk of the tax credits on an annual basis, are not making money, so they don't need tax credits. If

you don't have a tax liability, you can't use a tax credit. So that's creating somewhat of the problem out there today.

Go ahead.

MS. MEYER: The competitive program events -- Tom -- the competitive program is what -- it's a cycle, it runs from January through July when you make the final awards. And the state receives an annual allocation, and it's set by population. And they take the state's population and multiply it times \$2 is what it is for this year.

We're going to start out with 70 -- with \$47 million. But I'd like to remind the Board that there were forward commitments from last year, out of the '07 round, for almost \$4 million, \$3.9 million, and then we also had binding agreements. Back in 2006 the Board granted additional credits to developments because of the hurricanes and the disasters, because of construction cost increases, they awarded additional credits. So we have \$4.1 million in binding agreements that's taken out starting off at the very beginning out of that 47 million.

They get credits for a 10-year period, and so you multiply that 47 million times 10 and you have 470 million over a 10-year period of time. And that's what

we're actually allocating.

MR. CONINE: Each state gets --

MS. MEYER: A certain percentage.

MR. CONINE: Do you know what the number is now? About three or four years ago, Congress set the amount and made it -- and indexed it for inflation. It was a buck 75 for every person that you had living in your state.

MS. MEYER: It's \$2.

MR. CONINE: Is it now up to two bucks? So it's been indexed --

MS. MEYER: It just changed.

MR. CONINE: -- it's up to two bucks now, and if you're a real small state like Montana or Rhode Island or something, you get a minimum of two million I think, something like that.

MS. MEYER: Yes, it's little bitty.

MR. GOURIS: And we're the largest, or second largest?

MS. MEYER: Second.

MR. CONINE: We're the second.

MS. MEYER: Second largest.

MR. CONINE: Behind California I believe, and Florida's probably right there.

MR. FLORES: When we go to conventions we get a lot of attention.

MR. CONINE: We get a lot of attention.

MR. GOURIS: Because we're produce more units.

MR. FLORES: How's that?

MR. GOURIS: We produce more units because we're efficient.

THE REPORTER: Can you speak up, please?

MR. CONINE: We're cheap.

MR. GOURIS: We're cheap. It's cheaper to build here so we produce more units than California.

MR. FLORES: Let me ask a follow up question way back on the credits.

MR. CONINE: Sure.

MR. FLORES: Are the credits normally sold front end at a present value?

MR. CONINE: Yes. That's what they're saying.

MR. FLORES: So they get the money immediately, the developer, the one the deal has got with us.

MR. CONINE: If you sell -- you're selling 10 years worth of credits, if you get a million dollar allocation, that's really \$10 million, you're going to sell that to a syndicator who's then going to sell that either into a fund or to a specific corporation for 10

million bucks, generally. If it's a dollar --

DR. MUÑOZ: Or what they can get. Right, Kent?

If it's --

MR. CONINE: Or if 80 cents it's \$800,000.

MR. GOURIS: Yes.

MR. CONINE: And what that corporation gets back in return is a million dollar tax credit, in other words they get a piece of paper --

MR. FLORES: What corporation? The one you're selling to?

MR. CONINE: -- a piece of paper that says --

FEMALE VOICE: The one you're selling to?

MR. CONINE: -- yes, the corporations --

MR. FLORES: The one you're selling to?

MR. CONINE: It's an IRS form that's got a million dollar tax credit on there, and if he has a \$5 million tax bill on there, he puts this piece of paper with a \$4 million check and he's paid his tax bill.

MR. FLORES: But I'm talking about the developer side. The developer gets --

MR. CONINE: The developer side gets all 10 million up front.

MR. FLORES: Well, it's not 10 million --

DR. MUÑOZ: Depending on what --

MR. CONINE: Or whatever the number is.

MR. FLORES: -- but 10 million is the value.
But he gets it the first few months of the deal?

MR. CONINE: The syndicator will program in a little up front, some during construction, some at the tail end of construction. He's trying to hold the developer's feet to the fire to make sure he does what he says.

MR. FLORES: Okay. So he does string it out a little.

MR. CONINE: He strings it out a little bit.

MR. FLORES: And normally how long will that be, when they're --

MR. CONINE: Over the construction period, which is --

MS. MEYER: Eighteen months after --

MR. FLORES: Oh, so it lasts 18 months.

MR. CONINE: Yes.

MR. GOURIS: Their last payment is usually --

MR. FLORES: But it's a 15 year deal, so in 18 months he's got his money and he can --

MR. GOURIS: Yes.

MR. CONINE: All the money's in when the project's leased up.

MR. FLORES: Okay.

MR. GOURIS: Well, actually -- usually after 8609s are issued, that's the last hold up for them. When 8609s -- when their final cost --

MR. FLORES: Okay.

MR. GOURIS: -- verification is completed. And they'll moderate that pay-in schedule, and that sometimes impacts the price as well, because if they front load the syndication, they might offer a lower price, or if they back load it they might offer a higher price.

MR. CONINE: They do monkey with it a lot.

MR. FLORES: I was just wondering how they play with it. I knew they was something going on, but I didn't know exactly how they do it. Being that you're in the business, I figured you knew how that's done.

MR. CONINE: They've done it to me.

MR. FLORES: I'm sure. And you've done it to them.

MR. CONINE: Not really.

MS. RAY: Of course not.

MR. CONINE: The golden rule's in effect, believe me. They've got the gold and they make the rules.

(General laughter.)

MS. MEYER: On the competitive side, it

normally is about a 65 to 70 percent equity position on a 9 percent on the competitive round. On the 4 percent you're going to see a little bit different. It's about a 30 to 35 percent equity contribution to the development. So there's a major difference between those two.

On the non-competitive, or the 4 percent credits, as you'll normally hear us refer to them in the Board meetings, they're allocated with private activity bonds. And private activity bonds -- TDHCA is an issuer, and there are several other issuers, so you'll see different items on the Board agenda either from an issuer other than TDHCA, or TDHCA as the issuer.

There's not a limit to the tax credits that are attached to these transactions, so they can come back at the end if costs are -- and receive a few extra dollars if they need it, and Tom is feeling generous.

MR. GOURIS: There's not a limit to the state as far as what we can allocate. We'd still allocate not more than is necessary, and we'll talk more about that when we underwrite.

DR. MUÑOZ: Okay. Give me a quick definition of private activity bond. I think -- what -- private activity bond, quick definition.

MS. MEYER: We're going to go through it here

in just a little bit.

DR. MUÑOZ: Okay.

MS. MEYER: But it -- a definition of it, or --

DR. MUÑOZ: Well, if we're going to go through
it --

MS. MEYER: -- the program?

DR. MUÑOZ: -- we're going to go through it.

MS. MEYER: We're going to go through the
program and how it works, and --

DR. MUÑOZ: Okay.

MS. MEYER: -- how TDHCA --

MR. CARDENAS: But give a quick definition.

MS. MEYER: -- is involved in that.

MR. CARDENAS: Give a quick definition.

DR. MUÑOZ: I think I understand what public
bonds -- I mean, but what's a private activity bond?

MS. MEYER: Well, it's much the same way except
you have private industry purchasing the bonds --

DR. MUÑOZ: Like a company.

MS. MEYER: -- obviously private --

MR. HAMBY: They're public bonds for --

MS. MEYER: Yes.

MR. HAMBY: -- private entity benefit. And
so --

DR. MUÑOZ: Okay.

MR. HAMBY: -- we issue the bonds, the private company gets to use the --

DR. MUÑOZ: For public --

MR. HAMBY: -- bonds for public purpose.

DR. MUÑOZ: Got it. Okay.

MS. MEYER: Yes, they're still public, but it private industry that's actually purchasing the bonds. And you'll see a lot of the lenders --

MR. CARDENAS: What does the 4 percent refer to, and the 9 percent on the other one?

MS. MEYER: Excuse me? I'm --

MR. CARDENAS: The 4 percent and the 9 percent.

MS. MEYER: What's the difference?

MR. CARDENAS: What are they referring to, 4 percent of what?

DR. MUÑOZ: The equity?

MS. MEYER: Oh, the -- it's 4 percent of the eligible basis, it -- I mean --

MR. GOURIS: It's a reference to the applicable percentage, and we're going to talk a little bit about that. The 9 percent is -- it's just -- it's euphemistically called that, it's also sometimes called the 70 percent credit because it's supposed to represent

70 percent of the transaction.

The 9 percent is actually part of the calculation when we'll get into --

DR. MUÑOZ: Seventy percent of the transaction, or 70 percent of the equity of the development?

MR. GOURIS: Seventy percent -- the equity is going to represent 70 percent of the transaction costs.

DR. MUÑOZ: Okay.

MR. GOURIS: And the 4 percent is the amount whenever there is federal funds -- below-market federal funds, and tax exempt bonds are considered below-market federal funds, and so you're only eligible for those 4 percent credits which amount -- which are also the 30 percent credit. Again, that 4 percent is just a euphemism for the applicable percentage. Those percentages are actually much lower than the 9 percent/4 percent rule, but the names have stuck.

MR. CONINE: The guys that sat around in a room and thought this thing up in 1986 were really drunk.

(General laughter.)

MR. CONINE: They had absolutely no -- I mean, it's so complicated. They could have made it a ton simpler than it is. But coming out of all those partnership syndication days back in the 80s, and they

were wanting to hammer real estate, so these guys made it so confusing that members of Congress couldn't even figure it out.

MR. HAMBY: And this is one of the last real estate partnership deals that's left in the Tax Code. I mean, this -- that's the reason it's kind of a bigger program for the IRS, because there aren't a lot of these type of real estate loop holes left, and so.

MS. MEYER: Last year we awarded about 27 million in 4 percent credits that were coupled with bond transactions.

MR. GERBER: And that's really declined over a number of years --

MS. MEYER: Yes.

MR. GERBER: -- we're really an issuer --

MS. MEYER: We used to double that.

MR. GERBER: -- a bond issuer of last resort.

MR. CONINE: And the reason it declined is?

MR. GERBER: Well, I mean --

MR. CONINE: The deals are harder to make work.

MR. GERBER: That's right.

MR. CONINE: You've got higher debt on them, the incomes aren't high enough in these counties to make them work, so the transaction gets tougher and tougher to

underwrite per Mr. Gouris's rules.

MR. GERBER: And it's not necessarily a bad thing that the bond issuers have principally been local issuers coming to us then for those 4 percent credits, because a lot of times those local issuers are doing, you know -- I mean it's the -- I think in the spirit of how the Department likes to do its business where you've got, you know, a strong local issuer that's, you know, very closely tied to the local elected leadership and to communities issuing those bonds, you know, working with neighborhood groups. I mean that's the ideal.

Sometimes the more controversial ones that they can't get through a local issuer will come before you all, and then you have a tough choice deciding between locals, you know, who are strongly against a particular development and, you know, a group of developers and others who are strongly, you know, in support of it, and a written case for need.

MR. HAMBY: And one of the things we heard from the Tarrant County Housing Finance Corporation the other day, which I found very humorous because our bond people tell us the exact opposite, is local issuers are told that, We'll just go to the state if you don't do what you want us to, and they'll tell us, We'll just go to the

local issuers if you don't do what you want us to. And so they try to play the two parties off of each other.

And so there's a lot of that gamesmanship in who issues the bonds. And so you see a lot of the --

MR. CONINE: But at the end --

MR. HAMBY: -- I've got money --

MR. CONINE: -- of the day, a local county issuer of bonds and us issuing the bond, the bond still looks and acts the same. There's no difference.

MR. FLORES: Why does the local issuer of bonds come to us anyway?

MR. GOURIS: Just for the tax cuts.

MR. CONINE: They have to get the credits, to go with the 4 percent credits, and we allocate the credits with it.

MR. GOURIS: In Texas there's a requirement that if you're participating in the first two priorities of the bond reservation system, you have to get tax credits to go with your bonds, otherwise you're not going to be eligible for the bonds themselves. So they all have to come to us for the credit -- not all, but most of them do historically now, for the last five years or so.

One thing to note though is when you go through a local issuer, you still have to get your reservation

through the Bond Review Board system, but you don't actually have to present to the Bond Review Board like we do and like TSAHC does when we take bonds there. And so there's another step after we're done with the bond side.

When we're the issuer, we have to go to the Bond Review Board also and present to their Board.

And so it's kind -- there's some advantages to coming through us with a controversial deal, but then there's some disadvantages because you're having to go through that other state agency as well, and have a public discussion, and sometimes that can be very political.

MR. FLORES: Have we ever turned one down in your tenure?

MR. GOURIS: Yes.

MR. FLORES: We have?

MR. GOURIS: Yes.

MR. FLORES: But is it rare? I don't remember us turning one down, that's why -- in my tenure.

MR. GOURIS: A lot of what happens is that they are -- they don't come -- they don't make it to you. You know, a lot of deals fall out before they make it to you.

MR. FLORES: Tom Gouris factor.

MS. RAY: Right.

MR. GOURIS: Or just a lender --

MR. HAMBY: There's several other factors.

MR. CONINE: Or the neighborhood. If there's busloads of people --

MR. FLORES: Okay. Yes.

MR. GOURIS: You know, I mean, the developers are very, very intelligent, they know when they're beat and they're going to walk away and not spend more money on something that isn't going to be successful, if, you know, if the risk is too high.

MR. FLORES: So the political actions is down at a different level than us.

MR. GOURIS: Yes.

MR. FLORES: But we do see them.

MR. GOURIS: But you do see them from time to time, and you'll see some deals where we're kind of, you know, it's -- we'll giving them -- we'll give more of the benefit of the doubt to a local issuer transaction because there's local -- you know, there's local input given there, and we'll just focus on the credit side, or focus more on the credit side of that issue.

We're less likely to not recommend a local issuer than our own issue because we're going to scrutinize our bonds that much more.

DR. MUÑOZ: Is the 27 million in 4 percent tax

credits a part of the 47 million?

MR. GOURIS: No.

MS. MEYER: No.

MR. GERBER: No.

DR. MUÑOZ: Okay.

MR. GERBER: The 27 million is tied to our --
is --

MS. MEYER: Our private activity --

MR. GERBER: -- it's to the private --

MS. MEYER: I mean that's --

MR. GERBER: -- activity bond cap that we have.

And it's almost -- it's only limited by the amount of
volume cap that -- authority that TDHCA has. So we say,
in effect, that it's limitless, but it is -- yes, there is
a limit, it's just set by the client cap authority.

MR. CONINE: As I recall, we approved a deal
that got turned down at the Bond Review Board once.

MR. GOURIS: That's correct. We have.

MS. MEYER: Well, it --

MR. CONINE: And that's --

MS. MEYER: -- wasn't voted on.

MR. HAMBY: It actually didn't get turned down,
it just never made it on the agenda.

MR. CONINE: It never got a vote, you know. We

never got a second to the motion, or whatever the cases was, but, in effect, it was turned down. That's a really rare --

MR. HAMBY: Well, and that's because -- well, but there's an in-clock where if it doesn't make it on before the in-clock runs out, the game's over.

MR. FLORES: Somebody over there obviously didn't like it.

MR. CONINE: They played it like the legislature plays --

MS. MEYER: Right.

MR. CONINE: -- a lot of bills.

MR. GOURIS: Yes. Right.

MR. GERBER: Well, but we've -- and it's fair to say also that we've tried to change the relationship with the Bond Review Board where we don't want them second guessing your decision on whether or not you're willing to support a deal. If they want to make a decision about which neighborhood bonds are going -- yes, and do a -- or community do a transaction that's going to go and then let's make them the Housing Board.

What their job is statutorily is to determine whether or not the structure of the deal is appropriate. And so we've, I think in the last year and a half, two

years really moved them in that direction. So they're asking questions about, you know, why is a particular bond a 40-year bond as opposed to a 30-year bond, why is -- you know, why are you doing this swap and wanting to understand the mechanics of the swap.

So that's been, I think, an interesting -- I think that's been a very positive trend, that they're not second guessing the Policy Board, so.

MR. CONINE: Okay. Back to Robbye. Sorry.

MS. MEYER: Now that it's hopeful.

(General laughter.)

MR. HAMBY: That's what we're supposed to be doing here.

MR. CONINE: That's why we're here.

MS. MEYER: It's really hopeful.

On the competitive side we have several set-aside that we have to do. We are federally required to allocate at least 10 percent of the overall ceiling to non-profit organizations.

This last legislative session our legislature mandated that we allocate at least 20 percent of the overall ceiling to rural -- developments in rural areas. That's new for this year. And the statewide collapse will be a little bit different this year, and I'll explain that

here in just a minute.

We're also required to set aside at least 15 percent for developments that are at risk. And it's existing developments that already funding on them, that are at risk of losing that funding within the next two years. And the QAP, you know, details that out very specifically of what those previous funds can be.

And we have an at-risk set-aside. This year it's separated completely. So we're going to go -- I'm going to show you a couple of logs here in a minute, and we have two different logs that you have to pay attention to this year. One is the at-risk log and then will be the regional log that you're used to seeing, or at least the old Board members are used to seeing. The new ones won't be.

We're also required to allocate at least 5 percent to developments that have financing with the United States Department of Agriculture.

The remaining 85 percent of the overall allocation is then regionally allocated, and then it has sub-regions within each region. There's 13 state service regions and then each one of those is broken up into rural and urban within the region.

And so you have different sub-pots of money as

we go through, and when we get to the logs I'll show you how that breaks down.

MR. GERBER: Let me just state, as just a general principle, all -- by state law, all of the Department's funds are supposed to be allocated by region using this regional allocation formula, save --

MR. HAMBY: Almost all.

MR. GERBER: -- save one.

MR. HAMBY: Almost all.

MR. FLORES: Robbye, the USDA and rural, is the USDA -- is it so -- the USDA is normally rural, so does that mean 25 percent is rural, or is it 20 percent, 5 percent for --

MS. MEYER: No, that 5 percent will be in -- actually it will be in the at-risk, and then you'll be part of the 20 percent.

MR. GOURIS: And if it happens to be a rural deal then it'll also --

MS. MEYER: It'll count --

MR. GOURIS: -- be counted in the rural's -- when we look at the regional allocation for the rural. But it could be in an urban area too, potentially, as a rehab. And if it is then it'll be counted there.

MR. FLORES: I lost something. Are you

talking -- the, USDA it -- the net, when we get down to the net is it 20 percent or 25 percent?

MR. GOURIS: It's --

MS. MEYER: It's still 20.

MR. GOURIS: -- 20.

MR. HAMBY: It's -- actually this year --

MS. ESCAREÑO: For rural.

MR. HAMBY: -- we -- it's 22 --

MS. MEYER: Well, it --

MR. HAMBY: -- 22 percent because in addition to --

MS. MEYER: -- it works out that way.

MR. HAMBY: -- having a 20 percent rural allocation, there's also a minimum of 500,000 in each region. And so to meet our caps we had to do the 500,000, which we've set up, and then we have the overall 20 percent requirement. So we have to put 500,000 in each region, even if that exceeds the 20 percent in that region.

Just confusing you, isn't it?

MR. FLORES: Uh-huh.

MR. HAMBY: And then so whenever we add up the 500,000 plus the 20 percent set-aside, we end up with

about 22 percent. The USDA funds, there are actually a couple of programs that can be used, not necessarily in rural.

MS. ESCAREÑO: But for the --

MR. FLORES: Well, but --

MS. ESCAREÑO: -- most part it's embedded in there. I mean for the most part.

MR. HAMBY: The 5 percent is separate out of the 20 percent rural, they are completely separate pots.

MS. MEYER: They -- no they're not.

MR. CONINE: But they can overlap.

MR. GOURIS: They're not pots. They're --

MS. MEYER: They're within the --

MR. HAMBY: Oh, they're --

MS. MEYER: -- same.

MR. HAMBY: Right, they're --

MS. MEYER: Yes. I mean you can overlap, you can have a USDA at-risk and it's a rural.

MS. ESCAREÑO: Exactly.

MS. MEYER: So you can be in all three of them. So it is combined. But we're required to allocate at least 20 percent to rural areas.

MS. ESCAREÑO: Right. So if you get the 20 percent, plus the 500,000 or whatever --

MR. HAMBY: Well, no, we still have to account for the USDA deals, and we still have to account for the at-risk deals. Each one of those thresholds has to be met. They can all be met by one --

MS. ESCAREÑO: Gotcha.

MR. HAMBY: -- deal, but they all have to be met. It's a check they have to do each way.

MR. FLORES: But I think you just explained why it's so confusing for us --

MR. GOURIS: Right.

MR. FLORES: -- Board members who are not in the business. For every rule there's exception upon exception upon exception. It sort of reminds you of the IRS rules, which I guess --

MR. CONINE: The beauty of it is, by the time you see --

MR. HAMBY: They are IRS rules.

MR. CONINE: -- the list, the staff has got them worked out.

MS. ESCAREÑO: Yes. Yes.

DR. MUÑOZ: Are you going to go into more depth on these, or is somebody else, or are we like -- like, for instance, at-risk, I'm not sure I understood. You said it was for existing projects at risk of losing funding?

MR. CONINE: Give an example.

MS. MEYER: If they have --

MR. CONINE: Give him an example.

MS. MEYER: Well, you could have a USDA deal that had funding 28 years ago and their funding is about to run out in two years. Okay. They're not going to have that subsidy on there any longer, so they're -- we're at risk, or the state is at risk of losing affordable units.

MR. GOURIS: Or it could be a project that has funding on it that could be sold and the funding could be extinguished. And then that affordability would also -- that went with it would be extinguished. And if that's the case, then they're at-risk, and that's something that the Board in the past, and the state, has looked to preserve.

MR. CONINE: The unwritten rule is that over the years you create a new pool of affordable units across the state. And as the years go by, the more we can do to help preserve that pool, because it took so long to build it up, because it can be wiped in a hurry, you know, through demolition, through, as you said, sale, through whatever means it could be.

So the game plan for the staff and the Board historically has been let's allocate whatever we've got in

this year's resources to try to save some of previous years' units.

MR. CARDENAS: That's that 15 percent then, the 15 percent. Okay.

MR. CONINE: And we have a pretty good emphasis on rehab, you know, spending credit money for rehab versus brand new stuff. Again, because you can -- and there's reasons for that, but you can take an older project and fix it up and make it a -- in the pool of affordable units and it doesn't create any more traffic than the traffic that's already there because the project is still there. And some municipalities like the fact that we spend money on rehab versus creating a brand new one where you've got more traffic and blah, blah, blah.

MR. GOURIS: There are also some IRS conditions that are there. You have to do a certain minimum amount of rehab, you have to have held, or the seller has to have held the property for a certain period of time in order to get some acquisition credits. And that helps with the transaction.

So there's some other rules in play. When we started focusing on the at-risk population, we were less subscribed to that than we were to the general population. We've seen a pretty significant and constant increase in

the number of transactions that we do rehab and at-risk.

MS. ESCAREÑO: Which makes sense. Right?

Since you're talking about you build a pool and eventually your going to have some responsibility for maintaining the pool.

MR. GOURIS: Right. Though most of the rehabs, most of the at-risk are not previous tax credit transactions. There'll be some, but most of them are going to be older --

MS. ESCAREÑO: I see.

MR. GOURIS: -- even older still --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- HUD transactions, or --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- USDA transactions that --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- have lost their ability to find new sources of funds, other than the tax credits.

MR. CONINE: And because the Board and the Department has historically had a soft spot in our heart for those projects, the developers have started to specialize in those because they now know consistently they can come here and instead of just on a one-off transaction they can come here year after year after year

and improve the stock of the -- all across the state. So they go out and try to find them to do it with.

MS. ESCAREÑO: Won't they eventually be though tax credit probably previous tax credit -- I mean eventually as time goes on?

MR. GOURIS: Well, there'll be some, but the hope is -- well, the hope is -- the plan is, and the expectation is that they'll be -- that these are going to be -- that the tax credit properties are built with a little bit better quality to start with. They're built with a little bit more reserves to start with, that the entities that are in the transaction are --

MS. ESCAREÑO: Self-sustained?

MR. GOURIS: -- going to structure a little bit better.

MS. ESCAREÑO: Okay.

MR. GOURIS: But there will be. There's going to be more and more.

Kevin's laughing because he doesn't believe, and neither does Patricia believe it.

(General laughter.)

MR. HAMBY: We deal with the back --

MS. MURPHY: Sounded good.

MR. HAMBY: -- end a lot.

(General laughter.)

MR. GOURIS: I mean, because we --

MS. MURPHY: It sounded really good.

MR. GOURIS: -- you know, we have a wide variety of developers and developments, and, in fact --

MR. GERBER: The stuff from '86 to '96 is a little bit rougher than --

MR. HAMBY: There's some shaky stuff --

MR. GERBER: -- '96 to --

MR. HAMBY: -- out there.

MR. GERBER: -- now.

MR. GOURIS: In fact, what we've seen is, as more deals come out not as -- not because they were new transactions, new developments when we got them, but we're seeing a second round of tax credits on a rehab -- what was originally a rehab transaction. So we're seeing some of that. In fact, more of that than --

MS. ESCAREÑO: Wow. Okay.

MR. GERBER: But no doubt you will see more, and increasingly the Board has been responsive to the calls of communities for additional emphasis on rehabs, and there's been a greater emphasis in the QAP for rehabs.

MS. MURPHY: And once they get this funding, it's a 30 year at least commitment to keep that property

in compliance with the physical standards. So our QAP goes well beyond the federal minimum thresholds for the dollar per unit you have to do in a rehab.

MS. MEYER: Okay. These are items that the Board will see, the qualified allocation plan and rules is the rule that governs the tax credit program. You'll see this in the fall of every year, you approve it, we have a draft usually in August, early September this year I do believe, and then we have the final rule is approved at the November Board meeting, and the Governor is required to sign it on or before December 1. That's the rule that you'll see.

You also have the bond rule -- gosh, I slighted Teresa, she'll be upset -- but we also have the bond rules, and other program rules that you'll approve at that same time.

MR. HAMBY: Well, one of the reasons the QAP is up there and not the bond rules is you're required to approve the QAP each and every year. It's statutory, there's a process for it, the Governor has to either accept, reject, or accept with modifications by December 1. It's all part of the IRS, and it's a requirement on the state, and our state legislature is at the top of time table for it.

MR. GERBER: There has been some interest in doing a two-year QAP, and that's been expressed --

MR. HAMBY: Which you can't do.

MR. GERBER: -- by some folks, which we can't do by statute, but we can certainly re-issue the one we've got in substantially the same form.

MR. HAMBY: Except the way that our staff and our state has done it, is we keep the QAP in for two years in effect in the books, and so we repeal -- like this year we repealed the 2006 QAP to put in the 2008 QAP, so there's always the 2007 and 2008 side by side in the Administrative Codes, because we're still involved for that next year and the prior year rule.

You can adopt the exact same rule, except we'll have to change out dates and do technical changes, because obviously next year we can't have an application deadline on February 29, which this year we have an application deadline of February 29, and so, you know, there's some of those changes that will have to be done annually if you're going to do an annual one.

MR. GOURIS: And every state has their own QAP, and so for a developer who deals in many states, they're going to have understand the rules of different states. Our QAP is probably one of the longest, one of the

largest, one of the most voluminous, and a lot of it has to do with the fact that several years ago, the QAP that existed was effected put into state law, or most of it was.

And in our enabling statute that has been changed from every two years, a little bit tweak here and there, and so we have to incorporate those changes into the QAP coming back the other way again. So we have a very legislated QAP.

MS. RAY: In my experience on the Board, which is not that long, but I find that the QAP process is industry, public to private, is probably one of the most contentious issues that the Board deals with public to private, because it is so large, and it is so voluminous, and it is so detailed.

Of course, the public side of that, that is the developers and the syndicators and people involved in managing the program, have a lot, a lot, a lot to say about the QAP process. And you'd probably get lobbied a lot from people that know that you sit on the Board.

MR. FLORES: Friendly phone calls.

MS. RAY: Oh, yes. Friendly phone calls, friendly visits --

MR. FLORES: It's highly scrutinized by --

MS. RAY: -- can I take you to lunch?

MR. FLORES: -- high paid consultants. That's what goes on.

MR. GERBER: Well, as they've increasingly said, because it's one of the priorities with the Department has been in recent years, to try to back the legislature out of what should probably be the name of the sport. We don't want it legislatively -- the QAP legislative because that allows -- it doesn't give you the flexibility you need to adapt to changing housing conditions. You may really become forced to live with it for, you know, two years plus.

MR. CONINE: Well, let's just say, when you had a Board member that went to jail for 84 months, the legislature -- it perked -- it peaked their interest a little bit. So they got -- they started micro-managing along with some of our friendly developers that went to the legislature and -- because they didn't like what the Board was doing at that time, let's say, so they had two alternatives. They either come to the Board to get it changed, or they go to the legislature to get it changed.

And now the pendulum is swinging back a little bit now to work with the Board and the Department and resolve their issues here rather than taking it to the

legislature.

MR. GERBER: And to get to this raised point, we'll hold lots of round table discussions and public hearings on the QAP during that time of public comment. And even before. We take the draft rule out to try to bring, you know, folks together to make sure that we understand fully what are the outstanding issues from -- you know, what are the lessons learned from the previous year.

Let's move on to amendments.

MS. MEYER: Okay. Amendments is another one of the sticky items that you'll deal with. These are changes to the applications once an award has been made. This also comes under the QAP, 50.9(c), and this is adherence to obligations, which you've already been involved in this last month. It allows the Board to impose penalties on developers that didn't do what they said they were going to do.

MR. HAMBY: Well, it's also statutory, so there's not -- there's some things that absolutely must come to the Board and you can't waive those because the legislature has said the Board must approve these type changes, density, unit mix, there are a few of them that are listed there.

Although you have provided staff more latitude, the last Board voted to have a larger group of things that we don't want to hear. So you've narrowed the number of things, but there are several statutory things that you have to hear in the amendment process.

MS. MEYER: We also have challenges, and you'll -- hopefully we won't have any of these, but if we do, these go on during cycle, these are unrelated parties to an application that challenge some part of the application.

And the key on this one is, it has to be an active application. So if the Board's already made a decision, they can't come back and attack an application later on. And it has to be an unrelated party, and they have to tell us who they are, they can't have anonymous attacks on another application, or a challenge on another application.

We also have appeals. You can have an applicant appeal staff's decision, and they'll appeal that to Mr. Gerber. Mr. Gerber will respond, and then if they don't, you know, like his answer, then they will appeal to the Board. These are also -- you'll have happen -- occasionally you'll have them on bond 4 percent transactions, but it's usually in the competitive round

where you'll see appeals.

At the June meeting, which is tentatively scheduled for June 26 this year, you'll receive a list of eligible applications for your consideration for final award at the July Board meeting. And so you'll be able to see all the applications that are competing against each other, you'll see what region they're in, how many credits they're requesting, and the scores of those applications.

On that log you'll also see the binding agreements that have previously been awarded, and also the forward commitments from 2007.

MR. HAMBY: The scores can still move up that list. What that list is no one who's on -- who is not on this list can receive an award in July. Again, it goes back to some of our predecessor days where people would sneak on applications after the thing, whenever they looked and saw, well, I can do this, and so I'll put in a new application right here.

And so the Board is supposed to tell the entire public what the universe of applications are. And so if you're not on that list, and you think you have an application, you're supposed to object if you are on that list and you're eligible for an award.

MR. GERBER: But the movement will continue.

And the reason we have three Board meetings in June and July is because of all the appeals that you may or may not hear. Hopefully there'll be fewer.

MR. GOURIS: And you may hear things like, At the June meeting I was on -- I was in the money, I was -- you know, my deal was up there, and then suddenly it wasn't, and it wasn't because of anything my application did. Well, it's because somebody else's --

MS. MEYER: Right.

MR. GOURIS: -- application actually jumped ahead of theirs.

MS. MEYER: Right.

MR. GOURIS: And so they'll be -- they'll petition for a forward commitment, or some special, you know, preference based on the fact that they were in the money. But technically they really aren't. I mean, they are at that moment in time, but they're -- it's where the chips fall. At the July meeting is where folks really are in the money or not.

The other thing to note is that everything is extraordinarily transparent. And you might wonder why we would even have challenges. Well, because the application itself is posted -- each applicant's application is posted in full on the website, on our website. And so other

applicants can look at their competition and say, Hey, they didn't do this, or They didn't do that. And it's a very self-policing group, and that's why we get those challenges.

MR. CONINE: And do they?

MR. GOURIS: Yes.

MR. GERBER: Yes, they do. And you'll get a log and it'll tell you how staff dispenses with that challenge.

MS. RAY: We had some of those this year. At least one that I can remember was fairly --

MR. HAMBY: Well, we don't --

MS. RAY: -- contentious.

MR. HAMBY: -- the Board doesn't actually hear the challenge, but what you end up hearing usually is the --

MR. GOURIS: A report on it.

MR. HAMBY: -- appeal. You get a report on the challenge, but if we say, Gosh, that is true, and the staff turns down somebody's application based on a challenge or some points --

MS. ESCAREÑO: So the challenge goes to the staff, goes to the staff departments?

MR. HAMBY: Right. And it's posted on the

website as well. As a requirement --

MS. ESCAREÑO: Okay.

MR. HAMBY: -- it's posted on the website. And so what you will see -- you get a list of all the challenges because you will get calls that say, You know, Bob Fletcher was indicted last week, you don't want to give an award to him. And, you know, it's -- so there's lots of stuff --

MR. CONINE: You remember in elementary school when the nerd always went to the teacher and told them what you did on the playground?

MS. RAY: So and so is cheating.

MR. CONINE: That's what that is.

(General laughter.)

MR. HAMBY: But it does lead to appeal points. And so you see the challenges as it develops, and you can also see the staff that --

MR. GOURIS: One other thing on that, and this is something of a risk that we're working on trying to resolve in the future, and that is that original applications are on the web, but if in the course of our evaluation we ask for additional information, or things change because they're clarifying information for us, most times that additional information that we get is not

posted on the web.

And so a competitor might see a problem that doesn't exist anymore because we've already resolved it. That's something we're working to resolve to get that new information also posted on the web in the future. But we're not there yet.

MR. GERBER: Would you explain that -- a forward commitment very quickly?

MR. GOURIS: Sure. Forward commitment is an allocation -- it's an award that's made this year of next year's funds. So -- and it's something that we don't tend -- staff doesn't -- does not recommend.

But there's some times, since persuasive elements to a transactions, there's good cause for a transaction, because we haven't done one in a certain location, it's going to be an economic incentive for that community that we've never done, or haven't done in a long time, there's a huge amount of support for it, it's a viable transaction, just didn't score enough in points or what have you, and so they'll petition for a forward commitment so they can get an allocation of next year's credits, of '09 credits.

That, of course, takes out of the '09 pot, and so folks who might have wanted to apply for it now are

going to be limited. So we don't -- we discourage it, as staff, but recognize there's some times we need to do it.

MS. ESCAREÑO: Does the Department have limitations on that? Is there anything the QAP, or anything that says to what extent you can make forward commitments?

MR. GOURIS: There used to be --

MR. GERBER: No, a lot of them are the discretion of the Board. But you -- but the Board understands that it comes directly off the top of next year's allocation.

And there are some projects that are -- that folks know are never going to be able to get enough points to be able to be in the money for a particular tax credit cycle, so they'll start petitioning over and over and over again for forward commitments in anticipation of that.

MR. GOURIS: Starting next month.

MR. GERBER: Starting next month. An example of a forward commitment was a project up in Dalhart where a big cheese factory was going in, but there was only 1,000 people -- the Governor's Enterprise had put in a substantial amount of money, there was money was Workforce Investment Act through the Texas Workforce Commission, there were a bunch of other different factors, plus they

had a slew of members of the legislature who came over and over again.

The Board felt that between the combination of financing and, you know, the circumstance of this being a real boom for this rural area, to go and award a forward commitment of however much it was. Those are the kinds of, you know, really, you know, worthy projects that --

MR. CONINE: There have been years we've done -- there have been years we've done 10 percent, something like that, of next year's allocation. So it just -- that's the ultimate discretion that the Board has where you have the power statutorily, is that you can decide what you want to do, or not do. But the real key is knowing that you're taking out of next year's pot when you do it.

MR. HAMBY: One other good example is the 2006 ones, we committed a lot of funds in 2006 for 2007, in the hurricane region to develop virtually the entire pool for next year out of that region so they could start the process quickly.

MR. GERBER: So people in that region though were very angry last --

MR. HAMBY: The next year.

MR. GERBER: -- year when there was no funds

left in Region 5 --

MR. HAMBY: The reserve funds.

MR. GERBER: -- because we'd already awarded it.

MR. FLORES: Tom, this looks like a good place to explain this regional allocation of where some areas suck up all their money, and the others -- some others don't use it. Explain how that happens.

MR. GOURIS: Well, you know, the regions are -- the state service -- based on the state service regions, not based -- it's not based on something that we set up, it's another system. And --

MR. FLORES: No, I understand that.

MR. GOURIS: And so some of the regions are smaller, or contain cities with, you know, smaller non-metro kind of populations, or more -- and in those areas the transactions may be more difficult to get accomplished, and so there's less demand.

So we have some regions of state where the subscription rate is, you know, one to one, or even sometimes less than one to one. And in other places the subscription rate is very, very high. In a place where the subscription rate, like when we did the Dalhart deal last year, that deal was so big it's going to take a big

chunk out of this year's allocation, because we forward committed that from '08 funds.

And so this year when we look at that, there's going to be -- you know, if there are some other worthy applications there, they're going to be more difficult to get accomplished because we don't have as much funds as we would have if we hadn't forward allocated.

MR. HAMBY: Let me -- I'm going to go ahead and --

MS. ESCAREÑO: So you can't Robin Hood it, you can't --

MR. HAMBY: We can't do it. I mean we can to some degree. The regional allocation formula is something that the Board approves every year. And that regional allocation formula that divides the funds between all the different regions is statutorily required, and it has some parameters in it. But because one of the major parameters is the need, you end up obviously funneling money to larger cities, because that's where the majority of the need in the State of Texas is.

Last year, as a matter of fact, the legislature passed a new section of the regional allocation formula that required us to look at other factors, and we manipulated it, manipulated the numbers in lots of

different ways using, you know, housing stock prior to the '60s, housing stock prior to the '70s, the amount of historical funds that have come in to a region, and no matter what numbers we used, the reality was one deal change out of Houston into the rural communities, one deal changed out of Dallas into the rural communities.

So there was nothing that -- no matter -- unless we just completely ignored need, which we're not really allowed to do, we couldn't -- those numbers didn't change. So the numbers are fairly stable amongst the regions. And so you'll see Houston and Dallas get, what half of the overall pool?

MS. MEYER: Dallas gets -- well, Houston gets the biggest part, but --

MR. HAMBY: Right. Houston gets the largest, like nine million or something, and Dallas gets the largest. Dallas, of course, is the Dallas/Ft. Worth region, so it's the metroplex.

But whenever you start talking about those terms, no matter how we change that formula, it doesn't move a lot. And we looked at a lot of scenarios because that was a target, or a request of the legislature that we look at those formulas, and ultimately ended up maintaining virtually the same formula we had before.

And so that division ends up being pretty close, and because it's need driven, it's not going to change a lot unless we do something dramatic.

MR. GERBER: But it's fair to say that was principally by members in San Antonio and in the Valley who believe that those areas have been historically underserved.

MR. HAMBY: Right.

MR. GERBER: But then when you proved -- as you proved it out, it didn't --

MR. HAMBY: Right. There was almost no change.

MR. GERBER: There was one deal, yes.

MR. HAMBY: You can give one deal down to the Valley --

MR. GERBER: Over time.

MR. HAMBY: -- something. But it really did not make any sweeping differences. But it is a regional allocation formula that is required. And this Board does have to approve it, and we do take public comment on it.

MS. RAY: And that goes all the way back to the point that it's based on population.

MR. HAMBY: It actually can't --

MS. RAY: To a degree.

MR. HAMBY: -- be based solely on population,
but, yes, it is because --

MS. RAY: It really is, though.

MR. HAMBY: -- the need is where --

MS. RAY: Sure.

MR. HAMBY: -- the population is.

MS. RAY: Absolutely.

MR. HAMBY: And so if --

MS. RAY: It's based on --

MR. HAMBY: -- you start --

MS. RAY: -- need.

MR. HAMBY: -- talking about poverty levels --

MS. RAY: You're talking about the number of
people.

MR. HAMBY: Right.

MS. RAY: Certainly.

MS. MEYER: I mean the final awards are made in
July at the last meeting. The second meeting on the --
July 21 is where you'll probably hear the majority of the
appeals. Underwriting appeals will be there as well as
multifamily appeals.

And they can appeal on a number of different
items. Scoring is usually the most prevalent, or
quantifiable community participation. We hope we've fixed

all the kinks with that and we won't have those this year.

But the final awards are made July 31, and it is statutorily required to do that.

The waiting list is what's left over. So once you make your recommendations or your awards at the end of July, all the other applications that are remaining stay on the wait list, and staff uses that waiting list as credits are returned, or if credits are returned between the time of award and the end of the year. And then we move down that list in that fashion.

Your submission logs. In your packet, right after that last slide, you should have several pages, and I gave you the whole log for the at-risk, because it is done a little bit differently than the regional log. And the at-risk takes 15 percent off the top of our allocation, sets it aside, and you have all these developments.

They are ranked strictly by score. When you get into the regional allocation over in the -- on the regional log, it's broken down much differently and it's allocated differently. But in the at-risk it goes strictly by who's got the highest score, and that's how it's done. So you're not going to have different regions represented as well as you would in the regional

allocation.

MR. GERBER: And not to worry so much about the log, because every time you see one we will give you a cheat sheet, or give you a primer to go through it because it's a very -- even having seen it now for a couple of years, I still need it to be deciphered. It's -- there are couple of key parts to it, certainly in the numbers and certainly in the codes.

If you look to the far right you'll see BA next to some, that's a binding allocation. If you see FWD, that's a forward commitment already awarded by the Board.

You know, different things obviously tell you things, different check marks, which is a USDA set-aside, which is --

MR. CONINE: New construction.

MR. GERBER: -- new construction. So we'll walk you through that so that as you are making decisions based on -- when you're making decisions and so that you can follow who's moving up and who's moving down. So you have -- know fully the context and impact of your -- of an appeal before you all. We'll go through that with you and, you know, and folks usually will sit behind you and can walk through it with you as well so that you don't have to --

MR. HAMBY: Staff will.

MR. GERBER: -- staff will --

MR. HAMBY: If any --

MR. GERBER: -- staff will see if see if spared
a --

MR. HAMBY: -- applicant does --

MR. GERBER: -- spared the applicant --

(General laughter.)

MR. HAMBY: -- they violated the *ex parte* rule.

MS. ESCAREÑO: Got it.

MR. HAMBY: We need to be told and they get terminated. So that's a -- and just -- I think Robbye said it, I want to make sure everybody is -- the at-risk log as it is this year is new, it's a new concept. And -- because last year they were within the regions, and so you may hear some grousing about somebody who would have gotten funded out of the at-risk program in a region will not be eligible this year because they weren't competitive statewide.

MS. ESCAREÑO: I see.

MR. HAMBY: They would have last year automatically won, and some of them even taken the entire amount of money out of the region.

MR. GOURIS: Right. That's --

MS. ESCAREÑO: Because it would have been a point -- in the past it would have been a point award within a region?

MR. GOURIS: Yes, it would have been awarded within the region as a priority.

MS. ESCAREÑO: Okay.

MR. GOURIS: We'd fund the at-risk first and sometimes the size of those transactions suck up all the dollars --

MS. ESCAREÑO: Right.

MR. GOURIS: -- in that region.

MR. HAMBY: And they weren't competitive because there was a requirement that we fund at-risk in each region. And so they may have had the lowest score in the region but they got all the dollars because they were the at-risk requirement -- they met the at-risk requirement.

MR. GOURIS: So now we're taking the at-risk off the top and then what's left is going to be divvied up by the region.

MR. HAMBY: And actually we didn't do that, the legislature did that.

MS. MEYER: And the other key to the at-risk log is if there's more applications than there are funds

available, which there are, if an at-risk application is further down the list and will not get an allocation out of at-risk, it can swap over and compete in its region.

And we made this very clear to everybody, when they agreed to this, that you've got to pay attention to what happens in the at-risk log, because if there's an application over there that's scoring higher than one that's in the region, it can actually flip-flop over and choose to compete in the region.

MS. ESCAREÑO: So they have to do that though, the applicant has to activate that. Does the applicant say, I want to be out of consideration for at-risk set-aside, and I just want to --

MS. MEYER: Well, it's only if they --

MS. ESCAREÑO: -- compete in my own region?

MS. MEYER: -- if they wanted to compete, they could, but I mean if they're not competitive over there, that is an option that they have. If they're competitive --

MR. GOURIS: But they automatically --

MS. MEYER: -- in the regional set-aside --

MR. GOURIS: -- go in --

MR. HAMBY: They automatically --

MS. ESCAREÑO: No, I'm asking --

MR. HAMBY: -- do it.

MS. ESCAREÑO: -- yes --

MR. HAMBY: We don't --

MS. ESCAREÑO: -- do they have --

MR. HAMBY: -- do it.

MS. ESCAREÑO: -- to activate it, or --

MR. HAMBY: No, we do it.

MS. ESCAREÑO: Yes, Gotcha. Okay.

MR. HAMBY: We do it -- once the at-risk pool is set up, all of those funds will be -- all the applicants will be swept back into the region more or less to compete in the region, and that was a Board-approved rule, and that's how we ended up doing that. So, but, as Robbye said, we made it as clear as possible to everybody, you can compete in the at-risk and in the regional pool at the same time.

MR. CONINE: Am I reading this right? We've got a million seven to give away in the at-risk set-aside, and we've got 20 million in applications?

MS. MEYER: We have 7 million in at-risk. If you look at the top of your chart, right up here at the very top --

MR. CONINE: Yes.

MS. MEYER: -- on your at-risk, it should say 7

million. Wait --

MR. CONINE: Okay. Seven million.

MS. MEYER: Now you've got a little over 200,000 in binding agreements that are in there. There is one application that when we first produced the log this year, they hadn't checked at-risk and we had it in the regional log, and it's flipped over to the at-risk log and took 1.2 out of at-risk. So you may hear some grumblings about that. I don't know exactly how that'll play out, but it's over there in the at-risk log where it's supposed to be.

MR. GOURIS: But, yes, there's a healthy over-subscription rate to this.

MR. CONINE: Yes, it's unbelievable, three to one. Wow. In the at-risk category. Normally you just -- it's hard to flip up the bucket. This year it's over subscribed.

MR. HAMBY: This is the pre-application stage. This is not the --

MS. MEYER: Yes, this is pre-app.

MR. HAMBY: -- not the final --

MR. CONINE: Oh, before Tom knocks them out.

MR. HAMBY: Well, and before they look --

MR. GOURIS: Before they even made a full

application. So all we have now is either a pre-app or a notice to apply.

MR. HAMBY: And it's fairly -- that ratio is fairly consistent with the pre-application. A lot of those will drop out when they realize they're not competitive. They won't go for the full application.

MR. CONINE: For the Board's information, when I was saying earlier that because of what we have done over the years, there's a group of guys that are out there doing a lot, you see a lot of repeat names down the -- that's what's happening.

MS. ESCAREÑO: That's their niche, they're rehabbers.

MR. CONINE: Yes. Yes.

MS. MURPHY: And so a lot of these are existing tax credit developments, but it doesn't --

MS. ESCAREÑO: Okay. Yes.

MS. MURPHY: -- exactly work on this.

DR. MUÑOZ: They're coming back for more funding?

MS. ESCAREÑO: And would that be on the log anywhere, or that would be on the cheat sheet eventually?

MR. GOURIS: It'll be in the final underwriting analysis --

MS. MEYER: They'll be in underwriting before --

MR. GOURIS: -- that we'll talk about.

MS. MEYER: If you'll flip past the at-risk log, and that should be like five pages I do believe, or six pages, on the seventh page I've pulled off one region out of the regional allocation just so I can show you the break down --

MR. GOURIS: Actually, it might be the first page. On my copy it was the first page.

MS. MEYER: It does the regional log first?

MR. GOURIS: Yes.

MS. MEYER: Okay. I'm sorry.

DR. MUÑOZ: I have a question. Okay?

MS. MEYER: Yes, sir.

DR. MUÑOZ: You answered this earlier. Okay, tell me, again, a scenario where a pre- sort of approved development is under way for which money is being given, and then we determine it to be at-risk. And now they're coming back and saying, We need additional monies.

MR. GOURIS: No. No, what happens is that they got credits, or got some sort of funding 10 years ago, 12 years ago, 15 years ago.

DR. MUÑOZ: Okay.

MR. GOURIS: And time has passed, they haven't, you know, maybe it hasn't -- the economics haven't worked for the project, they haven't been able to reserve --

DR. MUÑOZ: Okay.

MR. GOURIS: -- enough, and now they need to refreshen the property, they need to do new roofs or new --

DR. MUÑOZ: Okay.

MR. GOURIS: -- you know, rehabilitate it.

DR. MUÑOZ: All right.

MR. GOURIS: Maybe it's going to be sold to a new entity to do that, and they'll come back to us then. And because they can -- because potentially a sale, depending on the kind of funding that was there, could wipe out the affordability requirements of the property, and they'll be at risk of losing that affordability and therefore be eligible for the at-risk set-aside.

DR. MUÑOZ: Okay. In order to keep the property and avert the sale that would then nullify the affordability.

MR. GOURIS: Correct.

MR. HAMBY: Well, the tax credit may not be sold, I mean --

MR. GOURIS: Yes.

MR. HAMBY: -- the tax credit's a little different. Most of the ones we've seen at this point, or the ones that we're seeing more, most of them has actually been some sort of HUD financing that had gone on previously that no longer exists, and so they're losing that HUD financing, and so then there's actually a very complicated rule.

And it's a point that we end up with a lot of legal discussion on as to when the two-year period -- when they're actually to lose affordability within the two years that's required. And so it's a very -- I don't want to say complex, but it is a point we get a lot of questions about as to when the affordability is at risk.

MR. GOURIS: And it may not be that the tax credit affordability is at risk, it may be another source of funding affordability that's at risk, and they still would qualify as an at-risk development.

MS. MEYER: But in order to qualify for at-risk, you have to have the risk of losing all affordability on the property. So all your sources -- you have to be at risk of losing all your sources, and that's in the QAP.

MR. HAMBY: Which is a change they made two years ago.

MR. CONINE: You would think that all the federal housing programs in the country would be housed over at HUD. Now the Department of Agriculture has a lot of rural housing programs in it.

And that's why you see this USDA pop up a lot is because the Department of Agriculture has housing programs that historically they run out of money because, you know, they're always the last one in the budget allocation to get anything. And so then they come see us to try to salvage the property, because we've got new tax credit allocations coming in every year.

MS. MEYER: Okay. On Region 1, if you'll look at the top, we're estimating almost 40 million that'll be regionally allocated. And just to remind you, you have almost 8 million in there that are binding agreements and forward commitments from previous decisions. So that's going to reduce that 39 just off the bat.

And if you look at Region 1, in that second box down --

MR. CONINE: That's because Sonny was so generous last year.

MS. MEYER: -- you have the total available in Region --

MR. FLORES: I don't remember making that

motion.

(General laughter.)

MS. MEYER: -- the total available in Region 1 is 1.7, and then it's split up between urban and rural. So in your urban set-aside it's 1.1 million, and then in the rural set-aside it's 600,000. Does everybody see that? And that's how it's broken down within the regions.

What staff will do is take each sub-region, rural and urban, and we will recommend applications up to that point. We won't go over it. So you may have, in essence, where like in Region 13, which you don't have a copy of, we actually have one application in rural and there's only 500,000 in the rural set-aside in Region 13, and the only application is over 700,000. So we won't be doing anything with rural Region 13.

What will happen is -- can you flip the slide -- we're going to do a different collapse this year and rural gets the first bite at the apple after it's all said and done. What we will do is any allocation that's left --

MR. HAMBY: Explain collapse.

MS. MEYER: Okay. Normally what we would do is any allocation that is left over in each sub-region and in region, we would collapse into one pot.

MS. ESCAREÑO: I show that. Okay.

MR. HAMBY: And we've got 13 pots --

MS. ESCAREÑO: Okay. Yes, smash them --

MR. HAMBY: -- left over.

MS. ESCAREÑO: -- altogether.

MS. MEYER: Actually you have 26 --

MR. HAMBY: Twenty-six pots --

MS. MEYER: -- because we're going to --

MR. HAMBY: -- pots left over.

MS. MEYER: -- go by -- you have -- there are sub-regional parts within each region. And you would collapse those into one pot, and then you would take the most under-served area, the next application, highest scoring application in that sub-regional, whether it be urban or rural, the most under-served, and then we make a list of those. And then we take off that list and go down that list as a statewide collapse. Okay. That's what we've done in the past.

This year we've kind of added a little piece in there that we're going to collapse the rural -- all the sub-regions in rural first, and we'll take all of the allocations available in each one of those sub-regions and we'll collapse them and rural applications get the first bite at the under-served part. Okay.

Once we get to the end of that, then any allocation that's left in that statewide collapse we then collapse within the urban sub-regions. Does everybody --

MR. HAMBY: Well, actually --

MS. MEYER: -- understand that?

MR. HAMBY: -- it would collapse them both.

MS. MEYER: Well, yes, all of them would collapse together.

MR. HAMBY: Right. So you still have the under-served region. And, again, this is statutory. The legislature put the rural statewide pot -- that it had to stay in rural until all rural deals were funded.

MS. ESCAREÑO: For the rural collapse, is the apple all the funds that were allocated rurally, or is it -- the apple all of the funds?

MS. MEYER: No, it's what was in the rural set-aside to begin with, in the rural sub-regions. Okay. Those all collapse together, and then we pick the most under-served rural application. Then anything that's left, if there's a small \$200,000 somewhere, then we will add it to all of -- take the 13 sub-regions in urban, add it to that little pot, and then the most under-served sub-region -- rural could still win out.

MR. FLORES: Robbye --

MS. MEYER: Yes, sir.

MR. FLORES: Go ahead.

MR. HAMBY: I was going to say that's -- for example, about Region 13 where the 500,000 allocated doesn't meet the 700,000 required. That would clearly rise to the top of a list of under-served.

MS. MEYER: Right.

MR. HAMBY: And that's what the under-served means is that do they get -- how much of their allocation actually got funded. And so you'd end with that rising to the top, most likely, if it was the only rural region that didn't get any allocation. And so that would take then money from Region 13 rural -- or Region 1 rural out to Region 13, and so they would be funded.

MR. FLORES: Would you define rural and urban?

MR. HAMBY: It's actually statutory --

MR. FLORES: I figured, but go ahead.

MS. MEYER: You want the actual --

MR. HAMBY: Yes, I'd read it exactly.

MR. FLORES: Well, is that too hard a question?
We'll ask it later.

MR. HAMBY: It's not too hard but it's based
on --

MR. FLORES: Okay.

MR. HAMBY: -- population and size and the location.

MS. MEYER: Here you go.

MR. HAMBY: And actually we have a conflict --

MR. FLORES: And what about -- what's a county, what's a region, and so on?

MR. HAMBY: Yes.

MR. FLORES: You know, there's so many, that I know of, across the state that could be considered either way, depending on your definition.

MR. HAMBY: Well, a rural area is outside the boundaries of a primary metropolitan statistical area, or metropolitan statistical area within the -- and be within the boundaries of a primary MSA, or an MSA. If the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

MR. FLORES: Okay.

MR. HAMBY: Which basically means you can't be next to Dallas and be a rural area.

MR. FLORES: Okay.

MR. HAMBY: And then one of the --

MR. CONINE: You get rid of ex-urban?

MR. HAMBY: -- one of the -- we got rid of ex-

urban all together. And one of the twists that we've had previously was that if you had a migrant farm workers bill -- or migrant farm worker program, you could actually build migrant farm worker housing in downtown Houston because it was accepted out -- because any USDA program was considered rural.

And now we've actually -- the legislature changed that so you can only do it in a municipality that's located in less than 50,000.

And here's the really good news about this, the staff looks at all of these and you all don't have to worry about whether or not it's rural or municipal.

MR. FLORES: Right. You know, it's always defined, but it's essentially outside the SMSA and then 25,000, this is --

MR. HAMBY: Correct.

MR. FLORES: -- essentially about where it fits.

MR. HAMBY: Right.

MR. FLORES: It's just that there were some areas that I wasn't so sure where they would fit one way or the other.

MR. HAMBY: Well, and the exception to that is that the USDA -- if it's a USDA funded project, if it's

50,000 or less, then it can be included.

MR. FLORES: Of course.

MR. GERBER: That surrounds some interesting --

MS. MEYER: That's that exception.

MR. GERBER: -- cases because you've got areas that were ex-urban, like Angleton, that are now going to be classified as rural in your area --

MR. FLORES: That's a good -- matter of fact we had a controversial project going on that --

MR. GERBER: Which would --

MR. FLORES: -- that's kind of hard to forget.

MR. GERBER: Which we do, yes.

MR. FLORES: Definitely.

MR. GERBER: Yes, it is. And it's going to make it difficult for that particular bond deal to come back in that form. They're going to have to either split it up or figure -- because there's now a unit cap of 80 -- no more than 80 units per deal in rural. That's part of the rules. As a matter of fact, that's statutory.

MR. HAMBY: That's statutory, yes.

MR. FLORES: You said not more than?

MR. GERBER: Not more than 80 units in a rural --

MR. FLORES: Not very --

MR. GERBER: -- bond deal.

MR. FLORES: -- big.

MR. HAMBY: But with one exception. Again.

(General laughter.)

MS. MEYER: Don't explain that one, Kevin.

MR. HAMBY: Well, because it's a really --

MR. FLORES: Go ahead. Go ahead.

MR. HAMBY: -- complicated question.

MR. FLORES: I love you saying that because this way, you know, we don't feel so bad about not understanding something because you throw the exception in.

MR. HAMBY: The one exception is, because the Bond Review Board has a different set of rules on multiple financing -- multiple location financing, that if you had more than two rural areas, they have absolute caps and those deals could be higher than 80 units, as long as it's part of a multiple financing on a private activity bond. And so --

MR. GERBER: So you could do a pool deal like you did --

MR. HAMBY: -- you could do a pool deal --

MR. GERBER: -- on the Rainbow transaction, which was, I think, 13 properties, that was a rural bond

transaction? You had, you know, Victoria, and you had Amarillo, and Lufkin and a variety of places that fit within the cap.

MR. HAMBY: And so that means --

MR. GERBER: Let's continue.

MR. HAMBY: -- that means you could go to --

MR. GERBER: Because otherwise we'll get --

MR. HAMBY: -- you can have more in some location, even though it's something that we're dealing with, otherwise across the board our programs are bond deals, our multifamily, our HOME programs all have an absolute 80-unit cap in rural areas.

MR. GERBER: Ms. Meyer.

MS. MEYER: Does everybody understand the submission logs? Because we will walk you through this once we get into the cycle and you really have to make a decision on these.

MR. GERBER: And as you start hearing about deals and seeing a few of those, you'll want to follow -- you'll follow it for yourself, it becomes, you know, kind of, you know, fun to watch, you know, how deals are faring and, you know, as the jockeying goes on.

MR. HAMBY: But, of course, as your legal counsel, I'll remind you that you never make a decision

based on an appeal, based on where it would fall in the list.

MR. GERBER: That's right.

MR. HAMBY: It's based on the merit of the appeal, because we're not -- we don't choose properties to award unless you do forward commitments on them. Otherwise it's based on the merit of the appeal and the application of the rules at that time.

MS. MEYER: Okay.

MR. HAMBY: Officially.

MS. MEYER: I'm going to go through a few restrictions, and these are some of the things that you may hear issues on. First is a concentration statutory requirement. It's called -- we call it the one-mile rule. And this is in the counties that are over a million in population. So it's Harris, Bexar, Tarrant, and Dallas County.

There's two different one-mile rules. One we have a one-mile same-year rule which only applies to competitive credits, and it says that the Board will not allocate credits to more than one development that is within a mile of each other, no matter what they are.

So you may have a rehab and a new construction. They can't -- neither -- I mean, both of them can't go

through, so the top of the two is going to have to move forward. That only deals with 9 percent credits though. That's doesn't -- the one-mile same-year rule does not take into consideration bond transactions.

The one-mile three-year rule though does. And that is if you have -- if you're building -- I'm proposing an elderly development, and there's another elderly development that is a mile from me, and I'm in Harris County. I have to get -- and it received credits for new construction within the last three years.

I have to go to the city, or the local governing body, and get a resolution from that local governing body stating that I can still build. They know that there's a concentration issue, and they know that other development is there, but the housing is needed.

But that's as long as you are proposing new construction, and you're proposing the same population type. If they were a family development, and I'm coming in and proposing an elderly development, we don't need the resolution and we move on down the road.

Everybody understand that?

MS. ESCAREÑO: And that applies to the bond program?

MS. MEYER: That applies for bond developments

also.

MS. ESCAREÑO: Tax credit and bond.

MS. MEYER: Correct. And that's proposing new construction. It's putting new residential units in.

You also have two times per capita, and this is any cities that have twice the state average of households served by housing tax credits. And this is a list that we produce every year and it's posted in our application materials.

And if they're on this list, and I'll give you an example, the City of Dallas is on the two times per capita list, they have to go through and get a resolution from the city that states they realize they're a two times per capita city, however, they still need the housing. And so we receive resolutions on those.

MR. HAMBY: Which is why three years ago the City of Dallas said that we don't want any more deals so we're not approving any of those. So they basically -- the City of Dallas, or the Mayor of Dallas, took themselves out of this market because they couldn't get that kind of resolution through the city council.

So cities can choose to take themselves out of the program. As a matter of fact, we just saw something about Baytown has refused -- or has said they will not

sponsor any housing tax credit properties in the community.

MS. MEYER: And the City of Dallas has their own concentration policies and application process that each one of the applicants has to go through, so they can make it through to get a resolution, but it takes a little bit more work on the developer's part.

MR. GERBER: Dallas may not be the best example.

MS. MEYER: Do what?

MR. GERBER: I said Dallas may not be the best example of a process that works well.

MS. MEYER: Well, they have their own process though.

Material non-compliance is statutorily required. But our QAP actually -- well, not our QAP, but the compliance rules actually set out what material non-compliance is. And Patricia's going to go over that, so I'm not going to steal any of her thunder and I'm going to move on. But that is --

MR. HAMBY: Just for clarification --

MS. MEYER: -- a statutory requirement.

MR. HAMBY: -- it's if you're in material non-compliance, you're not eligible. It's not required to be

statutorily in material non-compliance.

MS. MEYER: Well, I'm sorry. That's correct.

(General laughter.)

MS. MEYER: It's one of our ineligibility factors.

MR. HAMBY: Right.

MS. MEYER: We also have concentration restrictions under the real estate analysis rules. And I'm not going to go into those because then I'll steal Tom's thunder, so I'll let him do those. But those are also -- they deal with households and multifamily households and housing tax credits within, you know, certain distances.

The last two are required by the QAP. It's something that this Board voted on. If you have -- if you're proposing a development in census tract, a new development in a census tract that has greater than 30 percent of the households serviced by housing tax credits, you have to have a city resolution in order to build that development. Okay?

The next one is a qualified census tract, and in a qualified census tract, the IRS allows developments to have an increase in their -- a 30 percent increase in their tax credits, if they develop in qualified census

tracts, or difficult development areas.

However, we were getting a lot of concentration of affordable housing in these qualified census tracts so the Board adopted this rule that if you have more than 40 percent of the households serviced by housing tax credits in a qualified census tract, you don't get the boost. You can still build there as long as you get the city resolution, but you won't get the additional credits. Okay?

MS. ESCAREÑO: Even with the resolution you won't?

MS. MEYER: No. And that is -- that's in the qualified allocation plan, and that's at the Board's discretion.

MR. FLORES: But this concentration thing only happens in Dallas or Houston essentially.

MS. MEYER: Well, you have it in --

MS. RAY: San Antonio.

MS. MEYER: Yes, you have it in --

MR. FLORES: San Antonio --

MS. MEYER: -- San Antonio.

MR. FLORES: -- would be --

MS. MEYER: Austin you will have it also.

It'll come up --

MR. FLORES: It's almost an urban area problem.

MR. HAMBY: Sure.

MR. GOURIS: Any place there's a QCP there's going to be the potential for a concentration because that's like a magnet to a developer because it provides more --

MR. FLORES: Cheap land --

MR. GOURIS: -- equity --

MR. FLORES: -- nobody complains, that --

MR. GOURIS: Right.

MR. FLORES: -- sort of thing.

MR. GOURIS: Right.

MS. MEYER: The types of construction that we have, new construction, rehabilitation, reconstruction is actually under the rehabilitation so if they're going in and demolishing buildings and then rebuilding them, that's part of reconstruction, but it's actually part of the rehabilitation definition this year.

We have acquisition and rehabilitation, and then adaptive reuse. And if you remember this when we were going through the qualified allocation plan, this is a new definition and we define it, a renovation or rehabilitation of a non-residential building or structure. So if they're rehabilitating an old office building or

warehouse, old hotel, school, those kind of things, that would come under adaptive reuse.

The eligible population, you have workforce housing and general use provision. And Patricia's going to go into the general use provision here later in her's so I'll let her go more in depth into that.

We have elderly household, we have -- intergenerational is where you have a development and you have two separate populations within the same development.

They're actually two separate entities, but they're financed under one common financing plan. But you have two different populations, you have an elderly population and a family population.

Supportive housing is another rising star in the tax credit, and we're seeing more and more supportive housing developments come along. These are your single room occupancy developments.

You have mixed income and mixed use where you have several different income ranges, and you may have mixed use, where you have retail on the bottom of the development and then residential on the top floors.

And you have your at-risks that are in our at-risk set-aside, and preservation where we're trying to preserve the affordable housing that we already have on

the ground.

MR. GERBER: There's a huge discussion going on about wanting -- many communities wanting to use more credits for mixed use developments, particularly as you see them like in Austin, with the redevelopment of the Mueller air field, you see them at Ft. Worth where there's a desire, San Antonio has sought to use them.

There's also a significant discussion to try to make more use on the supportive side. Folks like New Hope Housing in Houston, Foundation Communities in Austin, those single resident occupancy units, or SROs, are transitional units for homeless populations, for veterans with significant disabilities, or other challenged populations.

And so there's -- as there's increasing needs that are out there, you're seeing more SROs coming together bringing a huge amount of additional financing to make those work with our tax credits. And there will probably be a major press to do addition mixed use and additional supportive housing in the next legislative award during the QAP process.

MR. FLORES: Mike, I don't remember any mixed use this past year. Did we --

MS. MEYER: Akerd, City Walk at Akerd is one.

MR. GERBER: City Walk at Akerd, yes.

MS. MEYER: It's -- that's one in Dallas that was actually a forward commitment, and it has mixed use on the -- it has commercial space on the bottom, and floors 4 through 14 are restricted units, and then the top, 15th floor, are market rate units.

MR. FLORES: Well, do we have any --

MR. HAMBY: Which is a change.

MR. GOURIS: Which is a change, and one which --

MR. HAMBY: You'll actually see that --

MS. MEYER: I wasn't going --

MR. HAMBY: -- at the Board meeting --

MS. MEYER: -- to go through --

MR. HAMBY: -- next week, yes.

MS. MEYER: -- that one.

MR. HAMBY: Or two weeks from now.

MR. GERBER: But generally you have not done much and the reason we said that's prior --

MR. FLORES: Do we have some more coming up that? Do we see some coming up?

MR. HAMBY: Yes.

MS. MEYER: You've got 6th Street, Villas on 6th Street, which was a couple of years back, that's one

that's in Austin, Texas, and it has retail at one end of it, and it has a YMCA child care center in it, and then has --

MR. GOURIS: But they're generally more difficult to do because --

MR. FLORES: I bet they are.

MR. GOURIS: -- because there's a lot more pieces, moving pieces, and it's difficult enough --

MR. FLORES: To get through an inner city area and all the --

MR. GOURIS: Right.

MR. FLORES: -- things that go along with it.

MR. GERBER: Well, that's why it's more credits for fewer units, and there's --

MR. FLORES: Yes, we've got a mayor for voting for stuff like that, but, you know, we don't see it. I mean, he's just promoting and nothing happens, you know.

MR. CONINE: The truth is it's nice to talk about it and it's fun for planners if it plans out, but it doesn't meet the demand of affordable housing.

MR. FLORES: And if it doesn't work, they can operate.

MR. CONINE: You know, if you want to do a follow-up project, it's great, but in meeting the overall

demand, it's way too expensive compared to stick building a two or three story garden apartment.

MR. FLORES: Yes. It sure looks that way.

MR. GOURIS: And there are restrictions against using the credit for the retail portion, or for the market rate portion. And so --

MR. FLORES: So we've got to juggle all of the --

MR. GOURIS: Yes.

MR. FLORES: -- accounting.

MR. GOURIS: You have to show the entire cost of the transaction, and usually the cost of those transactions are going to be more than --

MR. FLORES: Yes.

MR. GOURIS: -- if you're focused just on building affordable units. But you also have to make some adjustments to the total cost into eligible basis so that the credits aren't technically being applied to those parts of the project.

MR. FLORES: Well, in Houston it isn't working, that's why I'm saying this, and I think it can hardly -- probably somebody will -- some rich guy that doesn't have anything else to do can probably make it work, you know.

MR. CONINE: Or you've got an old dilapidated

building downtown that you're trying to, you know,
renovate --

MR. FLORES: Did they give you the building?

MR. CONINE: Well --

MR. FLORES: Which is, I think, what the
operator is going to try and do, gets some development
money for this, that and so on, make it work because he's
feeding other public monies into it --

MR. CONINE: And you've got asbestos abatement,
you've got all -- you know --

MR. HAMBY: And the affordable housing
advocates are not real keen on it unless there's some
trade off for lower the amount of --

MR. FLORES: Then you got the --

MR. HAMBY: -- AMFI that goes in there, so --

MR. FLORES: Yes. Yes, I can see that.

MR. HAMBY: -- there is a debate there too.

MS. ESCAREÑO: Could you differentiate what is
SOR, like what's the difference, that's single --

MR. FLORES: Standing room only.

MS. ESCAREÑO: -- single room --

(General laughter.)

MS. MEYER: It's transitional housing to where
they're -- you take maybe a homeless population and

transition them into home ownership or apartments of their own and --

MS. RAY: Can I give you a little bit --

MS. MEYER: Go ahead.

MS. RAY: -- more, I guess colloquialism for those of us that are not in the trade to understand. As an example, you may have something had previously been a hotel and you have the single room and you'd have -- it's sort of like an efficiency.

MR. HAMBY: That's exactly right.

MS. RAY: It's more like an efficiency.

MS. ESCAREÑO: Okay. Okay.

MR. FLORES: Yes, that'd be right.

MS. RAY: It's not a big apartment kind of thing.

MS. ESCAREÑO: Okay.

MS. MEYER: Yes, it doesn't have a full kitchen. It has a --

MS. RAY: Right.

MS. MEYER: -- refrigerator and a microwave.

MS. ESCAREÑO: I gotcha.

MS. RAY: Yes.

MR. CONINE: Embassy Suites.

(General laughter.)

MS. MEYER: But it doesn't have that extra bedroom there.

MR. GERBER: Well, a great example on that that's in San Antonio that Gloria and I saw is Seton Home for Teen Moms. It's a --

MS. RAY: Oh, great.

MR. GERBER: -- 50-unit property that has single rooms where there's a divider for mom and for baby, and it's for teenaged mothers, 12 to 20, who can live there and receive a variety of services and can stay there, it's a safe place. There's lots of other subsidy going in there.

There are big problems with the general use provisions that we're going to talk about in just a few minutes about whether or not we should be investing in that property. But it is one of several of that type that we've done.

MS. RAY: And plus it's special project and, you know, just --

MS. ESCAREÑO: Are they generally new construction, or are they generally like rehabs or --

MS. RAY: It could be either one.

MS. MEYER: For the most part it's usually adaptive reuse.

MS. ESCAREÑO: -- reuse, adaptive reuse.

MS. MEYER: We have -- I mean there are --
because we have a couple --

MS. ESCAREÑO: Because it is off of it.

MS. MEYER: -- in Austin.

MS. ESCAREÑO: Right.

MS. RAY: The one in San Antonio was new
construction.

MR. GERBER: New construction. The one most
recently in Austin, they took over an old extended
hotel -- extended stay hotel and they converted that and
did a beautiful job. And so --

MR. CONINE: And you feel sorry for them
because they go through so much brain damage of learning
different grants and financing. They can't finance
anything conventionally because they can't afford to pay
any money back because nobody's paying any rent. So you
feel sorry for a lot of that stuff, and you try to -- if
they've got all the little pieces put together and you're
the last piece, then you tend to get a little emotional
about it.

MS. RAY: On one of the trips that I went to,
to San Diego, that's a unique situation in California
because the cost of real estate is so very high. And the

community is interested in attracting single room occupancy in that area because it's needed for workforce housing, because lower income workforce housing in the downtown area, they can afford to live in an SRO, but, you know, they couldn't possibly afford to live in an apartment or something.

And it's a completely different issue in a high market area than it is in an area like Texas.

MS. MEYER: Okay. I'm going to run through the time line really quick so you can kind of get an idea of what you're going to go through in the next four months, five months.

We have a pre-application process that starts actually in December. Pre-applications were due January 7. And this allows -- the pre-application process allows the field of applicants to see who all's competing against them, and to see if they're going to be competitive within their sub-regions and within the region, or the at-risk set-aside. So they can see the other applications.

We received 199 pre-applications, three of them have withdrawn -- actually two of them withdrew and one was terminated. We have a total request for the -- in pre-applications of \$141.7 million. And we only have about 31,000 -- well, actually 40,000 to go -- I mean --

MR. HAMBY: Forty million.

MS. MEYER: -- 40 million to go around, because we have forward commitments --

MR. HAMBY: Thank you.

MS. MEYER: -- and binding agreements --

MR. GOURIS: We're still short.

MS. MEYER: -- that are already in there.

MR. HAMBY: She's looking for the other 100 million --

(General laughter.)

MS. MEYER: We are a little short on what's available.

MR. FLORES: But we play on loaves and fishes every year for everything to just go around.

MR. GOURIS: Is this about the right -- the normal amount of pre-app --

MR. FLORES: It's a little higher --

MR. GOURIS: Well --

MS. MEYER: No, it's a little lower than last year.

MR. GOURIS: Yes, it's been fairly flat the last couple of years. We had a much higher level several years ago, and it sort of flattened out, dropped a little bit.

MR. FLORES: So we make one happy and two and a half unhappy.

MR. GOURIS: Yes. But remember this is pre-application. They're going to submit an application the end of --

MS. MEYER: A full application is due Friday.

MR. GOURIS: -- due this month.

MS. MEYER: This Friday.

MR. GOURIS: Yes, this weekend. And --

MR. FLORES: So it starts dropping off.

MR. GOURIS: -- a lot will drop off.

MR. HAMBY: It'll cut in half probably, or something like that.

MS. MEYER: Okay.

MR. GOURIS: Keep --

MS. MEYER: You're going to be behind me.

Then we have the application part -- that's pre-app, then we have applications. The applications actually start on February 29. Those are detailed out. And they're due this Friday.

This is where you get your more serious applicant, you know they're going to try to move forward.

We had 212 pre-applications last year, 110 of those ended up filing full applications, and we awarded 55 of them.

So that'll kind of give you an idea of sort of what to expect this year.

You have -- after the application process we have eligibility, scoring and threshold, and that's all done with multifamily staff. You can have appeals attached to any of those items.

You also have -- once it passes eligibility and scoring, or selection, then we rank them in order of what we think are going to be the recommendations, or what scoring -- the highest score, and those are the ones that we actually send to underwriting, and they get a threshold review.

Underwriting --

MR. CONINE: That's where it bogs down --

MS. MEYER: -- I know you took my main slide away from me.

(General laughter.)

MR. GOURIS: It's all the analysis that goes on during that process.

MS. MEYER: And that's where the bulk of them drop off after that. It goes to real estate analysis --

MR. CONINE: I can see why.

(General laughter.)

MS. MEYER: We could have --

MR. GOURIS: Did we say bulk?

MS. MEYER: -- appeals on underwriting also. Challenges are also done during this period of time. You have appeals on scoring, threshold, any eligibility, the underwriting. Actually you can have appeals attached to challenges that have negatively affected an application.

Then we have the final awards. The waiting list is then approved by the Board. And then you have forward commitments that Tom mentioned earlier.

MR. CONINE: The reason for --

MS. MEYER: Let's see where you are.

MR. CONINE: -- scoring -- the reason for the scoring, or the batting order to change from the June meeting to the July meeting -- give some examples how that can happen.

MR. GOURIS: They didn't prove up whatever it was that they were scoring for, so they said they were --

MR. HAMBY: Well, we actually have some case studies, when we get through these --

MR. CONINE: Okay. You've got some --

MR. HAMBY: -- that'll actually do some real life kind of things. So that might be --

MR. GERBER: I'll give you a big example is that Tom, during that time, is underwriting all these

deals, and something that he's trying to prove up may affect on prove up during that window. So stuff will certainly move because of just --

MR. HAMBY: You know, we have underwriting case study. We're trying to --

MR. GERBER: Yes.

MR. HAMBY: -- give you real life examples of both of those as we get through.

MS. MEYER: And some of the things that maybe Tom has them change, then it affects the scoring back -- when it comes back to multifamily before we make the award and we may lose them at that point. So there's a lot of different -- I mean that list does move.

This year is going to be a little bit different from last year because you're going to have all the appeals, for the most part, will be in between the June 26 and the July 31 meetings, because we have that July 21 meeting, so that's when you're going to hear most of the appeals. Just to give you a heads up on what those three Board meetings are going to look like.

You have forward commitments. These are -- actually Tom mentioned a while ago they're probably going to -- those requests are going to start at the next Board meeting. Staff does not recommend forward commitments

because it takes the competitive process away. I mean it negates the competitive process. And so therefore staff doesn't recommend forward commitments, but the Board has the discretion to do what you want.

To finish the time line, once you get to post-award, you've made all your recommendations, forward commitments, we send out a commitment notice to each one of those awards, and then they have to file -- they have to prove up some things. There's zoning, if they had points for local/political subdivision contributions, those things they have to prove up at the time of commitment, and that's 10 days after we send the notice to them.

Then November 1 they have to file their what we call carry-over documentation. They have to take down their land -- you know, show the serious part of their development. Then June of the following year they do what's called a 10 percent test, and they have to expense at least 10 percent of their overall expenses.

You have placement in service, which is two years following the award. So anything that was awarded, or that will be awarded in July will actually be -- must be placed in service by December 31 of 2010.

And then you have cost certification. Once

it's placed in service they prove up all their documentation and their expenses. They send that to Tom's shop, they issue our IRS Forms 8609 and then Patricia takes the ball at that point and 30 years --

MS. MURPHY: Does all the --

MS. MEYER: -- for 30 years.

(General laughter.)

MS. MEYER: And I'll run through the bond program -- and if you have any additional questions on that --

MR. CONINE: Those phrases that she used in that last slide were IRS -- were -- they're federal government phrases. Okay.

MS. ESCAREÑO: The carry over and 10 percent tax --

MR. CONINE: Now all that came from the wonderful federal government.

MS. ESCAREÑO: Are there ever any problems with those? Do you ever have --

(General laughter.)

MR. GERBER: Yes.

MS. MEYER: Yes.

MR. CONINE: Yes.

MR. HAMBY: Yes.

MR. GERBER: You're talking about the most recent placed in service --

MR. HAMBY: Yes, these are things that you will see.

MS. ESCAREÑO: Okay.

MR. HAMBY: You'll get

MR. FLORES: That's the whole thing.

MR. HAMBY: When we say you can't do this, they'll come and complain to the Board and --

MS. ESCAREÑO: Right.

MR. FLORES: Well, placement in service you hear about all the time.

MR. CONINE: They actually build it between the 10 percent test and the placement in service. That's when they actually build it or rehab it.

MS. MEYER: Yes, hopefully.

MR. GOURIS: And those federal guidelines for place in service are pretty absolute.

MS. ESCAREÑO: Non-negotiable.

MR. GOURIS: Yes.

MS. ESCAREÑO: Okay.

MS. MEYER: And so is the 10 percent test. And if they do miss a deadline, we are required to penalize them. So they are penalized in the next competitive

round. And so you'll see points, as we go through the list you'll see developments that have lost points for previous infractions that they've done.

On the bond program, these -- again, the 4 percent credits are generally awarded to rental developments that receive tax exempt reservations. And the bond reservations actually come from the Bond Review Board. The Bond Review Board is the state administrator for that program.

They have to meet the same criteria eligibility threshold as the competitive applications do, except for they don't participate in the scoring and the selection that the 9 percent round does. And they go January to December, so they're not compressed into a six-month period of time, they go year round.

The bonds may be issued by TDHCA as an issuer, by Texas State Affordable Housing, which is the other state issuer, and then we have many local housing finance corporations, and facilities corporations locally that also issue bonds through the Texas Bond Review Board.

MR. FLORES: How many --

MR. GERBER: But, again, they will all come to us for the layer of the 4 percent credits.

MR. FLORES: How many local housing finance

corporations are there in Texas, just in the major cities?

MS. MEYER: I want to say there's like 175.
There's quite a few.

MR. FLORES: We never hear from anybody except
the major cities it seems like.

MR. GOURIS: Right. Because most --

MS. MEYER: Most of --

MR. GOURIS: -- bond deals don't work in
those --

MS. RAMOS: Most bonds don't --

MR. GOURIS: -- rural areas.

MS. MEYER: -- work in the --

MR. GOURIS: They might --

MR. FLORES: That's why. It's not that there's
not a vehicle there, it's just because it doesn't work
anywhere --

MR. GOURIS: Right.

MR. FLORES: -- except the urban areas. Okay.

MR. CONINE: Well, they also have to go in and
get control of a chunk of bonds too, which is sometimes --
in certain years it's tougher to do --

MS. MEYER: Right.

MR. CONINE: -- than others.

MS. MEYER: But there -- I mean -- can you move

over to the next slide, to the pie chart?

The Texas Bond Review Board -- actually there's different issuers. There's not just housing. Single family issues, that you -- actually you heard at the last Board meeting, they were talking about the single family issue that they're getting ready to go to the Bond Review Board with. Single family issues are in here, you have state voted issue, student loan issuers -- let's see, who else do we have -- TSAHC is one of the other issuers.

And these all have part of the overall pot that the state gets at the beginning of the year. And we have almost 2 billion, it's \$1.9 billion for the State of Texas in the bond program. And the multifamily piece of that is just part of it. There's 449 -- 440 million in multifamily set-aside out of that 1.9 billion, and then out of that about 90 million of that 440 is set aside for TDHCA use.

MR. CONINE: Again, this number comes from the federal government annually.

MS. MEYER: Right. And it's based on --

MR. CONINE: And the state then -- the legislature essentially carves the pie up as you see it now.

MS. ESCAREÑO: So the legislature makes all of

those --

MS. MEYER: Those percentages.

MS. ESCAREÑO: Okay.

MR. CONINE: Yes, you ain't --

MR. HAMBY: And they're in statute.

DR. MUÑOZ: And it changes every --

MS. ESCAREÑO: As the issuers, like they're --
that's -- those are all issuers up there, and the
legislature --

MR. HAMBY: It's statutory. They put in a bill
and it says, This is the -- and you can find it in the
statute and it says --

DR. MUÑOZ: Do the percentage change during
every legislative session?

MR. HAMBY: Not --

MS. MEYER: They haven't in a while.

MR. HAMBY: Not during -- well, actually
they've changed a little bit in the last session, but just
tiny --

MR. CONINE: You'll find that each one of those
little slices of pie has a nice lobby that goes over
there, fights for that little piece --

DR. MUÑOZ: Okay.

MR. CONINE: -- it doesn't let it go very

often.

DR. MUÑOZ: All right. So there's consistency as to what's available.

MR. HAMBY: Yes.

MR. GERBER: There is, although it's important to note that when the collapse happens, there is a -- which is -- what's the date?

MR. CONINE: August 15.

MR. GERBER: August --

MS. MEYER: It's -- yes.

MR. CONINE: August 1 to August 15.

MR. GERBER: Then your in competition with -- then it's really kind of opened wide. We have, in the past, submitted requests for additional volume cap authority on the order of, you know, several hundreds of millions of dollars for our first-time home buyer program, or for other activities.

We've always used the -- as I understand it, the multifamily allocation for the Department, but in that collapse you've got other folks, the student loan folks, the energy folks who are out there who are competing for those left over dollars that don't get used by other folks. And there are oftentimes local issuers or TSAHC or, you know, other categories that have not fully

utilized their volume cap authority.

MS. MEYER: And what happens in the multifamily section -- when we get to the collapse that Mr. Gerber's talking about, is if there's any funds that are left out into the different areas, they all collapse into one pot. And then it's -- well, it's first --

(General laughter.)

MS. MEYER: -- it goes by lottery because the Bond Review Board actually handles their issuances by lottery. But since we have a set-aside, we haven't participated in a lottery in the last two years. And we haven't really needed to.

But on the multifamily side, you have TDHCA as an issuer, then you have TSAHC, and then the local issuers are actually divided up amongst the 13 state service regions. And they're allocated a lot like the regional allocation formula, by need, and they -- certain regions get certain amounts.

And so what they're talking about on the local issuer side, you actually have to compete against other issuers within that region in order to get an allocation.

Whereas, TDHCA has a set-aside, nobody else can touch it until we get to August. And then if we haven't used all of our allocation amount, then it dumps into the pot and

then everybody has a chance at it.

MR. GERBER: It's been particularly helpful in the Department because in the last two years we've been able to get, literally get hundreds of millions more for our first-time home buyer program. We won't have that kind of subscription to our first-time home buyer program for this year, obviously because of market trends. But it's been very helpful in good years.

MS. ESCAREÑO: So the all other issuers is where the regional, the regional local issuers are, that 30 percent that's up there?

MS. MEYER: Right here, this 312.

MS. ESCAREÑO: Oh, okay.

MR. GOURIS: That's other local -- these are going to be --

MS. ESCAREÑO: I see. Okay. I gotcha.

MR. GOURIS: -- we sometimes call them the polluters, or the chemical companies that do pollution mitigation and other --

MS. MEYER: River authorities --

MR. GOURIS: -- river authorities, yes, other --

MS. MEYER: -- energy --

MR. GOURIS: -- public --

MS. ESCAREÑO: The yellow piece.

MR. GOURIS: The yellow piece.

MS. ESCAREÑO: Gotcha. Okay.

MS. MEYER: And those are a big piece.

MS. ESCAREÑO: But they get -- but they have lobbyist that go in and convince legislators --

MR. CONINE: Oh, do they ever, yes.

MS. ESCAREÑO: -- to carve little pieces of pie to all of them?

MR. HAMBY: They have lobby teams.

MS. MEYER: Yes.

DR. MUÑOZ: What's TSAHC multifamily.

MS. MEYER: TSAHC, that's Texas State Affordable Housing Corporation. That's the other state issuer besides TDHCA.

DR. MUÑOZ: Of private activity bonds.

MR. GOURIS: Yes, they're a non-profit group, or entity, that was created by TDHCA years ago, and then split off, and now they kind of operate on their own. And they've been able to get an allocation specifically for them to use as well.

MR. HAMBY: They're a quasi-governmental agency that is governed by the legislature but has a lot of ability to act in a free market capacity.

MR. GERBER: The deal you all approved, that Rainbow deal that I referenced earlier, the 13 different developments all around in various rural communities that were each a property under 80 units, that was a TSAHC deal using their multifamily volume cap, but they came to us again for the layering of the 4 percent tax credits. And that was a very creative deal that they did.

MS. MEYER: In the multi -- Tom mentioned this a while ago, that you have two categories that if you apply under these categories with the Bond Review Board, then you have to apply for housing tax credits, and that's your Priority 1 and your Priority 2.

There are different categories under Priority 1, and it is between the different area median incomes. You have 50 percent of the units at 50 percent of area median income and the remaining 50 are at 60 percent of area median income. Then you have 15 percent of the units at 30 percent, so you get a little bit lower targeting. And then 85 percent of the units at 60.

Category C under Priority 1 is 100 percent at 60 that is in census tract that has a higher income than the average income within that MSA. So if you're in Houston, and you're out -- well, you're in Harris County, you're in Region 6, and you're in Katy, you're liable to

get in a census tract that is higher than the area median income for that MSA, and therefore -- that tends to spur a little bit of opposition, and that's when you'll see several of the bond deals come up before you.

Priority 2 is 80 percent of the units at 60 percent of the area median income, and that's any census tract anywhere in the State of Texas. And then a Priority 3 is any qualified residential development.

If they apply under Priority 3, they do not have to apply for housing tax credits. Now you will have some of the local issuers that will get their bonds and everything, and they'll come back to TDHCA later on for the tax credits after they've done their bond transaction. That happens, but we don't do it that way, but local issuers do at times.

MS. ESCAREÑO: I'm not sure I understand the have to apply for housing tax credits.

MS. MEYER: It's state statute that if they apply with the Bond Review Board under a Priority 1 or a Priority 2, they're required to apply also for housing tax credits. And that's so you don't -- the bond cap goes further. So they're actually having an other piece of subsidy --

MS. ESCAREÑO: Oh, I see. Okay.

MS. MEYER: -- along with --

MS. ESCAREÑO: I gotcha.

MS. MEYER: -- the bond.

MR. CONINE: What does the word qualified mean under Priority 3?

MS. MEYER: Well, you can actually have that -- you have to meet the federal requirements 20/50, 40/60 --

MS. MURPHY: You're not making a dorm room, you're -- well --

MR. CONINE: Okay.

MS. MURPHY: You meet the minimum set-aside.

MS. MEYER: You have to meet the minimum set-aside.

MR. CONINE: So you've still got to hit the 80 percent of median income, or whatever it --

MS. MURPHY: 20/50, 40/60.

MR. CONINE: Okay.

MS. MEYER: Okay, on the bond time line. It's a little bit different for local issuers, but for TDHCA we have a pre-application process. It's statutorily required. So you will see our transactions in a pre-application stage before we ever go -- and we're going to come to you and ask for an inducement, which starts the process, but it doesn't allocate anything, and it doesn't

issue any bonds. That's an action that you will do, and that's the very first step.

If the Board approves an inducement, then we file the application with the Texas Bond Review Board, and once we receive a reservation from them, then we have this 150 day window of time that we have to close down that transaction.

We have to have public hearings, we have to get through the application review, through underwriting, so there's a lot of due diligence that has to go on in that 150-day window. You also got all the third parties that are involved, the financing partners that are going to be involved in it, in the transaction, and we have calls with the working group to put those deals together.

We then present the application to you, you make a decision. If you approve that transaction, then we send that transaction to the Bond Review Board. TDHCA is an exempt issuer for the Bond Review Board, so we don't necessarily have to appear. But if someone on the Bond Review Board staff wants to see that transaction, or one of their alternates wants to see that transaction, then we have to take that transaction and appear before the Bond Review Board.

MS. ESCAREÑO: How does -- I'm back stuck on

the have to apply for the housing tax credits, so all they have to do is apply, like they -- you don't -- because this isn't competitive -- I mean, this isn't like a six month -- like the tax credits, you know, the -- you know, a period of time.

So when they're underwriting and doing due diligence on this, does that come into play, the fact that they have an application pending through the housing tax credit program, or does it matter? Is that just something on the list you just check off, Yep, they applied for it, and --

MR. GOURIS: In order for them to get their reservation, they have to have shown that they've submitted to the Department a pre-app -- or an application --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- for credits. We'll go ahead and process that, and if we take that to you all and don't recommend that, their syndicators is going to think twice about going forth and closing --

MS. ESCAREÑO: Yes.

MR. GOURIS: -- on the transaction because --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- you know.

MR. GERBER: But they really move along at the same --

MR. GOURIS: Right.

MR. GERBER: -- I mean, at the same time, they're --

MS. ESCAREÑO: Okay.

MR. GERBER: -- moving at the same time.

MS. ESCAREÑO: They're kind of consecutive. They're concurrent I guess.

MR. GOURIS: Concurrent, yes.

MR. GERBER: That's right.

MS. ESCAREÑO: Okay.

MR. GERBER: It's also important to note, on the -- at the inducement point, because a lot of times the first -- that's the point where you all make the decision, do you want to -- do you feel that this particular development is a good investment of volume cap that's been entrusted to the Department for particular affordable housing development.

And you will have folks who will say, Don't even induce the deal, we're strongly opposed to it. By inducing you're not giving them anything. You're simply allowing them to enter into that 150 day process to have a public hearing, to allow the underwriting to take place,

and to get the information you need to make the informed decision prior to the 150 days, so they can close on the bonds.

There have been times when you've chosen not to induce, and that's really within your prerogative. And there's certainly no guarantee that a deal is ultimately going to be approved, and we make that very explicit to folks once the inducement does take place.

MR. CONINE: We've had busloads of people show up at the inducement. We've had the same busloads of people show up at the Board presentation, after the 150 days.

MS. ESCAREÑO: Okay.

MR. CONINE: And then that same busload went to the Bond Review Board. So I mean it can get pretty sticky sometimes, depending on where the project is.

MR. FLORES: A lot of them, there'll be some --

MR. CONINE: Let me give you the developer's perspective of the difference between a 9 percent and a 4 percent --

MS. ESCAREÑO: Okay. Good.

MR. CONINE: -- using this time line. To get a 9 percent through to the July meeting where you've submitted everything the Department wanted, you scored

well, and you're up -- you're in the money, it takes anywhere -- call it 75- to 100,000 bucks by the time you get all your third-party reports that we provide.

You haven't drawn the full set of plans yet because so far all you've got -- you've gone to the architect and kind of got a site plan and some unit plans, and that doesn't cost a whole lot of money. Here, once you pass the inducement stage, the clock starts ticking.

So you have to get all your plans and all your approvals done to city process, you've got to get all your financing tied up and detailed by the time you come back to the Board presentation time. Your investment in this project now is approaching a half a million dollars.

MS. ESCAREÑO: All right.

MR. CONINE: So your decision, when you get to the Board presentation point here, has a huge monetary affect on the developer versus the 9 percents which, you know, is not as financially substantial.

MR. FLORES: And this is which one? The 4 or the 9 percent?

MR. CONINE: The bond deals are the ones who have to spend all the money, because everything has to be ready to start construction when they close the bond.

MR. FLORES: Because I had one developer, you

know, tell me what it cost him to get into one of those, and he had close to three quarters of a million. It was a little complicated because --

MR. CONINE: I said a half, you know, it --

MR. FLORES: -- and I was --

MR. CONINE: -- could be three quarters.

MR. FLORES: -- just surprised that it took that much.

MR. CONINE: It takes a lot of money to get to this point, which is --

DR. MUÑOZ: Oh, the 4 percent can.

MR. CONINE: Well, the bond deal. This is where all the money is on the line. At the inducement stage, all he's done is tie up a piece of land basically, which doesn't take a whole lot of money. So as Mike was trying to say earlier, it's really important to pay attention to your Board book every month at the inducements of bonds, or the inducements coming from the local level. Do they induce -- they don't -- we get --

MR. GERBER: We get it after it's --

MS. MEYER: Yes, they've already been through inducement through their Board and --

MR. CONINE: They're already spending the money then.

MR. HAMBY: Right.

MR. CONINE: So when it comes from the locals, they're already spending money, when it comes from our piece of the pie, we trigger the money to be spent, and then catch it at the tail end.

MR. HAMBY: And now to make Kent wince. Again, your responsibility as a Board is not the risk that the developer has taken, it's to make sure that you believe the development is in the best interest of the people of the State of Texas.

MR. CONINE: Correct.

DR. MUÑOZ: And but --

MR. HAMBY: So that 500,00 --

DR. MUÑOZ: -- the developer --

MS. ESCAREÑO: But it's in the --

DR. MUÑOZ: -- but the --

MS. ESCAREÑO: -- overall best interest.

DR. MUÑOZ: -- but the developers, aren't they members of the State of Texas as well?

MR. HAMBY: They are, but they also stand to make potentially substantial money. So when they've done their risk-reward analysis based on their business models, but the fact that they spend a bunch of money is not really factored in for you guys.

DR. MUÑOZ: Right.

MR. HAMBY: I mean you have to make
decisions --

DR. MUÑOZ: I was just trying --

MR. HAMBY: -- based on --

DR. MUÑOZ: -- to give you --

MR. HAMBY: -- the property --

MS. ESCAREÑO: We should just be diligent, do
our homework, pay attention, don't let stuff get too far
if --

MR. CONINE: And we had a deal show up that
was -- where was it, Wichita Falls, next to a paint
factory, and on a highway, I mean it just had all kinds of
bad facts associated with the location. And I think it
went the full length, didn't it, before we turned it down?

MS. MEYER: That was actually in the 9 percent
round. That wasn't --

MR. CONINE: That was a --

MS. MEYER: -- that wasn't a bond.

MR. CONINE: -- that was a tax credit?

MS. MEYER: That was a 9 percent.

MR. CONINE: I get them confused.

MS. MEYER: It was unusual.

MR. GOURIS: We've had others that were --

where, you know, we've been struggling with it the whole time and telling them, we've got, you know, four flat tires on the deal, or a bunch of issues that need to be clarified because they're really, you know --

MR. CONINE: And then you got developers who are hard headed that won't listen to the counsel of the state.

MS. ESCAREÑO: Yes, that are just plowing forward.

MR. CONINE: They're going to get what they get.

MS. ESCAREÑO: Gotcha.

MR. GERBER: Well, you know, they might have had a local issuer who, you know, who had declined to do the deal, then they come to us. We've tried to smoke out not only those issues that cause first to collapse, but, you know, that now you're going to have to deal with that, you know, make the deal, you know, not a particularly attractive one. They still want the chance to go through the process, you know, but that might -- by the time they're done --

DR. MUÑOZ: It cost them some money.

MR. GERBER: -- you know, it might be a million dollars in the hole.

MS. ESCAREÑO: If we're the issuer of last resort -- we're not the issuer of last resort like statutorily, I mean --

MS. MEYER: No.

MR. HAMBY: No.

MR. CONINE: No.

MR. GERBER: No.

MS. ESCAREÑO: That's just kind of what happens.

MR. CONINE: Right.

MR. GERBER: It does because it's just more challenging, there's more hurdles, they have the Bond Review Board --

MS. ESCAREÑO: Right.

MR. GERBER: -- it costs a little more.

MS. ESCAREÑO: Right.

MR. HAMBY: And, Dr. Muñoz, one thing, it is not necessarily a Texan who's building the deal, because we have a lot of out-of-state developers.

MR. GOURIS: Yes.

DR. MUÑOZ: Oh.

MR. HAMBY: I mean New Rock out of Georgia is one of the largest developers, and so, I mean, it's not always local people. I mean it's not --

MS. RAY: A lot of our developers are not Texas corporations.

MR. HAMBY: Correct.

MS. RAY: They work in Texas, but they're not --

MR. FLORES: Yes, but it's --

MS. RAY: -- headquartered in Texas.

MR. FLORES: -- to our benefit to have a friendly environment --

MR. HAMBY: Sure.

MS. ESCAREÑO: Oh, yes.

MR. FLORES: -- they know they're going to get a fair -- a heck of a deal in front of us and, you know, we're not going to have favoritism because what it amounts to is our business is making sure that the residents get a good deal. And so, you know, the more --

MS. RAY: That's our concern.

MR. FLORES: -- competition, the better the deal, you know.

MR. HAMBY: And that's why I say the dollar amount's not factored into the decision, it's --

MR. FLORES: Yes.

MR. HAMBY: -- will this actually benefit the people who the program is intended to benefit.

MR. FLORES: Yes, but I think we have to have an aura of fair and equity --

MR. HAMBY: Completely.

MS. RAY: And we do.

MR. FLORES: -- for them, because, you know, we want to induce as many as possible --

MS. RAY: To build housing.

MR. FLORES: -- to make it -- the more competition the better --

MS. RAY: Sure.

MR. FLORES: -- the deal for the user.

MS. MEYER: And we're not only an issuer of last resort. We have some developers that like doing business with us.

MS. ESCAREÑO: Why? Why do they?

MS. MEYER: Why?

MS. ESCAREÑO: Like if they have to jump through all those extra hoops --

MR. GOURIS: Because they have to go through the tax credit process anyways, and --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- so they can do it all in one --

MS. ESCAREÑO: They're already in there anyway.

MR. GOURIS: -- in one shot.

MS. ESCAREÑO: Gotcha. Okay.

MR. GOURIS: That's one --

MR. FLORES: But there's also this group, Tom, of the developers that know the system, and they understand what they're going to get from it, and it's just like any of us in the construction business, you know, if you have a niche and you know what you're going to get from this entity, I don't care if it's public or private, there's a comfort level --

MR. GOURIS: Right.

MR. FLORES: -- as you go into it. Now once things get them balanced, and somebody's playing games with you, you move out of that market and you go to another one. But I think what's happened now is they know what to expect.

MR. GOURIS: Right.

MR. FLORES: You give a business guy that kind of environment and I think you're going to get a good deal.

MR. HAMBY: And you also sometimes have the favoritism within the community, or the local issues --

MR. FLORES: Local, yes.

MR. HAMBY: -- that this Board doesn't tend to appeal.

MS. MEYER: Right.

MS. ESCAREÑO: So they may get bogged down in politics or --

MR. HAMBY: Local politics, or --

MS. ESCAREÑO: -- other things at the local level and choose to -- okay.

MR. FLORES: Kin folk, customs --

MS. RAY: And they do a lot.

MR. FLORES: -- or whatever, you know.

MR. HAMBY: Yes, and so this --

MS. ESCAREÑO: Yes.

MR. HAMBY: -- would mean --

MR. FLORES: Yes.

MR. HAMBY: -- this part --

MS. ESCAREÑO: Gotcha.

MR. HAMBY: -- may not feel those local politics because they're not -- you're not standing for election next year.

MS. ESCAREÑO: Right.

MR. FLORES: And we've got more cognizance. There's things after -- this person went to the big house, you know, and I don't think any of us want to be there.

MR. CONINE: And you've got some cities that don't have any zoning that show up and --

(General laughter.)

MR. FLORES: Rumor is going to surface with the pro-zoning group.

MR. CONINE: I've got to take up for the mayor, I can't --

(General laughter.)

MR. FLORES: For all of you new Board members, it's just that we lost Mayor Salinas, that said the reason Houston was going down the tube is because we didn't have zoning, and I kept pointing out to him, somewhere between 60 to 100,000 were moving to Houston every year because we don't have zoning. So there must be something going on over like, like cheap housing --

MR. CONINE: Jobs.

MR. FLORES: -- for one things, and jobs.

MS. MEYER: Do we want to do --

MR. GOURIS: You want to talk the case --

MS. MEYER: -- the case studies, or --

MR. GERBER: Do you want --

MS. MEYER: -- do we need to take a break?

MR. GERBER: Do you want to take a quick break, or do you want to --

MR. CONINE: Yes, let's take a break. I mean, everybody's sitting for a couple of hours. Let's take a

quick break.

MS. ESCAREÑO: Thank you very much. That was very helpful.

(Whereupon, a short recess was taken.)

MR. GERBER: Let's go on to cases studies.

Robbye Meyer, I want you to walk us through the four that you've identified, or five that you've identified that would be typical of the things that you'll have to make decisions on we'll work through those quickly and just try to highlight key points and keep the train moving.

MS. MEYER: Okay.

MR. CONINE: Do we have this here somewhere or --

MS. ESCAREÑO: It's still in the same one.

MS. MEYER: It's the same packet, they're at the back of that first packet.

MR. CONINE: Got it.

MS. MEYER: This is an appeal of scoring, and they had several items that they lost points, and -- to kind of give you an idea real quick of -- whenever they -- they have a self-score that the applicant sends in in their pre-application and in their application. And the score cannot deviate more than 5 percent up or down

between pre-application and application, or they don't receive the pre-application incentive points, which is six points. So it can be a big deal.

So in this particular situation they had actually requested certain points, and then when we went through the evidence that they submitted with their application, they weren't eligible for those points. When it was all said and done, they lost more than 5 percent between pre-application and application, they lost an additional six points, and that's kind of where it killed the possibility of their award.

MS. ESCAREÑO: Yes.

MR. HAMBY: I want to briefly talk about why, because remember when we had these 199 applicants that applied, and they all came in with these developments, and that they came in and showed that we're going to score a 200 out of a possible 222, and other people dropped out because of that, and they actually came back in with their application and they put in the minimum amount required, and they were like 134.

Then they'd frozen people out of the market place based on their pre-application, and so part of this goal is to make sure that people tell the truth in the pre-application. And as Robbye will point out, throughout

this process, throughout these appeals, a lot of these deals are decided by one point, two points. And so six points is a major shift, and so it's a real incentive to tell the truth.

MR. CONINE: In poker it's called bluffing.

MS. ESCAREÑO: Yes.

(General laughter.)

MS. MEYER: Okay. So in this particular instance, on administrative deficiencies, whenever we issue an administrative deficiency, they actually have seven days to get that back to us. We tell them that you have until the fifth day before you start losing points.

This particular application didn't get the information back to us until the seventh days, right before 5:00, and it ended up -- he still didn't have everything that he needed, but we made it work. But he lost five points for the sixth days and receiving it on the seventh day. So he lost 10 points there.

MR. GOURIS: An administrative deficiency is something that they didn't fill out completely, or it's inconsistent with something else in the application, or they said they had points for it but they didn't give us the documentation for it, so we asked them -- we follow up and try to get that information back to us to make sure

they get what -- do what they said.

MR. FLORES: And, Tom, we accept faxes and internet communication?

MS. MEYER: Correct.

MR. GOURIS: Yes.

MR. HAMBY: Of these.

MR. FLORES: Of these. Okay. Explain that a little further, another one of these exceptions.

MR. HAMBY: Well, they can't send in their whole application by fax or anything, but whenever we send them something, an administrative deficiency, we send it out by fax and we take it back, and whenever they get it to us, and, again, QAP is 8:00 to 5:00 so they're supposed to get it to us by 5:00 on the day we request it, or it rolls over to the next day. So if they give us an e-mail at 2:00 a.m. it doesn't count for the day --

MR. FLORES: Yes.

MR. HAMBY: -- for the day it's submitted. So we do accept them, but we do --

MR. FLORES: We don't want --

MR. HAMBY: -- watch that --

MR. FLORES: -- 1000 pages on the --

MR. HAMBY: Correct. Yes.

MR. FLORES: -- fax.

MR. HAMBY: But for the most part, all of these administrative deficiency things are --

MR. FLORES: Yes.

MR. HAMBY: -- accepted by fax or e-mail.

MS. MEYER: And so -- I mean as long as they have 10 or less pages, they can come in by fax. But most of them do it all electronically. We get everything, for the most part, in an e-mail --

MR. FLORES: The whole application?

MR. GOURIS: The original application --

MS. MEYER: No.

MR. GOURIS: -- has to be submitted in electronic form, and that's what's on the web. Remember we said we put the whole application on the web electronically. We -- some of us would like to see any deficiencies be brought in electronically, completely electronically as well so that those can be posted on the web as well so that everyone knows what the full scope of -- you know, the full transparency --

MR. FLORES: So the application comes in --

MR. GOURIS: There's a hard copy and there's --

MS. MEYER: There's a hard copy --

MR. GOURIS: -- an electronic copy.

MR. FLORES: Oh, both.

MS. MEYER: Right.

MR. FLORES: Which --

MR. GOURIS: The hard copy trumps --

MR. FLORES: -- what date do you count it's in,
the --

MS. MEYER: Everything has --

MR. FLORES: -- electronic copy --

MS. MEYER: -- to come in the same date.

They're all due February 29. They have to send us an
electronic copy and the hard copy.

MR. FLORES: What if they sent you the
electronic copy one day and you get a Fed Ex package the
next day, which day is it in, the first day or the second
day?

MR. HAMBY: Well, if they're not both in by the
29th, they've missed the deadline.

MR. GOURIS: Yes, because --

MS. RAY: Not if it's there. Right?

MR. GOURIS: -- they have to submit --

MR. FLORES: What if one did it on the 29th,
the other one on the 30th?

MR. GOURIS: Then they missed the deadline --

MS. RAY: Missed the deadline.

MR. GOURIS: -- because they both are required,

to be a full application --

MR. FLORES: Both.

MR. GOURIS: -- they both are required.

MR. FLORES: Both.

MS. MEYER: Right.

MR. FLORES: Okay.

MR. HAMBY: Then you --

MS. MEYER: Then we would --

MR. HAMBY: -- get to your next --

MS. MEYER: -- terminate --

MR. FLORES: -- next appeal --

MS. MEYER: -- the application --

MR. HAMBY: -- which is -- we would have
terminated the application and they come to you --

MS. MEYER: And they do.

MR. HAMBY: -- and say, We didn't really miss
the deadline --

MR. FLORES: Right.

MR. HAMBY: -- because we got in the first one.

MR. FLORES: And the reason I'm pointing this
out is we play cry baby on this all the time, and so I
mean you'll hear this before it's all over.

DR. MUÑOZ: Is that a technical housing term?

MR. FLORES: Cry baby?

(General laughter.)

MR. CONINE: Only in Houston.

MR. FLORES: Or they'll be some other names also, but cry baby is the one I could say in public.

MR. HAMBY: But if you'll notice, all of these point, whenever we talk about these points, whenever you look at 50.9(i) of the QAP, that's where our point structures are, those threshold issues, but the pointing structures, those are all in 50.9(i). And so each one of them are in descending order as required by the state until we get what we call the top 10 are required and the bottom 10 are below the line.

And so the below the line scores -- you'll see in here where she has state representative -- they chose an incorrect representative. If they don't submit the letter on time, that's a different issue than they've chosen the wrong state representative, or they don't know what district they're in, so they haven't properly notified their state representative.

Penalty points, they'd like to forget that they got the one point or two points or three points that this Board assigned last year, and they don't put that on there so they don't deduct the points. That's a penalty point. They don't like to put it on --

MR. FLORES: What if they didn't put it on, it was a mistake, Kevin, they just forgot.

MR. HAMBY: Then we remind them. Twice.

MR. FLORES: Because nobody --

MR. HAMBY: It reminds them of the points --

MR. FLORES: I know that --

MR. HAMBY: -- that they lost last year --

MR. FLORES: -- because I was going to say, you know --

MR. HAMBY: -- and we --

MR. FLORES: -- it's an honest mistake.

MR. HAMBY: -- remind them of the pre-application points they lost this year. So that's -- but that's -- all those little moving parts -- so whenever you look at these applications, they're very complicated, and that's the reason a lot of people use professionals to fill them out.

And one of the things, that I don't think we have in the case studies, is we have terminated applications because they're just incomprehensible. There are so many different places -- there are things that are out of place and they don't show what they are, and that is one of the provisions in the QAP is that we can terminate for lack of ability to understand the

application.

MR. FLORES: Well, in reality, Robbye and Tom, don't they -- the majority of them, I would say 95 percent, exclusive of the CHDOS, don't they all use professionals to do this? They don't do it in-house, do they?

MS. MEYER: I wouldn't say that half of them use consultants. I mean --

MR. FLORES: Yes, there's so many developers --

MS. MEYER: -- a lot of our developers are, you know --

MR. HAMBY: That's what they do.

MS. MEYER: -- consultants, developments -- and developers themselves. So --

MR. HAMBY: They're professionals.

MS. MEYER: Yes.

MR. HAMBY: Either their business is this and so they know how to do it, and so they hire somebody.

MR. FLORES: It's not the first time at the ball, I mean --

MR. HAMBY: Correct.

MR. FLORES: -- they've been doing it over and over, you know.

MR. HAMBY: Are there any questions on this,

or -- because this is a fairly straightforward and routine one.

DR. MUÑOZ: The penalty points that we assessed last time, one or two, whatever --

MS. RAY: Right.

DR. MUÑOZ: -- they're for future projects.

MS. RAY: That's correct.

MR. HAMBY: They're for the next year application.

MS. RAY: That's correct.

MR. HAMBY: And it would be any of the -- any of the developers that they put in, it would be on any of their applications because we have people who submit multiple applications.

MS. RAY: It could be for one year, two years, three years, whatever the Board decides.

MR. CONINE: A lot of the time the penalty occurs after they've already been awarded the projects. So you can't ding that project, so we ding the next one.

DR. MUÑOZ: Right, because it's -- I recall one of those appeals was for something that was deficient that they said that they would do and it wasn't done.

MR. HAMBY: And most of those are.

MS. RAY: Threshold items probably.

MS. MEYER: That's the amendment. That you heard at the last Board meeting. Yes, those are the amendments.

Okay. The next case study, Case Number 2, is, again, this is another scoring item, and this has to do with the revitalization of an existing building. And for this particular application, what they did is they send in the letter from the local governing body that stated that this particular development was consistent with what they're doing in their revitalization efforts within the city, but the letter didn't state that it was actually located in the targeted area within the plan.

And for this particular case, it kind of gives you a little twist here. The city council for this one was going to vote on expanding that targeted area, but it was after the application date, or our submission date. And so that kind of puts a twist on it for the Board as to, are you going to allow it because the city's backing it, you know, they're going to expand it, it's going to be in the revitalization plan, it's just not right now.

Now as far as staff is concerned it wasn't at the time of the application when it was required, so therefore the staff recommendation would be to not recommend this appeal be granted. But --

MR. GERBER: And it gets --

MS. MEYER: -- that's --

MR. GERBER: -- and this gets to a whole area of at what point do the parts have to stop moving so that we can determine and evaluate whether or not the deal is worth you all -- that we can recommend the deal to you all, or not recommend the deal to you all. So we have a number of rules that you'll hear about to try to get those pieces to stay still long enough for that analysis to take place.

MR. HAMBY: Dates are very important to staff.

MS. MEYER: And we received a challenge on this, and so it was actually another applicant that was challenging this particular one.

MR. HAMBY: I'll even go on a leap on top of this --

DR. MUÑOZ: Challenging it how -- in how --

MS. MEYER: Because they -- it wasn't part of the plan. They weren't in the targeted area. And they were pointing that out to staff that this is not part of the targeted area in the plan.

MR. FLORES: It's a tattle tale rule.

MS. MEYER: And so we would --

MR. HAMBY: And we also get the same thing with

revitalization plans where the city will have said, We would like to have housing in our downtown core, but it's not affordable housing. And so that doesn't really meet our definition of there is a targeted goal to bring in affordable housing within the revitalization plan, and is considered part of the plan.

And so whenever you start talking about something, you know, that's a nuance, and so we actually have to get the plan from the city, and we get to see plans, we get information from the city officers, you know, the city offices on planning and zoning. I hate to use that phrase in front of you, but some --

(General laughter.)

MR. HAMBY: -- places have planning and zoning offices.

MR. FLORES: Yes, but I think that it happens in my home town, what you're talking about here.

MR. HAMBY: And we get that all the time where you, you know, it's -- you know, we also have had cases turn on what is a neighborhood. We had one --

MR. FLORES: Oh, god, yes.

MR. HAMBY: -- that was a --

MS. RAY: Super neighborhood.

MR. HAMBY: Well, no, no, that's a different

issue. That's a different issue.

MR. GERBER: Those are in there.

MR. HAMBY: But what is a neighborhood, because we had one group that it was within the revitalization plan to tear down old neighborhoods and build new neighborhoods, and the piece of property that the developer was interested in had one single family home on 120 acres. And we said, that's not a neighborhood.

And so, you know, that's an interpretation that then comes to the Board because they said, It doesn't say neighborhood, it says you have to have redevelopment. We had a house, we're tearing it down, nobody's lived there for six years, but we're tearing it down, it's a neighborhood.

And so these are the nuances that will come to you, and you'll -- there is no test. It's your guts. It's just kind of -- this is kind of the -- we try to give most of these things to you, and what we ask you to apply is the reasonable person test.

MR. FLORES: Yes, and I think we've done that.

In this particular one we figured, as I remember, that there was good intent by whoever was putting that application in, and the city really did -- was planning on doing that, so therefore, you know, we went ahead and went

along with the appeal.

MR. HAMBY: Well, actually we turned one down like this as well, I mean, so it's kind of -- it depends on what the whole totality of the argument is.

MS. MEYER: The next one is -- this is an appeal of a termination that staff did. It passed everything that it was supposed to pass, as far as multifamily was concerned, it passed eligibility, selection, threshold.

It transferred to real estate analysis, and when they were doing their real estate analysis, it was determined that they were applying for acquisition credits, which would require an appraisal be submitted. And the appraisals are due on April 1 of 2008, this year.

And if I back up, we'll just say that is was April 2 last, which it was, and they did not turn in an appraisal on the 2nd. However, they're submitting it to underwriting as we speak, to be able to get through this transaction. But they missed the deadline of when the actual third-party report was due.

And all of our third-party reports, our environmental assessments, property condition assessments, market studies, appraisals, all of those are due at the same time. And it would be April 1 this year, it was

April 2 last year. But that's -- the background on this one is they didn't turn in the third-party report when it was actually supposed to be due.

MR. HAMBY: Remember on those one point can make a difference, and most of the people who are working on these are professionals.

MS. MEYER: This is another one, it was also -- this was a termination after the award. The Board had granted the award to this particular development, and there's certain items that they have to meet at commitment, and this is what I explained earlier, in the time line.

This particular transaction was supposed to prove up their local political subdivision contributions to the deal at the time of commitment, and they failed to do that. Staff terminated it, and presented it to the Board.

DR. MUÑOZ: Okay. Like when it's presented to the Board, is it presented in this sort of distilled clinical way, or is it presented in -- they didn't get it in at 5:00, but it arrived at 5:30.

MS. MEYER: There's a short Board write up -- it's a lot like the amendments that you saw last month, there's a short write up on the front and then we give you

all the background, all the due diligence that staff has done for the staff's determination.

If they appeal staff's determination, then they would appeal that to the executive director, then Mr. Gerber would make a decision, and if his decision follows staff's, then it would come to the Board. So you will see all of that background information when there's an appeal in front of you.

MS. RAY: And another thing, the public comment also has great bearing on what the decision process is, because you do get it in the Board write up and why they're not approving it, and why Mr. Gerber hasn't approved it. And then when you hear the other side of the story, it gives you a bigger picture of what your decision needs to be.

Many times we agree with staff, most of the time we agree with staff. But sometimes the public comment is very, very convincing and we go against staff.

But that's a judgment call. And like Kevin said, this year we may had made this decision, but next year we'll make a different decision because of all the variables that come to the Board.

MR. HAMBY: On some of it -- and that's where you as a Board member have to get that feel for what you

believe. I mean, we think in the staff level and we will tell you that in our Board write ups that it's a strict liability. If we say 5:00 on April 2, it's 5:00 on April 2. It's 5:02, it's not 5:08.

And sometimes those are exacting time periods because if we don't have it by 5:00 on April 2, we will never get the project done. And that's like the last day we've decided we can do it, because it has to go through the entire multifamily staff review, and it's reviewed twice, and then it has to go into -- you know, if there's any deficiency, we have to have the seven day deficiency -- or five day deficiency period, then it may have to go to underwriting, and underwriting may have to, you know.

So if we do -- if we have that time compressed at all, it's not going to make it, and so you'll get a whole group of award recommendations that may not be underwritten. And then you go, I need to know the underwriting because I don't want to award something that's not underwritten yet.

And so while we say it's our issue, it's also your issue, you get to decide on the preponderance of the evidence, or strict liability. Our deadlines -- I always use it in the legal perspective, the statute of

limitations, is it fair that in a tort claim if you filed your claim two days -- or two years and one day, that's not a lawsuit. It's missed the statute of limitations.

Is it fair? No. But the person is no less harmed than the person was at one year and 364 days. But because of that, we've set a deadline. And whatever reasons we've set that deadline, and this Board approves those deadlines, staff doesn't get to do anything without your approval and blessing --

MR. CONINE: Yes, I think over the last several years they've become more clear what those deadlines are.

A lot of they're buried back here, they weren't as public or as open as they probably should have been. But the last few years, staff's done a good job of making sure the development community understands what those are.

MR. FLORES: But the way it's presented, as far as the memo from staff, it's hard fast rules. The rules are A, B, C and D. Then at the bottom it says, The Board has the discretion to do whatever they do on this thing. And then the rule of good reasoning comes in and gets up to our good reasons to figure it out one way or the other.

But they have no lee way, there's no editorializing. I like it that way. I'd rather just deal with the rules A, B, C and D, and then I'll just figure

out what happens after that. It depends on all six of us. It could be a 3-3 tie by the way. We've had a few of those.

MR. HAMBY: Although that's one of those occasions where I will stand up and say, in a 3-3 tie, Sorry, you're serving in your quasi-judicial administrative role here and you have to make a decision because it's an appeal. And so you can't let it --

MR. FLORES: Yes.

MR. HAMBY: -- string on.

MR. FLORES: And it requires 51 percent vote --

MR. HAMBY: It requires --

MR. FLORES: -- and 3-3 is a loss.

MR. HAMBY: -- 3-3 --

MR. FLORES: I remember that well.

MR. HAMBY: No, 3-3 is not a loss in this case because it means that motion failed, but if you make the opposite motion and it fails, then they both fail. So they still have a right to administrative hearing, and you have to make a decision, so something's got to give. You either have to get more information or something's got to give.

MS. MEYER: This last one is a reallocation of credits, and a request for that. You are liable to see

this several times this next year, so I wanted to walk you through at least one. It deals with the placement in service.

An application, once they receive an award, they have two years following the year of the allocation, the December 31 date of that two year period, to place the buildings in service. And so that actually it gives them a good 27 months to do what they're supposed to do once they receive an award.

This particular transaction had several things that went on. One, Hurricane Katrina and Hurricane Rita hit, they had a placement in service extension because of that disaster -- those two disasters.

MR. GOURIS: So they got an extra 12 months.

MS. MEYER: So they actually got an extra 12 months, so they had --

MR. CONINE: That comes from a federal statute now --

MR. GOURIS: Yes.

MR. CONINE: -- because --

MR. HAMBY: The IRS actually issues it.

MR. CONINE: -- if you have a disaster in an area --

MS. ESCAREÑO: Okay.

MR. CONINE: -- the federal statute says they get an extra 12 months automatically.

MS. MEYER: Right. If it happens within the two year period. And for this particular one it did. They had problems with the original applicant and the original developer. The general partner was replaced during that time, they had problems getting their local HOME funds straightened out, they also had rain delays, permanent financing didn't quite make everything on track, and so they were going to request from the Board --

MS. RAY: Shouldn't that be --

MS. MEYER: -- to be able to --

MS. RAY: -- 2007 on there?

MS. MEYER: Do what now?

MS. RAY: Shouldn't it be 2007? Because that just happened.

MR. HAMBY: Yes.

MS. RAY: Yes.

MR. GERBER: Yes.

MR. HAMBY: Yes. These are not --

MS. MEYER: Well, this -- but, yes, this --

MR. HAMBY: -- technically the exact --

MS. MEYER: -- particular would have.

MR. GOURIS: This isn't actually the deal that

we already looked at.

(General laughter.)

MR. FLORES: To protect the innocent --

MR. CONINE: You just dreamed this up.

MR. HAMBY: Yes, this is just something that just came to us in the middle of the night.

MS. RAY: It's just

MS. ESCAREÑO: Sounds familiar.

MS. RAY: -- coincidental that it sounds very familiar.

(General laughter.)

MR. HAMBY: We're trying to --

MR. CONINE: But she's getting to --

MR. HAMBY: -- give you a real life event --

MR. CONINE: -- an important point on what they asked us to do.

So go ahead and explain that.

MS. MEYER: What they're going to ask, and the reason why I put 2008 is because if they were going to do this right now, they would do it about this time. They're going to ask for you to all them to give back the credits that you gave them earlier, and reallocate them directly back to them.

MR. CONINE: In other words you -- they were

giving back --

MS. ESCAREÑO: Not give them back in there --

MR. CONINE: -- 90 -- I mean the 2005 credits, and they wanted us to give them 2008 credits, before the credit allocation round had -- would happen, or even afterwards, it doesn't matter.

MS. MEYER: Or during.

MR. HAMBY: And --

MS. MEYER: So this can happen, and with the market that we're in --

MR. CONINE: Which then buys them --

MS. MEYER: -- it's a good --

MR. CONINE: -- two more years.

MS. MEYER: -- possibility that you will see these because --

DR. MUÑOZ: Okay.

MS. MEYER: -- at carry over --

DR. MUÑOZ: So they get --

MS. MEYER: -- which is --

DR. MUÑOZ: -- the two years, then the disaster hits and they get the extension.

MR. GERBER: The third year.

MS. MEYER: They got an extension.

DR. MUÑOZ: And then they come back and they

say, We want --

MR. CONINE: We still haven't done it.

DR. MUÑOZ: -- We still haven't done it, we want to give them back to you and have you reallocate them to us for another two years.

MR. GERBER: It's a forward commitment of next year's credits for yet another two years, so --

MR. FLORES: So then you start looking, as a Board member, to their ability to perform and you say --

MR. GOURIS: Right.

MR. FLORES: -- if they can't do it in three years, do you think they'll do it 30?

MS. RAY: And one of the things on the real life case, not the hypothetical case, but the real life case was they tried to put in there, Well, it's really not our fault because we changed general partners and it was those people that had the problems, it wasn't us.

MR. FLORES: It's always somebody --

MS. RAY: We're the good guys.

MR. FLORES: -- somebody else that's the --

MS. RAY: Yes.

MR. FLORES: -- problem.

MS. RAY: Not our fault, it didn't happen to us.

MR. GERBER: Well, and interestingly, the Board's reaction was almost just dead silence after this particular developer spoke about it, and the message was very clear that they needed to have three crews on 24/7 to build that project, and they were sending us -- because all you have to do is get one unit to be occupied to receive the certificate of occupancy.

MR. GOURIS: In each building.

MR. GERBER: In each building that gets -- receives credit.

DR. MUÑOZ: And what happened to the original credits then?

MR. GERBER: They were awarded --

MS. MEYER: They actually --

MR. GERBER: -- in that case --

MS. MEYER: -- ended up --

MR. GERBER: -- they were --

MS. MEYER: -- building --

MR. GERBER: -- successful --

MS. MEYER: -- the deal in, what --

MR. CONINE: Six weeks --

MS. MEYER: -- 98 days, or --

MR. CONINE: -- eight weeks --

MS. MEYER: -- something like that, yes.

MR. CONINE: -- something like that.

DR. MUÑOZ: Wow.

MR. CONINE: They ended up where they could -- they worked it out with the particular city they were in to get all the inspections when they needed it. They were working three crews round the clock, and they essentially finished one end of a building, a couple of units, and were able to occupy it.

MR. GERBER: And we have sent out a pretty clear message on these extensions, placement of service extensions, from the staff level, that the statute -- that the time is running out to start -- to keep using the Rita and Katrina excuse. That's just done.

MR. FLORES: Yes, we've heard that over and over and over.

MR. GOURIS: And it doesn't impact the dollars that are spent so much, but it does impact the ability for somebody else to be able to participate in that area because of the concentration rules and all the other things.

You're freezing up monies, but you're also freezing up -- blocking up that part of that community that was supposed to get affordable housing that isn't getting affordable housing. And no one else can put new

affordable housing in there because that deal is not stabilized yet. So it has multiple areas of impact if it were to be reallocated.

MS. RAY: And it also points out the fact that this is a very, very competitive process. If I play favoritism on giving you a break, look at the other potential people out there that are going to be negatively impacted because we gave you this particular break to break the rules. And it has a domino effect, so you have to look beyond today and look at the what if scenarios and how it's impacting the other people that participate in the business.

MR. CONINE: Part of their excuse also was, that if I give you back 2005 credits, they just go into the pool for this year anyway. And how long does it last?

MS. MEYER: For --

MR. HAMBY: That would be the last year.

MR. CONINE: If you give back -- it think it's like -- the credits are good for three or four years in the next available pool, so their thought was, I've giving you back credits that will expand this year's pool so you're not really hurting anybody. But that's really not the case because of the -- our distribution system and application process is --

MS. RAY: Application process.

MR. CONINE: -- sacrosanct, you know, and if we upset that, we want --

DR. MUÑOZ: Sacrosanct.

MR. CONINE: Well, it is.

MS. RAY: Well, it is.

MR. CONINE: I mean we've --

MS. RAY: It pretty much is. It's so competitive.

MR. CONINE: -- we've spent a long time getting it where it is today, and if you take a million two chunk out of -- right out of the middle of an application round, then you've upset the apple cart. Which is different from a forward commitment where before anybody's turned in an application for next year, we decide to give away, you know, \$5 million worth of forward commitments.

Everybody now knows that we've done that. Whereas in this case, this specific case, people had already submitted their applications and we were just going to dig -- they wanted us to dig a hole out of the middle of it.

MR. CARDENAS: How common is it that people come back and ask for reallocation?

MS. MEYER: It's been --

MR. GERBER: Not very.

MS. MEYER: -- it's happened more the last couple of years just because we've had some special cases like this one. But it's not something --

MR. GOURIS: You know, once a year is a lot. We had one transaction several years ago that we actually -- that the Board actually did vote to reallocate, and it was very problematic because they then didn't finish in time and there were some other issues, and so we had to reallocate twice. And we don't know if those credits are even valid, but we didn't think we had any other, you know, options really.

It's really something to be discouraged because it really just throws a kink into the whole thing, especially if they haven't started the actual construction. If they came to you now and they had to get it done by the end of the year, and they said, we don't think we can get it done by the end of the year, we haven't actually started any -- you know, we're not -- we haven't gone vertical.

It's probably a good thing they haven't gone vertical, and it's probably something you really need to think long and hard before you go down this road, because if they don't -- you know, they still have time lines they

have to make, and if they haven't made it the first time.

MR. CARDENAS: Also, someone just mentioned, and I hadn't heard it, the term, concentration rules. Are you guys going to cover that later?

MR. GOURIS: We are.

MR. GERBER: Coming up in --

MR. GOURIS: Real quickly.

MR. GERBER: -- or just a second.

MR. GOURIS: We're going to -- I'm down to 15 minutes, so I'm going to go ahead and --

(General laughter.)

MR. GOURIS: Is there any other questions about Robbye's slide so far?

(No response.)

MR. GOURIS: Then I dropped off for you a packet of information, starting with our slides, and then there are some cases studies at the back of that. And we're going to talk about the underwriting process.

We underwrite because state and federal law require us to. The thing is that the state and federal laws that are out there are fairly broad and don't give a lot of detail. And so we have a rule, like the QAP, that -- or regulation that fills in the details, and that's something that you all get to review and tweak

every year.

It was originally set up by a group of -- a development community in a round table like this where we spent, you know, many hours during a summer trying to come up with sort of the best practices, and making sure that we were going to have a transparent process so that the developer knew what they were going to get into from an underwriting standpoint. And like I said, we revise that every year.

The priorities for the Board have been that they want the underwriting process to be an independent evaluation of the risk associated with each project. They want us -- you all have wanted us to look at the financial viability of each project and make sure that it's viable for the long term and it's going to stay affordable for the long term.

We want to maximize the limited state resources. This credit is a limited amount of funds and we want to spread it to as many places as we can and make sure we're getting the best bang for our buck. And not just the credit, because we also underwrite our HOME multifamily development and any housing trust fund that we might have, any other similar multifamily -- or even single family subdivision kind of developments. We don't

do very many of those, but when we do we'll underwrite those as well because we want to make sure we're maximizing that limited resource.

MR. CONINE: We don't have any scoring criteria there though, do we?

MR. GOURIS: For underwriting?

MR. CONINE: Yes -- no, for effectiveness.

MR. HAMBY: Effectiveness, no, except they have to be feasible.

MR. GOURIS: Yes, we're going to talk about not more funds than are necessary --

MR. CONINE: In other words --

MR. GOURIS: -- it's a standard --

MR. CONINE: -- if you use 6,000 --

MR. GOURIS: -- that we use.

MR. CONINE: -- a unit, or 10,000 a unit, they don't get a scoring gain --

MR. GOURIS: Correct.

MR. CONINE: -- one way or the other. What we encourage though is the 6,000 a unit --

MR. GOURIS: Well --

MR. CONINE: -- whatever the math works out to be.

MR. GOURIS: And every development is

different, and so we encourage them to not use more than is necessary. So we do an independent evaluation of the cost to make sure that they're not pumping their cost way up so that -- you know, they might be doing elderly, which is going to take more than \$6,000 a unit in credit.

That's fine, you know, because they're putting these additional amenities in; that's fine, we want to see those amenities. But we don't want them to cost more than they really should. And so that's why we do the independent cost analysis. But we don't have a one price fits all --

MS. ESCAREÑO: Go over for me one more time, so which programs do you do underwriting for?

MR. GOURIS: We'll underwrite any multifamily risk, any multifamily rental development, or multi-unit single family construction development. So if we're doing a -- we don't do this very often, but like I said, if we did a subdivision development with HOME, and there were 30 homes that were going to be developed, we would look at the total cost of that subdivision --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- with those homes and see if they could actually sell those homes for an affordable price.

MR. CONINE: His department touches on most programs we --

MS. ESCAREÑO: Within it. Okay.

MR. CONINE: -- we do. What this conversation is basically limited to is the 9 percent and the 4 percent --

MS. ESCAREÑO: Gotcha.

MR. CONINE: -- bond pool.

MR. GOURIS: Right. And we want to also ensure that we don't have an adverse affect on the existing housing market in that area. That's what the concentration policies are about, and we'll talk about those.

I think you've all seen this slide before once.

Let me just real quickly see if thee are any questions, or go over it real quick. A tax credit development is a creation, it's a limited partnership. And there's going to be this guy right here who's the developer, or the general partner, or the owner. Sometimes the developer is going to be a fee developer and there'll be a separate owner.

But this entity is going to control everything on a day-to-day basis. They're going to sell to these guys, the syndicator, the limited partner, the majority

stake in the partnership. And so it's a partnership between these guys and these guys that have no day-to-day control, but they can throw out the GP usually.

And then these guys are providing the extra financing, the debt financing, and they don't have an equity stake in the partnership, but they have some ability to foreclose on the property and throw out both the limited and general partner.

DR. MUÑOZ: Hey, Tom, go back. Let me ask a question, I mean.

MR. GOURIS: Yes.

DR. MUÑOZ: I'm not familiar with this scale of development, but how do you retain day-to-day control with 1 percent?

MR. GOURIS: Because --

MR. CONINE: What 1 percent?

MR. GOURIS: -- you're .01 --

(General laughter.)

MR. GOURIS: -- because you're the general partner, and the general partner has the risk and the liability of the transaction. The limited partners are, in a partnership structure, are exactly that, they don't have any risk other than their investment.

MR. CONINE: Those ownership percentages have

absolutely nothing to do with the cash flow distributions and the profit distributions. Those are addressed in the partnership agreements later on.

Primarily what that does is give him voting control and gives him tax deductions on the depreciation losses that the partnership will probably incur, because once you build one of these things, and the cash flow, or the "profit" coming out of the thing every year, is always offset by a higher depreciation amount, so the partnership will lose money year after year after year. And that way the syndicator and investor partner can take those losses, by having that chunk of it.

But when it comes to --

MR. GOURIS: The cash.

MR. CONINE: -- cash flow, when it comes to -- let's say a property cash flow is \$50,000 a year. After the debt service is paid and everybody's been paid, then the GP will probably get anywhere from 70 to 90 percent of that, and the LP will only get 10 to 30 percent of that, in most typical partnerships you see.

MR. HAMBY: It's greatly controlled by the partnership agreement, so this is where lawyers get involved, and it's also what we in the legal business call legal fiction, who owns the property.

MR. CONINE: Right.

MR. FLORES: Tom, can you go back to that slide? How does the financing go on this thing? You know, in other words, who's financing the deal at the application time, at the approval time, and so on and so on? Are you going to go over that?

MR. GOURIS: I'm going to go over that.

MR. FLORES: That becomes a mystery to me as to --

MR. GOURIS: Right.

MR. FLORES: -- who's holding the bag with the dollars.

MR. GOURIS: Right. This is the basics, you know, the cash goes from equity to syndicator. We understand that. But this is how the financing actually goes. The applicant requests money from -- or requests the credits from us that we get from the state. We allocate the credits to the partnership. At this point the developer is spending their money. At this point --

MR. FLORES: It's a risk for all those --

MR. GOURIS: They're at risk.

MR. CONINE: On number 1, that's that 75 to \$100,000 --

MR. FLORES: Yes, Okay.

MR. GOURIS: Right.

MR. CONINE: -- I was talking about.

MR. FLORES: The \$100,000 that's spent to be able just to apply and get the approval.

MR. GOURIS: Right.

MR. CONINE: That's on the 9 percent deal.

MR. GOURIS: Right.

MR. FLORES: Okay.

MR. GOURIS: Well, and --

MR. CONINE: On the --

MR. GOURIS: -- the 4 percent too.

MR. CONINE: -- deal -- yes, on the bond deal he's spending 500 to 750.

MR. GOURIS: Right. It's going to be more.

MR. FLORES: Okay.

MR. GOURIS: They -- once they get the credits, and, three, they give us a land use restriction agreement, and -- or -- and begin to enter into that. And they're selling the credits to the syndicator, this -- who then sells them to an ultimate investor, who gives the syndicator cash back, and that becomes equity.

They do this in stages. This comes in one big chunk, but this piece comes in stages during the construction period. We talked about that earlier. But

it's during the construction period, after they've got the award.

MR. FLORES: Okay. He's got his paperwork in, and he's started construction. Who's holding the bag for the financing during the construction period?

MR. GOURIS: Well, there's a lender involved --

MR. CONINE: The partnership goes and borrows enough money --

MR. FLORES: The GP.

MR. GOURIS: Right.

MR. FLORES: I mean --

MR. GOURIS: Yes, I got you --

MR. FLORES: -- the limited partner.

MR. CONINE: The partnership. The ownership/partnership --

MR. GOURIS: Yes, there'll be two --

MR. CONINE: -- borrowed the money to build it.

MR. GOURIS: -- sources of construction financing. There'll be a construction lender --

MR. FLORES: Yes.

MR. GOURIS: -- and there'll be the syndication equity that will come in either as equity, or it may come in as a loan, as a construction loan, depending on how the partnership agreement works. And that's what will build

the project.

And then once the project is completed, that equity, if it's coming in as a loan the actual equity will replace the loan that was there, and the permanent financing will replace the construction financing on this side.

MR. FLORES: But right at that point, the developer general -- GP is then no longer at risk, it moves over to the LP for the --

MR. GOURIS: No --

MR. FLORES: -- financing for the --

MR. GOURIS: -- these guys are always at risk.

MR. FLORES: Huh?

MR. GOURIS: These guys are always at risk.

MR. CONINE: Yes, they're signing --

MR. HAMBY: They're signing the guarantee.

MR. CONINE: -- they're guaranteeing the note.

MR. FLORES: 100 percent?

MR. GOURIS: They --

MR. FLORES: So they're 100 percent guarantors.

MR. GOURIS: Yes.

MR. CONINE: They're guaranteeing notes during the construction process.

MR. FLORES: Okay. So he's still in. So he's

still in. But the LPS also --

MR. CONINE: No, there'll be recourse.

MR. FLORES: Really?

MR. GOURIS: No, here's -- there are recourse during construction to the lender, there are recourse to the syndicator sometimes through the credit period.

MR. FLORES: Okay.

MR. GOURIS: So that if the project doesn't meet its restrictions, if it doesn't meet the set-asides that they said, then the syndicator won't be able to claim the credits, and the investor won't be able to claim the credits, and so they'll go back to the GP and say, You need to pay us back, there's a recapture issue. You're liable for it.

MR. FLORES: Okay. So the lender can go back on either one of them in case it goes south, the deal goes south.

MR. CONINE: No, he just goes back on the partnership or the GP.

MR. GOURIS: Yes, these guys go back to the GP --

MR. FLORES: So the GPs are --

MR. GOURIS: The lender can wipe out both of these guys by foreclosing, or they can just go and pursue

the guarantee during construction period. What Kevin was saying it's really critical to know is that during the permanent phase, the lender won't have a guarantee from the developer because that's a form of equity, and then they would have a stake in that and that would mess up the credits.

So the lender, once it's a permanent financing structure, once it's placed in service and it's going and they've paid off the construction loan, that lender is looking just to the property for recovery. And they won't be -- there won't be a guarantee at that point.

MR. CONINE: And, again, you've got to remember that the whole reason the credit program came into existence is to try to drive the debt down on these projects low enough where the rents can be cheap. So that lender -- the reason he doesn't need any recourse back to the GP on the permanent basis is the project's already built, it's filled up, there's demonstrable income, and they're only loaning about 30 or 40 percent of what it could probably -- the capacity for a loan could probably take because the syndicator's already put in all that equity --

MR. GOURIS: Right.

MR. CONINE: -- up above. So it's a no-brainer

loan for the lender basically.

MS. MEYER: On a 9 percent deal.

MR. CONINE: On the 9 percent deal. It's a little tougher brainer loan on the 4 percent.

MR. FLORES: Are we going to go through the 4 percent?

MR. GOURIS: We're going to go through -- we'll show some slides. And this structure is the same for the 9 percent or the 4 percent.

MR. CONINE: Well, we're the lender on the 4 percent deal, almost, because we've underwritten it at a particular level, and they're using our tax exempt bonds to be the loan.

MR. GOURIS: Well, it's not our money though, it's going to be a private -- another private investor that's --

MR. CONINE: But it's our --

MR. GOURIS: It's our --

MR. CONINE: -- stamp of approval.

MR. GOURIS: -- stamp of approval. It's our facility. Right.

Did that get to your question?

MR. FLORES: Yes, I got it. I got it.

MR. GOURIS: It's important to note also that

they don't get the credits, they don't actually get to claim the credits until they get issued 8609s, and that's the final step in the process. And unless they get those 8609s, they may have made the equity investment already if they're loan -- or facilitated -- you know, paid the loan off with the equity, but they aren't able to claim the credits until they get that Form 8609.

MR. FLORES: And that normally is what, a two year deal?

MR. GOURIS: That's -- after it's placed in service and it takes --

MR. GERBER: They certify to Tom.

MR. GOURIS: Yes, they certify back to us. So deals that are placed in service by the end of last year will submit their cost certification to us by, say, March of this year, and we want to get them out and back to them by June or July, if they're ready to go. If they're not ready to go, it'll take -- it can take literally years to get them out.

MR. HAMBY: The longest one at this point is 10 years?

MR. GOURIS: We --

MR. HAMBY: We have one that's 10 years.

MR. FLORES: Oh, my god, 10 years?

MS. MEYER: Yes.

MR. FLORES: What's an average one? That's a long one.

MR. GOURIS: We probably get the majority of them out within the first year of the credit period. I would say we get most of them out. You know --

MR. FLORES: This is a --

MR. GOURIS: -- six to nine months --

MR. FLORES: -- lender's nightmare I guess.

MR. GOURIS: -- is going to be -- yes, that's an extreme situation. And they -- you know, on that case they just dropped the ball on a couple of -- the LURA had to be changed, or whatever had to be changed, and they just didn't do it. And then the ownership changed, and then they realized, Hey, we were supposed to have credits on this new ownership, and they said, you know, Geez, how -- what do we need to do now to get these credits. And we'll work with them to try to do that.

The no more funds than are necessary concept, the maximizing our efficiency, there are three kind of ways we look at that. We look at an eligible basis method, which is a calculation, I'm going to kind of walk through, walk you through, but it's taking the costs that are eligible for credits and putting them through a

formula to say, Here's how much credit you can earn by formula.

MR. CONINE: That's federal statute.

MR. GOURIS: That's federal statute. And then there's the gap method which says, Okay, now I know all the cost and all the sources of funds, how much of -- how much syndication proceeds do I need to fill the gap.

And if it's less than what it was with the credit amount, then we get less credits there, because we don't want to give them more credits than they need. And then if they ask for less, or if they're limited to the \$1.2 million for 9 percent, then that would be the limit that they would have.

The three things about feasibility that we want to make sure we understand is, how much is it going to cost, how much income will it generate, and, again, what's the impact on the market. On how much is it going to cost, we're going to look at what the applicant's estimated for us, and we're also going to look at any third-party reports that they provide us.

If it's a rehab they'll have to provide us probably a condition assessment, and that is going to give us an estimate of what the costs are going to be from hopefully a third-party perspective.

If it's a new construction, we have our famous Marshall & Swift handbook that we use as our tool, and while a lot of folks, you know, it has -- it's always going to be a source of controversy. We found that it's a pretty good predictor. It's not perfect, but it's pretty good predictor, based on the kinds of materials that we have.

We don't have a full spec drawing, we have a concept of what they're going to build, and so Marshall & Swift gets us a pretty good ways down. And we give a tolerance level, if we're within 5 percent, or they're within 5 percent of our Marshall & Swift, then we say that the applicant's numbers are sufficient.

We also have some other cushions in the process that we'll talk about that provide them with some -- really to have some flexibility.

We also have some policy constraints that are state -- that are Board policy constraints. The contractor fee limits, that includes general requirements, that includes overhead, and that includes profit, are limited to 14 percent. We used to split them out but we decided just one lump sum for all of those things. The developer fee similarly is limited -- the developer fee, including overhead and profit, is 15 percent.

Then we have a safe harbor for site work cost of \$9,000 per unit. It's not that they can't go over \$9,00 per unit, but we found that when transactions go over \$9,000 per unit, it's because there's some significant site work issues that need to be addressed, and they need to be addressed early so that they can understand how much in cost they really are going to have with the transaction.

So if they think it's going to go over \$9,000 a unit, then we ask them to go out and get an engineer to look at that and get some more specifics on that. We look at, as I mentioned, the Marshall & Swift, and then there's that applicable percentage. That's that 9 percent or 4 percent credit.

And we actually have a cushion on that. We underwrite to a number that is greater than the current applicable percentage so that, one, it gives a cushion in case interest rates go up and therefore the applicable percentage goes up, because they could lock that applicable percentage now, but more likely than not they're going to wait until they place in service, and then they're going to use the applicable percentage from the date that they placed that building in service.

And so since there's this big time span in

between that, we give them a cushion in case that rate goes up. It also gives them a little bit more credit right now so it provides an extra cushion for -- if construction cost go up and what have you. So that cushion is 40 basis points on the current rate for the 9 percent, and 15 basis points for the 4 percent.

Let's talk about the eligible method for a second. And in the eligible method is anything -- the eligible basis is derived from anything that is capitalized into the building for use by the tenants. So that's the units themselves, and the common areas and things like that.

What's not included are going to be land or any operational costs, any marketing fees that they might have, or any commercial purposes. They're part of the total cost, but they're not part of the credit calculation.

MS. ESCAREÑO: And parking?

MR. GOURIS: Parking is something that is eligible. But if they're going to have garages that they're going to charge a fee for, there'll be a couple of issues. One, that likely that would be -- would exclude them from basis. If they were going to charge a fee, but that fee was inside of the rent that they're already

charging and the rent was within the limit, then they could charge that and keep it in the basis.

Ineligible costs can impact the gap of total funds needed. So even though people say, Well, geez, you didn't give me any credits for that, that was an ineligible cost. If they have extraordinary ineligible cost, that can inflate the gap and allow them to utilize more eligible costs than they would have otherwise been able to utilize.

Here's some examples of eligible amenities. There's, you know, a kitchen, there's a full commercial kitchen, this is a dining area, a movie theater. This is all from one seniors project that we worked on recently.

So here's that example of eligible basis, and you can see here are their total costs, and here are their eligible costs. Their total costs total to \$2.5 million, the eligible costs are only \$2.3 million.

And then we take that eligible cost -- I might go through this kind of quickly -- you can see what's not there -- if you take that eligible cost -- and this is a formula that we use. If it's in the QCT, and you heard this earlier, if it's in the QCT or DDA, qualified census tract or difficult to develop area, they can get an extra 30 percent boost. And that -- we talked about the magnet

that that is for folks to go into that area that have those QCTs because they get this extra basis.

So they get, what, \$3 million in qualified basis. If it's 100 percent tax credits, then they get 100 percent applicable fraction. If it was going to be a mixed grade product with market units, then this would be, you know, if it was 25 percent market, then this would be 75 percent.

And then the applicable percentage is the 9 percent credit that we talked about. This is where that calculation comes in, you multiple the qualified basis times the applicable percentage to get to the credit amount that's an annual amount for 10 years.

MR. GERBER: But you'll note that the 9 percent credit and the 4 percent are not actually valued at that amount. It varies -- it's

MR. GOURIS: Right.

MR. GERBER: -- variable and the 9 percent credit is actually something significantly less than 9 percent.

MR. GOURIS: Yes, the current 9 percent credit is about -- is around 8 percent. With our -- we added the 40 basis points that I mentioned earlier, so we'd underwrite at 8.4 percent. So in this example they would

have been eligible from the eligible basis method for \$255,000 in tax credits.

MR. FLORES: And, Tom, tell us again where the 9 percent and 4 percent lingo came from.

MR. GOURIS: When the credit was created, when the program was created, the calculation for this -- the 9 percent is actually the 70 -- it's really called the 70 percent credit, and it's intended to be 70 percent of the cost of the project supplied by the equity from the credits.

The calculation that's done is done by the Treasury Department, and they look at the present value of money for, you know, that 10 year period, and they figure out what interest rate, or what rate would you bring that back to get 70 percent of a cost of something to get it back to today's dollars. And that's where the 9 percent came from.

When interest rates were higher, that rate was higher. So back in '86, interest rates were higher, it was close to 9 percent, and interest rates have fallen ever since then, and so we've never had a 9 percent credit since shortly after inception. It's always been much lower than that.

MR. CONINE: Like I said, these guys were drunk

when they --

MR. GOURIS: They were drunk.

MR. FLORES: No kidding --

MR. CONINE: -- put this thing together.

MR. FLORES: -- because --

MR. CONINE: They really were.

MR. FLORES: Well, the actual public, I think, they think it's an actual 9 and an actual 4.

MR. CONINE: They don't get it.

MR. GERBER: Well --

MR. GOURIS: It's an actual 8.

MR. GERBER: -- with the credit crunch there's now actually a push to try to actually make them real. I don't think they'll be successful with it, but.

MR. GOURIS: Yes.

MS. ESCAREÑO: And the .4 comes from the -- like if you're valuing it right now at 8 percent instead of 9, and you said the .4 comes from the 30 percent?

MR. GOURIS: No, we've added a cushion, as a policy --

MS. ESCAREÑO: Oh, okay. Gotcha.

MR. GOURIS: -- the Board has added a --

MS. ESCAREÑO: Yes.

MR. GOURIS: -- cushion to the credit amount --

or to the applicable percentage so that future -- if the percentage goes up in the future, we don't short somebody credits. It also provides a little bit of cushion for --

MS. ESCAREÑO: Cushion for construction --

MR. GOURIS: -- construction cost --

MS. ESCAREÑO: -- costs.

MR. GOURIS: -- increases.

MR. CONINE: The Treasury publishes that applicable percentage on a monthly basis.

MR. GOURIS: Correct.

MR. CONINE: Every month.

MS. ESCAREÑO: Okay.

MR. CONINE: So it depends what month you kick in.

MS. ESCAREÑO: So it could wiggle a little bit.

MR. CONINE: Yes.

MR. GERBER: It's at the time you get your 8609s, not at the time --

MR. GOURIS: I've got a couple of cases that are right behind here that I just want to briefly tell you, and then -- because they're kind of -- they kind of go with the cost side of things.

The first one is called housing authority. And this is -- this packet gives you pretty much the packet

that you would see in an appeal. The first --

MR. CONINE: This?

MR. GOURIS: Yes.

MR. CONINE: Okay.

MR. GOURIS: And it says Housing Authority --

MR. CONINE: Housing authority --

MR. GOURIS: -- on the top --

MR. CONINE: All right.

MR. GOURIS: -- in my hand scratch -- chicken scratch handwriting.

But the first three pages is our -- was our presentation. The names have been blotted out. But it was our presentation. And then appeal -- the next section is the applicant's appeal request. So they had an attorney draft their appeal. And then they provided some documentation to support their appeal requests. Typically after that there'll be the deputy -- or the executive's director's response. In this case I left that out, but I did put our underwriting report there.

And what we might do in this whole process is we might start with the underwriting part and work your way the other direction. Even though we put it for you this way, you get all the basic information you need from the appeal. Sometimes if you're -- you know, if it's a

big thick thing and you're trying to figure it out, referring to the underwriting report will give you kind of the starting point of where we were, and then you can see what kind of became controversial as we go.

The underwriting report, I just wanted to give you some heads up on what that looks like. That's this document right here, and it -- the first page is intended -- the first two pages are intended to kind of give you the long and the short of it, and then the detail is behind.

The first page will give you what they've requested, and what we're recommending in those boxes that say allocation, and then it'll give you all of our substantial conditions that they need to meet, or we think they need to meet before we actually -- before they actually complete the transaction, because these are things that we couldn't get reconciled during our review process, but we think if they get reconciled, and usually we prescribe a manner, if they get reconciled in this way, we think that then the deal would be successful.

And then we'll give you some salient information about what rent levels they're talking about, and then the pros and cons of the transaction.

In this particular case, this was an issue with

the allocation of tax credits to a transaction where there was an identity of interest in the purchase of the property. And the -- it was a housing authority that was going to buy -- that was going to stand as the GP to buy it from themselves, and/or lease it from themselves, at a price that was significantly higher than we thought was reasonable.

Now they provided an appraisal that was partially appropriate, but because it didn't include all three methods of appraisal. They claimed that it was fine because it included the income method -- income approach.

They heavily relied on that income approach, even though it was inconsistent with the operating pro formas that they were showing us, and it was probably 200 to 300 times what the value -- what really was.

In this case, in this example, the USDA was also involved and they were going to have to approve the transfer because there was USDA funds involved. And we know that the USDA wasn't going to allow the property to sell for 200 to 300 times what it was originally built for. We knew that for a fact. And so we sized the credit based on what we believe the maximum acquisition price could be.

Acquisition is an eligible activity. You get

credits for acquisition, but you only get 4 percent credits for acquisition. And you don't get the 130 percent boost, even if you're in a boost area. So you can get credits, you can get extra credits for doing rehab, just based on buying the property. You don't get it for the land, but you do get it for the buildings. It's why we have to have an appraisal when there's a rehab, because we have to be able to disaggregate the buildings from the land, and the appraisal does that.

In an identify of interest we have to have an appraisal, because there's not a third party buying it for a fair price, we want to make sure it's an arm's-length transaction, so we get an appraisal to help us make sure that that's the case.

Questions about that transaction?

(No response.)

MR. GOURIS: There's a second one there for you to look at. And this was one where they --

MR. GERBER: Hey, Tom, let me ask you --

MR. GOURIS: Yes.

MR. GERBER: -- since you're already in this underwriting report, is what this high income, other features --

MR. GOURIS: Sure.

MR. GERBER: -- of it that if you paid attention to no other numbers in it here, there might be a couple of things that you might wish to --

MR. GOURIS: Well, obviously the recommendation and the pros and cons. The pros and cons will lead you to the areas, and the conditions will lead you to the areas that we had difficulty with, and that are relevant for this transaction. The thing is, we're going to write a report on the whole deal, but for any particular transaction it may be this set of issues that are important, and the next one it's going to be this set of issues that are important.

If you look at the first two pages, or first page, conditions and the pros and cons, they'll lead you to what we thought was important, and you can move to that. So in this case they would have been the identity of interest would have been an issue that was pretty critical -- well, let me just walk you through -- let me just walk you through the whole thing.

The ownership structure is the next thing you're going to see. You're going to get that in the form that they gave it to us. We used to try to re-digest this, but now we just try to give them -- give you exactly what they're telling us that is, and then we'll give you

some information about the financial capacity of those individuals, or those entities, corporations, or what have you, that are in the -- on the GP side of the ownership structure.

MR. FLORES: Tom, let me stop you on --

MR. GOURIS: Yes, sir.

MR. FLORES: -- that one. A concern of mine has always been the confidential nature of net assets of some of these folks that are key participants. Who within our group, or how many people have access to that information, in your department, or whatever department?

MR. GOURIS: Anybody in my group would have access to that, but --

MR. FLORES: And how many people would that be?

MR. GOURIS: There are six underwriters plus myself.

MR. FLORES: Seven?

MR. GOURIS: Seven of us.

MR. FLORES: And have we ever had a problem where that information got out to the competitor or whatever and there was a complaint to us about that?

MR. GOURIS: No.

MR. FLORES: Because, you know, this is such a competitive -- just I mean I wondered if there was any

problems with people coming back and saying, That's confidential information, it got out, it's your fault, blah, blah, blah.

MR. GOURIS: We haven't had problems with it getting out. We have had questions or requests for getting it. And --

MR. FLORES: Well, I heard that, and --

MR. GOURIS: And --

MR. FLORES: -- I know what you do with it.

MR. GOURIS: -- and what we've tried to do, because it's personal information --

MR. FLORES: Yes.

MR. GOURIS: -- what we've tried to do -- I mean we used to have a separate -- one separate page that detailed the personal financials, and we'd give that just to the Board. And we stopped doing that because that is material that the whole world -- because the Board sees, the whole world should see.

So what we do instead is we talk about -- if there an issue, we would talk about it in, you know, fuzzy terms down below and we'd talk about the fact that there's a problem with his financial statement, or he doesn't have the capacity to guarantee the transaction.

MR. FLORES: Yes, no, I know why you haven't.

But it just that in my short tenure, I've been pleasantly surprised, we'd never got a complaint on that, because so many places, stuff like that gets out, over to outside people who shouldn't be seeing it.

MR. GOURIS: Yes.

MR. FLORES: So I compliment you for that.

MR. GOURIS: The only time we'd every have a problem with that is if -- when they did their electronic application, if they accidentally included their own personal financial statements in that electronic application, because we don't really double-check to clean that out. We post it on the web, and if they've put it in there, it's on the web.

MR. FLORES: And do you instruct them --

MS. MEYER: Yes.

MR. GOURIS: We instruct them not to do that.

MR. FLORES: Yes.

MS. MEYER: We tell them in the application workshops that you need to make sure that you take your personal information out of the electronic form, because otherwise the entire world's going to know it.

MR. FLORES: I thought somewhere along the way we'd get a complaint. We haven't gotten one in my tenure, which is about a year and a half, so I mean I'm pleased

and happy to see that. I just wanted --

MR. CONINE: Is that all it's been?

MR. FLORES: -- you to know that. Oh, there's a lot of things that doesn't bother me like, you know, who the chairman is, things of that nature.

(General laughter.)

MR. GOURIS: So the next page will be a site plan and then a building configuration. And the site plan is the rough plan that they gave us, so you get the idea.

In this case it was rehabilitation and so we would give you a little feedback on what they're planning on rehabilitating based on what they've told us and what the PCA says. Then it gets into some other site, and our site inspection.

And then the next section is kind of -- well, the next section is environmental, if there are any environmental issues, because of the ESA that was provided, we'll discuss them there.

The next section is the market study issue, and for a rehab it's not going to be real critical, but for any new construction that's going to be a huge area because it deals with all of our concentration things. Then we go into the pro forma analysis and we look at -- we give you a narrative of the sections that we have the

numerical analysis on at the back. And then we talk about the cost.

In this case, the appraisal section -- remember I said this was an -- it had a lot of appraisal issues, so you'll see at this appraisal section goes on for a page and a half. Typically you'll get a paragraph on the appraisal because it's not a big issue. But in this case it was a huge deal, and we had some issues with it, and so we talk about it for quite a while.

We talked also quite a bit about the acquisition coming up. But then the next section moves into what the assessed value, what the site control document was, and if there are any title issues with the property. Then we get into the construction costs, and, again, that first section on acquisition was fairly lengthy because we had some issues there.

Then we get into the financing structure, and this is the best information we have at the time of underwriting. Remember, when we're doing a 9 percent deal, these deals haven't gone through the hard crucible of all the, you know, evaluations that all the syndicator and the lender are going to do. They've done some preliminary work and they've said, Yes, this looks generally like something we can do.

On a bond transaction, that's very different.
We're all --

MS. ESCAREÑO: Everything's there.

MR. GOURIS: -- doing the underwriting -- yes, we're all doing the underwriting at the same time. And everything's moving and shaking and so we might not have the right information because it's already changed by the time we post it, or by the time we publish this. And so sometimes there are changes that way.

On a 9 percent things don't change because they haven't gone back and figured anything else out typically as far as the lender and syndicator go. They'll do that after they get an award. And then the last section is our conclusions with regard to what we recommend based on the financing, based on the gap, based on what they've asked for, and it'll give you some of that.

Then after that you'll have two -- three pages of numerical analysis, and this is really the heart of our underwriting. The first section is going to be the rent structure, the second section here is going to be the income and expenses, our stuff's on the left side, the applicant's numbers are on the right side, and it gives you, you know, kind of a break down of how we compare to each other. And then toward the bottom half you have the

construction costs and the total development costs, and then you have a source -- real quick sources of funds on the very bottom.

And then the last little box in the corner here is going to be where we stand with our recommendation, and the number on the bottom will either be equal to the number the applicant said, or it'll be equal to our number, or it'll be equal to the number the applicant said, less some amount because of some adjustment that we talked about in the report.

The next page, generally if it's a new construction there'll be a break down of how we did the costing analysis in the top left corner, on the right is our financial assumptions for the interest rates and what have you, and then at the bottom of that page is a 30-year pro forma. And they have to maintain a positive coverage ratio for the first 15 years. We still do a 30-year pro forma, just so that you all can see what's going on and what could be going on.

The pro forma is based on a certain set of assumptions that aren't necessarily real life, they're just a set of assumptions of -- well, for how income and expenses are going to grow. And we use typically a 3 percent income growth, and a 4 percent expense growth, and

that gives us some ability to say, Well, even if expenses out pace income, this deal is still viable, or isn't still viable after 30 years.

The next page is a more detailed analysis of the eligible basis calculation that I showed you right here. And it gets into more detail of that, and it gives you the gap calculation as well, and what the applicant's requested at the bottom.

And the final page is a map so you can get a locational understanding of where the property is. This one is hard to see, but you can see there's a big circle.

Well, the circle is always going to represent a one-mile radius from the site, and then we'll also draw in what the market analyst has identified as the market area, we will also tell you how big that market area is, and we'll identify any other properties that we have in the area that are relevant to the decision.

MR. GERBER: And you'll generally see yours in color, and I'll give you flags to give you -- that are color coded to tell you which properties are, you know, stabilized or not stabilized. But one thing that's important to keep in mind as you think about deadlines, is that Tom's goal between now and July 31 is to figure out which ones of these are most likely to be tax credit

award -- successful tax credit award recipients, and to fully underwrite those so that you could confidently go and award those credits.

One of the big risks with forwards and with other things that we get involved in, is if you don't -- you always want to make sure that's all subject to underwriting, and if there's any underwriting problems, bring it back. So -- but his task is to make sure that you have the 75 underwriting reports for the 55 projects that you will mostly likely to provide tax credit awards on.

MR. GOURIS: And our goal is actually to get them done in June so that gives them an opportunity to appeal any of our recommendations, so that by the 1st of July meeting we can handle those appeals, and if worst comes to worst, by the late July meeting we -- before you make your award recommendations, you can deal with any of those appeals, because there may be an appeal on the amount of credits.

Like the case that we have here, they wanted, you know, they wanted \$121,000 in credits and we're only recommending \$79,000 in credits. That's a big difference.

And I'm -- you know, I know that's a big difference, but it is what it is, and if they wanted to appeal it, they

want to get that done before you make your final award.

MS. ESCAREÑO: What document do they see, what document do the applicants get? Do they get this?

MR. GOURIS: We give them a copy of our underwriting -- as soon as we're finished with it, we give them a copy of our underwriting. They have five days -- five or seven days to appeal, I don't --

MS. ESCAREÑO: Can anybody else --

MR. HAMBY: Three.

MR. GOURIS: Three days to appeal?

MS. ESCAREÑO: -- access underwriting, except for the applicant itself?

MS. MEYER: Yes, it's --

MR. GOURIS: Yes, we post them on our website.

MS. ESCAREÑO: But -- so going back to Sonny's question though like confidential net assets or liquidity data --

MR. GOURIS: Yes, everything that's in here --

MR. FLORES: So really what you've got here --

MR. GOURIS: -- everything that's in here is deemed to not be confidential.

MS. ESCAREÑO: Okay.

MR. GOURIS: So we will say here in the --

MR. FLORES: There's one person on the list

that's --

MS. ESCAREÑO: One principal or --

MR. FLORES: -- confident --

MS. ESCAREÑO: -- somebody --

MR. FLORES: -- yes.

MS. ESCAREÑO: -- that's --

MR. FLORES: Yes.

MR. GOURIS: Yes. Well --

MR. FLORES: So that thing is there --

MS. ESCAREÑO: Okay.

MR. FLORES: -- but not that guy's information.

MS. ESCAREÑO: Okay.

MR. GOURIS: Yes.

MS. ESCAREÑO: Gotcha.

MR. FLORES: That's what gets me, and this repeats itself over and over and over again, and we've never had a incident. So that's what --

MR. GOURIS: Yes --

MR. FLORES: -- quite a job.

MR. GOURIS: Yes, we don't put their financial numbers on -- their personal financials. All the rest of these financial -- all this personal information is open to the public, and we want to be transparent so we do publish these on a -- you know, as we complete them. And

so what we also get is some of the competitors saying, Hey, you missed something here. Hey, you know -- so there's a lot of eyes looking --

MS. ESCAREÑO: Yes.

MR. GOURIS: -- at this stuff.

MS. ESCAREÑO: Yes.

MR. FLORES: There's got to be a rule like you say.

MS. ESCAREÑO: Exactly.

Do you have just a second? Can you explain, if you look at the ownership structure on this deal, can you just explain to us real quick how the deal structure works on that going back to just kind of what we've learned about what the developer does and what he general partner does? One thing I must have missed was so somebody can present a development deal and not have named a limited partner?

MR. GOURIS: Yes.

MS. ESCAREÑO: Okay.

MR. GOURIS: Most times they --

MS. ESCAREÑO: I missed that.

MR. GOURIS: -- don't have that set up.

MS. ESCAREÑO: Most of them don't.

MR. GOURIS: Most of them don't.

MS. ESCAREÑO: Okay.

MR. GOURIS: In fact, when they make the application, they might not even have the partnership organized.

MS. ESCAREÑO: All right.

MR. GOURIS: They may just have the name reserved with the Secretary of State, and they have a concept of what the partnership will look like, but -- and most of the partnerships, this piece is pretty simple because they know that they're going to have a 99.99 percent limited partner. What's confusing is how they're going to divvy up the general partnership interest and who's going to own what of that.

MR. CONINE: You might go into why they have a deal with the housing authority.

MS. ESCAREÑO: Yes.

MR. GOURIS: In this case, they have a deal with the housing authority because the housing authority had the property.

MS. ESCAREÑO: Right.

MR. GOURIS: Right. And they had a property tax exemption in this case, and they wanted to maintain that property tax --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- exemption because that provides them a lower cost of operations. Expenses are lower than they would be otherwise, because they don't pay property taxes. That gives them more capacity to service debt and/or provide cash flow at the end.

In this case they had -- they partnered with the housing authority because the housing authority had this property and didn't know how to get it rehabbed themselves, and needed -- wanted some help to be able to do that, and so they sought out a developer who would be able to help them get that accomplished. The developer did it on a fee basis, and he got all the developer fee, and the --

MS. ESCAREÑO: Okay.

MR. GOURIS: -- the housing authority continued to own the general partnership interest in the property --

MS. ESCAREÑO: So that's how it buys it from itself?

MR. GOURIS: Right.

MS. ESCAREÑO: That's --

MR. GOURIS: Right. And in this case, in order to keep that property tax exemption, they probably were going to have to enter into a lease agreement, which is one of our conditions, because typically in Texas you

can't keep your property -- you get the property tax exemption if you're just -- if you're the owner -- if you're the GP owner of it, you're only eligible for a 50 percent exemption.

In order to try to get a 100 percent exemption, what they would have to do is actually lease the property, the partnership would lease the property from the current owner, the housing authority would continue to be -- own the property outright, but the lease would provide them with the right to do all this rehab.

MS. ESCAREÑO: To get the exemption?

MR. GOURIS: Yes. And they'd still get a 100 percent exemption.

MR. CONINE: Well, it has got the exemption already.

MR. GOURIS: They want to keep it.

MR. CONINE: The housing authority releases it --

MS. ESCAREÑO: Right.

MR. CONINE: -- to this new partnership. So all the county tax authority sees is they still own the property.

MS. ESCAREÑO: I see.

MR. GOURIS: Right.

MS. ESCAREÑO: Okay.

MR. HAMBY: And it has got to be an extended lease. And there's the big issue on the -- there is a really big issue floating out there

right now --

MR. GOURIS: Yes.

MR. HAMBY: -- on the tax-exemption status, because some local county tax districts are recognizing those exemptions. And it's actually the subject of law suits. It's at the supreme court right now.

MS. ESCAREÑO: Right.

MR. HAMBY: And it's probably going to be -- in the next legislative session, there's going to be some correction on it. We are not directly involved in those.

MR. CONINE: That's Jim's job.

MR. GOURIS: Yes. There have been corrections to that law every cycle since I've been doing this, for ten years, you know. So they continue to tweak it, and folks take advantage of it in different ways.

MS. ESCAREÑO: Thank you.

MR. GOURIS: Okay.

MS. MEYER: On housing authorities that -- the property's pretty much not even there, because the tax assessor doesn't even recognize the property. Correct?

MR. GOURIS: Right.

MR. HAMBY: In some cases --

MR. GOURIS: In some cases.

MR. HAMBY: -- because it's city owned.

MS. MEYER: Yes.

MR. HAMBY: Right.

MS. MEYER: Because it's public property -- I mean it's public land.

MR. HAMBY: Yes. It's owned by the -- what -- the entity that created the housing authority. There's a particular provision of the code that -- to create a housing authority by the municipality. And so I want to say it's 149 -- it's a Chapter 149 property. And so it's taken out of the tax basis altogether.

MR. GOURIS: It's important to note that the partnership is going to be a for-profit partnership. The GP might be a housing authority or might be a non-profit, but the partnership itself is a for-profit entity. And that's how the credits get transferred to the limited partners, who are for-profit entities, because if you don't have profits, the credits don't do you any good. If you're not -- if you don't have income, they don't -- the credits don't do you anything.

MR. HAMBY: And since we're on this partnership question --

MR. GOURIS: Sure.

MR. HAMBY: One of the things that we hear in the compliance area is, "People tried to get us to enforce their partnership agreements," which we don't do. But we hear that frequently: "Well, they've cut me out of the deal." And I'm like, That's not our issue; that's your issue; you worry about that, and you go to court; there are civil courts available for that.

MR. CONINE: The --

MR. HAMBY: The partnerships are complicated.

MR. CONINE: And the other reason that they -- these people

have huge competitive advantages because the rents are set at the income level of the county that it's -- the project's located in. So if you've got one of these deals next to just a regular old 9 percent tax credit deal --

MS. MEYER: Yes.

MR. CONINE: -- these guys aren't paying any property taxes, and these guys are paying, you know --

MS. MEYER: So --

MR. CONINE: -- \$100,000 a year, or whatever it is.

MS. MEYER: I gotcha. So that makes it very --

MR. CONINE: It makes --

MS. MEYER: -- attractive.

MR. CONINE: -- a tremendous difference.

MR. GOURIS: The next example is the county housing authority example that you have there, and I'm not going to go into it in any detail other than to tell you just basically that it was a transaction where the property condition assessment came in -- they were going to do a reconstruction. They gave us a property condition assessment. Although there was a question whether they had to or not last year, this year they will have to provide one to us.

But they gave it to us and then said something like \$2 million in rehab costs and that it was going to -- a cost to reconstruct at \$4 million. And we said, Well, geez, if it's -- there aren't any immediate needs and they could rehab it to bring it up to current quality for \$2 million, why are we spending \$4 million on doing new construction.

And so we used that as a justification to say it's not financially viable to move forward with their plan, because they wouldn't go back. And they then came back after we -- while we were doing this, while we were telling them that this was an issue, and gave us a new PCA, Property Condition Assessment, that suddenly said now it's going to cost them \$4 million. But the new PCA didn't give us any more detail, and what have you.

So that's an example of something that we could see: Is it more than is necessary to do the viability. And when they do a reconstruction, which -- we encourage reconstruction -- we want to make sure, though, that it's cost effective to do that.

Income considerations. It all stems from the rent. And the rent is a function of the area median family income for an area. From that gross rent number is subtracted utility allowance, and that's usually provided by the local housing authority for their Section 8 program, something that has nothing to do with the tax credit program. And therefore it sometimes has no -- it's unrealistic when you look at it from a tax credit perspective.

They can -- those utility allowances can be highly volatile. We've created some mechanisms for folks to use other methods to come up with the utility allowance, but the idea is that the tenant isn't paying more than 30 percent of their income at the maximum income toward their housing costs, which include gas and electricity and water and sewer and things like that.

If the applicant -- if the owner is going to pay for gas and water and sewer and those things, then they don't have to deduct any utility allowance out of their rent.

The issue that we've seen recently is that incomes have been flat across most of the state but utility costs keep rising, so net rents are declining. And that's problematic because that means that their operations are thinner and thinner. And that gets back to this whole, What's the right formula to look at, and is income outstripping expenses, and what have you.

Here's an example of how the rents work. And what we're always going to look at is the lesser of the gross rent minus utility allowance, or the net rent, versus the market.

And in this case, the market rent for this middle group was less than the actual net rent. And so we're going to say that this is the rent we're going to underwrite at, the 720, instead of the maximum tax credit rent, because the market study has shown us that they can't get the maximum tax credit rents just for this line. For the other two, we're using the tax credit rents.

Do you want me to walk through that a little bit more?

MS. ESCAREÑO: Yes.

MR. GOURIS: Okay. So you start with -- the market rent is determined by the market analysts. This gross rent is based on -- this is a 60 percent unit. So you look at some calculation that's done by HUD -- and we posted on our website big formulas for all across the state -- that says the maximum 60 percent rent for a one-bedroom unit in this area is 686.

Then you look for the utility allowance to determine what utilities are going to be charged to the tenant or the tenant's going to pay for, and you subtract them, and you get to 613. That 613 is less than 630, and,

therefore, the maximum rent they can achieve at this unit is 613.

The same situation here except for now the maximum rent is going to be driven by the market because the market says you can't get 739; you can only get 720. And so your achievable rent is 720.

And so we'll do our analysis on each rent level that way to make sure that they are going to be able to achieve what they think they're going to achieve.

Questions?

MR. CONINE: Why don't we utility-adjust the market rent category to make it apples to apples?

MR. GOURIS: Because the market analyst has already said, Here's what a comparable property is renting for in the market place. And they might be looking at the net rents, because they don't know what this stuff is. They don't care what this stuff is. All they care about is, What are the other properties renting for. And that's what everyone else is looking at, too: What are the properties renting for.

MR. CONINE: Okay. Now, the other thing to note there that's kind of quirky to this particular program is that -- you'll notice that the rent is determined by the bedroom. There can be real small one-bedrooms, and there can be real big one-bedrooms. There can be real small two-bedrooms; there can be real big two-bedrooms. That to me is the fallacy of this program, because it doesn't adjust its rents based on the size of the units.

MS. ESCAREÑO: Square footage?

MR. CONINE: It's only adjusting based on bedrooms and

incomes.

MS. ESCAREÑO: I see. Not square-footage?

MR. CONINE: And so you've got guys that will tweak the size of their units to benefit them the most. And typically, that's to make them bigger because the basis is bigger --

MR. GOURIS: Right.

MR. CONINE: -- and because they get more tax credits that way.

MR. GOURIS: But the market rent kind of adjusts for that because the market rent is going to be based on a bunch of factors, including size. So if these units are much larger, then they might adjust the market rent to take that into account. If these units are much smaller, then they might adjust the market rent downward, not exactly on a full basis, but they'll make an adjustment for it.

This is a chart you may have seen of where area median income is across the state of Texas, and you can see it varies from location to location. The larger cities are going to have a higher area median income, and the smaller cities and rural areas are going to have a lower area median income.

And we target this blue band right here. Right? These are the -- that's the 60 percent. And then the -- this band right here is the 50 percent. And really, this is the whole of our target. We usually can't serve this group with the tax credits alone. And this is why we can't serve that group, because these are the rents that go with that. And this is the operating

expenses for these areas.

And so you can see in El Paso, to do a 30 percent unit, you aren't making any money to service any debt. And so it's very difficult to get a transaction in El Paso to target 30 percent units.

This line up here represents the fair market rent, which is a HUD-derived number. It simulates the actual market rent for the area. And you can see that it also -- it varies based on the area, as well. It tracks pretty closely to the 60 percent rent, though -- if you look through that.

MR. CONINE: Did you do those yourself, or did you steal them from somebody.

MR. GOURIS: I did them myself.

MR. CONINE: Oh. Okay. Good.

MR. GOURIS: I --

MS. ESCAREÑO: Are you sure it wasn't Cameron?

MR. GOURIS: All right. Cameron did them for me.

MR. CONINE: Now the truth comes out.

MR. HAMBY: That's just an extension of Tom.

MR. GOURIS: That's right.

MS. ESCAREÑO: Well, yes. That's true.

(General laughter.)

MR. GOURIS: Okay. Operating expenses. We're going to look at the applicant's historical data if it's an existing project or if they have other projects in the area. We're also going to focus a lot of attention on our database, because it's pretty large at this point.

We've got, you know, over 1,000 transactions that are good solid information to work with. We've got more than that in the database, but over 1,000 -- I think it's over 1,200 now that are viable that we know are actual. And then we also look at other industry standards, like the IRM, Institute of Real Estate Management, reports.

This is, real quick, one of my favorite slides. And quick isn't going to do it justice, but the deal is: This is what happens to a transaction if expenses grow faster than income. And these are the trend lines. This is the trend line for income, and this is the trend line for expenses.

And if income grows at 1 percent and expenses grow at 3 percent, that's fine; they're not going to meet over here. But this is the debt service that they can support, and this is the cash flow that they have left or the NOI that they have left. And right here, if this happens, 3 percent growth in this and 1 percent growth in here, their debt service remains constant, but they become infeasible right here.

And one of the things that makes this happen sooner is how much cushion there is between the expenses and income. And we've done a bunch of iterations and calculations and made a case to suggest that if the expense-to-income ratio is much greater than 65 percent, this is going to happen a lot quicker even if expenses grow only at 2 percent and income grows at 1 percent.

MS. ESCAREÑO: Didn't you say you did the pro formas, though, or you projected them out --

MR. GOURIS: We do.

MS. ESCAREÑO: -- at 3 and 4 percent?

MR. GOURIS: We do project them out at 3 and 4 percent.

And at 65 percent, this pro forma would hit -- at Year 30 would be where it would cross.

MS. ESCAREÑO: Yes.

MR. GOURIS: Coincidentally.

MS. ESCAREÑO: Coincidentally.

MR. CONINE: You just called his bluff. Way to go.

MR. GOURIS: You did.

MS. ESCAREÑO: I'm sorry.

(General laughter.)

MR. CONINE: Beautiful. I love it.

MR. GOURIS: Well, I know Kent understands.

Okay. We're going to look specifically at the debt coverage ratio because we want to make sure the deal is minimally financially feasible. That's the 1.15. But we also -- unlike a lender or syndicator, we want to make sure that we're not providing more than is necessary and that they're getting enough debt into the project.

And so we're going to say if they're over a 1.35, they either need to have more debt or more deferred developer fee. They shouldn't be using up as much credit. And so we can figure out what that looks like --

MR. CONINE: He's a real popular guy.

MS. ESCAREÑO: Or a deferred developer fee.

MR. CONINE: Yes.

MR. GOURIS: Yes. I've got an example here we can go through, but -- you can read the details of it. But basically, it has income right here of 172,000. It gets down to a net income of \$83,000. So you can -- because you know you've got a minimum -- maximum debt coverage of 1.35, that gives you a minimum debt service of 62,000 or a debt amount of 699- and a maximum debt amount of 820- based on the 1.15 debt coverage ratio.

And the reason that that's important is because when you look at the sources and uses of funds, if you carry this over from the example we had before when we figured out the credit was 255- and you say they're going to get the 85 cents, then they're actually going to get \$2.1 million in equity. And this is kind of the equity evaluation of the gap.

The uses of funds. The total project cost was \$2.5 million. The minimum amount of debt that they could get was 699-. That would be at a 1.35 debt coverage ratio. And the syndication proceeds were that, which then gives them more money than they need.

So they actually need to go out and get -- they actually need to not have so much credit, because we're not going to reduce the debt because if we reduce the debt, then their debt coverage ration would be over 1.35. And so we'll restrict the amount of credit by reducing the syndication proceeds and then backing into the credit amount.

So in this case -- let's see. There --

MR. CONINE: He gets you going, and he gets you coming.

MR. GOURIS: Yes. Well, we're keeping you in a box. We're trying to keep you in the box. We -- the box isn't a one-size-fits-all box. The

outside constraints are, but the costs are what the costs are. And so we're looking at those independently. But then on the outside of that, we put some constraints so we'll make sure we're meeting the, Not more funds than are necessary.

Why some deals don't work? Because they target deep -- they deep-rent target too far. We talked about the 30 percent rents. Rents in rural areas are just too low in some cases. The project size is too small. And it may be that's all the demand that is there, but there's not enough activity going on, and there are not enough units to make it worthwhile. And that would be an insufficient demand.

Project costs could be too high. Or in a bond transaction -- and this is something that we hadn't talked about, but, in order to be eligible for the credit on those private activity bonds that Robbye was talking about, the bonds themselves have to represent at least 50 percent of the total good cost associated with the transaction, which is basically the eligible costs plus land. And if they don't, they are not federally eligible for credit.

And so it's really important that they meet that. And sometimes they deep-rent target there or they're in a market that can't support 50 percent debt. And therefore, they don't work. That's why bond deals don't work in rural areas as well, because they can't support 50 percent of the burden of the transaction as debt.

And this is kind of showing you an example that I've shared with some of you already: A 200-unit project in an urban environment. It's the same exact project except for one was financed with tax -- 9 percent --

credits and one was financed with bonds.

You can see that the debt, 50 percent, has to be from the bonds. So it's going to be a bigger chunk. Plus they only get 4 percent credits. So the equity from that chunk is less. So the likelihood is that they're going to have to have other sources of financing to fill the gap. That might be deferred developer fee or might be local HOME funds, or what have you.

On a 9 percent transaction, the same transaction gets a lot bigger chunk of debt; 70 percent of the transaction is going to be covered by -- I'm sorry. Not debt. Equity. It's tax credits. 70 percent of the transaction is going to be covered by tax credits, and only maybe 30 percent of the transaction is debt.

And their soft financing is typically going to be smaller, although they won't show us that at application. They'll say, of course, that they've got this huge gap that they need to fill so that we can maximize their credit around.

Briefly, there are some market study issues about concentration we've talked about a little bit. There are some new -- there are two key rules for underwriting purposes. And we want to make sure that they don't -- that a transaction doesn't impinge on other transactions that are newly completed in an area. So we do a calculation called an inclusive capture rate.

We look at all unstabilized competing units, and we divide that into the total income-targeted eligible demand. And if that number is greater than 25 percent in an urban area for a family transaction, then there's -- too

much concentration of new product in that market is how it goes. And we don't recommend the transaction.

If it's -- more than 75 percent of the demand is calculated as the inclusive capture rate in a rural area, then we've passed that threshold. And we allow the seniors transactions, whether they're urban or rural, to go up as far as 75 percent, also.

There's a new concentration policy that we added this year that was based on the Houston model. And it deals with overall concentration, not just with those deals that are unstabilized, but with all apartments. And we look at buildings with three or more units in them, and they can't exceed 1,432 units per square mile. And if they do in the census tract, then we won't recommend it.

And if they exceed 1,000 units per square mile for the entire market area, including any parts of the market area that are partially contained by the census tract, then we say that that whole area is overly concentrated. And we won't recommend it.

And this is sort of a map of that. It shows you that in A is the 1,432 and then in all of C in the whole market area has -- the whole average has to be less than 1,000 units.

There are a couple more examples of cases that you have there. The next case, the community case, is one that deals with the 65 percent expense-to-income ratio. I won't go into it, but it is a more complete case as far as the pieces of information. It has the executive director's appeal in there.

And it was one that was -- we ultimately looked at -- the Board ultimately looked at the strength of the developer in that case to say that maybe the 65 percent rule was -- we would be able to waive that rule. That's not always the case. And that's not -- that's something that you all have to consider when you're going through the merits of it.

We're going to not recommend a deal that's over 65 percent expense-to-income ratio, except for a couple of stated exceptions that are in the rule. And then you -- it's a Board rule. So you all have the ability to waive it if you need to for other reasons.

The last case there is a market study case, and it has to do with a market study that initially was provided and didn't meet our capture rate concentration. And it avoided certain properties in the market.

They came back with a new market area that was, you know, twice as large. And we didn't recommend it, because they didn't submit the market area in the right time frame.

MR. HAMBY: Can we go back for just a minute to the community one that he was talking about? The reason that I want to go back to this is because this is one of the examples of where Tom's models work on 99 percent of all the issues.

This developer, who has a lot of experience with tax credit properties, was able to bring in real-life examples of, Look, here's my business model; it works for XYZ, and I've got a 15-year history with it; I'm confident in it; my syndicators are confident in it; therefore, you should let me go beyond the 65 percent debt ratio or --

MR. GOURIS: Expense-to-income ratio.

MR. HAMBY: -- expense-to-income ratio.

And the Board listened to that presentation and said, Okay, they're real-world examples that trump Tom's models. And that's the kind of thing that you can weigh in whenever you start doing these issues.

I mean there may be another person who comes up and says -- and there have been -- I'm absolutely confident that we can make this, because I saw three other properties managed over here by somebody else that hit that. They have no experience in it. They didn't do it.

It's not their real models or they have completely forgotten to mention to you, as Tom will, hopefully, mention to you, Oh, except we didn't pay taxes, because that was a not-for-profit deal; and I can't really meet those numbers over here that I met over there, because this one's for profit and that one was not for profit.

So that's why you need to ask that next question in your mind of, "Well, what's different here," and listen to Tom, versus the other people, and balance out in your mind, Is there really just cause for saying we're going to suspend what works most of the time and what we base our models on for this particular transaction.

MR. GOURIS: And remember, we're trying to make a fair playing field, and we don't want a transaction to be able to get to the money by deep-rent targeting and deep-skewing the rents but not really be viable and not having really any thorough evaluation by someone else.

So a key to the 65 percent rule, I think, would be to look and

see what kind of support they're providing to mitigate or compensate for that.

Are they -- do they have a lender and syndicator who are -- who have really vested some time in the transaction and have really thoroughly evaluated and are backing the transaction? Because if they are, you know, they're taking on the real risk.

We're taking on an allocation risk, but they're taking on a real financial risk. If they're ready to move forward with it, you know, so be it. We're trying to give it a level playing field so folks who are deep-rent targeting and who don't have all that together, you know, are not encouraged to do that. They are discouraged from doing that. And hopefully, the lender and the syndicator in that situation might not show up at the Board meeting to say, Hey, this is the best deal since sliced bread, and these guys are great, and whatever. And that -- you know, you should take that in consideration, as well.

MR. HAMBY: And that is -- the other thing that Tom was talking about is that you have that -- reasonable expectations. And we have our business model. And if you can't come in with something that says why we should waive our 65 percent rule, you should count on it. And if you don't, then you move forward at your own risk. Don't come to me and say, "But I've spent \$100,000 on this application," when you knew that you weren't meeting those target goals that this Board has set for those developments.

And so that provides you the guidance so whenever they say, "I've spent a lot of money on this deal; you've got to help me," you'll say, "Why," and your response back to them is, You knew the rules.

MR. FLORES: Well, this case I remember well. It -- two things. You had a very proven developer, a good one, One. And, Two, you had the underwriters say, you know, This is a good deal. And so that convinced me.

MR. HAMBY: There are things to consider whenever you're looking at -- Tom's models are right most of the time, but you do have real-world application that you can apply to these rules.

MR. GOURIS: Yes. And again, my models are based on what the rules say. And they're your rules, and we tweak them from year to year as -- so we set this -- so we create this box or this contraption that everybody sort of fits in, but it's flexible enough to allow people to, you know, expand beyond that cost wise or expense wise or to go and do something unique and interesting.

The other thing, the last thing, I would say is that our rule or -- our underwriting reports are on the web. As we finish them, we put them up there.

If you ever wanted to compare to another transaction in that market, that's probably going to be on the web, as well. Everything since 2000, I think -- the last five years have been up there -- 2002, I think. And if you needed something that's earlier than that, we can probably get it for you. If you ever have questions about specific underwriting, you know, call me, and we'll -- I'll walk you through what our thought process is.

MR. CONINE: How long does it take one of your staff to underwrite one of these would you guess?

MR. GOURIS: If we have every -- if everything is in line and we have -- you know, there's no missing information and there's no need for deficiency, which never happens any more -- but if that were the case, we can probably get it done in three days, maybe five days, depending on how complicated the transaction is. More likely than not, they're working three or four or five deals at once. Especially during the 9 percent cycle, they may have ten at once that they're working.

And they'll start with it, get some basic information and have a bunch of questions, go back to the applicant, get those questions answered, and start working on another one while they're waiting for the questions to be answered. And that process continues. So they may have three or four actually in process at one time waiting for one response to this or that.

And a lot of -- the thing about our underwriting -- a long answer to your short question: The thing about underwriting is that everything is inter-related. So if they change something because of a score because of the rents or because something is inconsistent there, it's going to have an impact on the gap or something else.

So it all connects up, and it may not seem like it. And that's why we get an amendment, most of those are going to have an underwriting report or a memo to them to say, "Did it impact anything else; would the credits have been the same," because there's going to be some other impacts that happen and we need to make sure that we've covered those.

MR. HAMBY: Which is again -- I'll go into his staff's defense -- why we care about those deadlines so much, because we hear --

from an applicant, you' ll hear, "Well, I gave it to underwriting two days ago," two days before the Board meeting. And it' s like -- it' s not the only thing they' re doing.

They' re doing lots of these, and so that' s -- why those deadlines are very important to staff is that there is something built in, knowing that we' re going to have to do X amount of work or -- they' re going to have to do X amount of work before they can actually make a coherent decision for you guys.

MR. CONINE: Come Friday, when all of them actually come in, how are you -- do you -- they' re all scored. They all -- they' re all self-scored. They go through your shop first before they come over to his?

MS. MEYER: Yes. And actually, they go through eligibility selection, and then we determine which ones look the most successful. We do threshold in Multifamily and then transfer them REA.

MR. GOURIS: But what we did last year and what we' re going to try to do again this year is get a jump-start on it. To the extent that we don' t have bond deals that we have to work on or to the extent that we can put our bond deals -- you know, if they' re at a place where we can rest, we' re going to assign them, all of the 9 percents, out, have them start using the electronic copy and going through and doing some preliminary stuff and identifying issues and putting in some preliminary stuff so we can get a head start.

Otherwise, we won' t actually get our first file until mid-April and then won' t get the bulk of them until late May. And we want to be done by the

end of June. I've got five underwriters, one reviewer and me. You know, that's a huge load. And so --

MR. CONINE: How do you assign them out? Is there a methodology there?

MR. GOURIS: Yes. We'll look at -- we'll do a preliminary look at where the self-scores are, see where the bulk of the deals are. We'll usually assign them by region and -- because that -- because people can go in and out of region.

We'll sometimes get some efficiencies by -- you know, if one developer is doing deals in many places, they're usually doing the same transaction, just that it's going to have a different site. And so there are sometimes some efficiencies there. So we'll give that -- give one underwriter the same guy or gal the same developer to work with, you know.

That's pretty much how we do it. And then the underwriter's responsible for soup to nuts: Reviewing the market study, reviewing the ESA, making sure all those things are consistent with what the application said and putting all that together in the application. And historically, we've had a reviewer do a partial review on all of them and then I've reviewed every one of them.

And I'll read every one of them and make comments, and there'll be, you know, a re-editing process that goes back and forth. And then I'll also contact the developer if there's going to be a large adjustment or something that we think he might get an appeal on. And I'll -- after our underwriter has already done that and maybe the reviewer has done that, I'll

do it, as well, and make sure that we can minimize the number of appeals or at least know exactly where each party is on it.

MR. CONINE: I don't know whether you later on -- I don't think you do, because we're going to -- getting ready to go to HOME as kind of the next subject. Why don't you touch on cost certification? Because nothing comes in at what you think it's going to cost, it always comes in at either under or over. And there's a huge difference between 9 percent and 4 percent as to what the Department does.

MR. GOURIS: Yes. Good --

MR. CONINE: So run through that scenario right quick.

MR. GOURIS: Yes. On a 9 percent transaction, the Department has taken the position that -- and I think it's a pretty good, strong position -- the allocation is the allocation and we won't increase the allocation. We cannot give you more credits than you've asked for.

There is an exception to that that -- we did binding agreements when we had these over-arching universal cost increases that we felt occurred. And so we gave everybody another shot at the apple and gave everybody an opportunity to get additional credits. That's a rare instance, and my preference would be that we never have to go through that again. But if it happens again, we're going to do --

MR. CONINE: It was a hurricane.

MR. GOURIS: It was a hurricane. And there were cost increases.

MR. CONINE: Yes.

MR. GOURIS: And they were real. And so we needed to make sure that these deals didn't fail. But typically, a 9 percent deal is what it is. Once they've gotten an allocation, it's really important that they appeal that amount of credit at the allocation because if they don't, that's their only shot at it and that's what -- the credit that they're going to get. They can't go up. They can go down.

And what happens sometimes is, because we have all these cushions in there -- maybe construction costs are flat. With all those cushions in there, they actually didn't use all the credit that they needed -- that they requested.

And so if we get those credits back within 150 days -- if we can claim those credits back within 150 days of their first year of the credit period, which is either the year they placed in service or the year after they placed in service, then as a state we can capture those credits, keep those credits and use them again.

If within 150 days of the first year of the credit period we don't -- we aren't able to claim those credits back because we haven't been able to issue the 8609s because they have some outstanding stuff -- they didn't give us all the things for cost certification -- then those credits are lost to the state. We don't get to use them again, and the Applicant's going to pay a fee, one year worth of the credit amount, to us because of that loss.

The cost certification process is really pretty simple. They've got to get us the LURA; it has got to be executed by everybody. They've got to give us, you know, their costs. They've got to get a CPA to certify to those

costs.

They've got to provide us documentation to show us that they got the LURA -- that the title work is correct, and, you know, just some of the basic stuff that they've got to provide. There's like 15 items. It's much smaller than the application, and, yet, there's always some inconsistencies.

If they needed more credit or if they can't support the debt that they originally said they were going to support or it doesn't look like it, it could be a problem. We could have a deal that doesn't look like it's financially viable, but we still want to allocate the credit or -- issue the 8609s because they've finished everything else, because the -- if the lender's in it and they've put all their money in it and the syndicators put all their money in it, to take the credits away from them at that point would be -- you know, it would make the deal even that much worse.

But we always -- when we have a situation where the deal looks like it's financially not working, we'll always go back to them and find out, Well, what's going on; can you mitigate this; what are the steps that the lender has taken to make sure that this deal doesn't get foreclosed on as soon as we issue the credits.

Okay. So that's on the 9 percent side.

On the 4 percent side, the differences can be even bigger because what they have for the credit amount isn't an allocation of credits; it's a determination notice, which is kind of like a place-holder to say, We think this is about the right credit amount. And so we'll get a lot more variation in what their ultimate credit amount is for a bond transaction for a 4

percent.

And if -- it's more in a bond transaction. Because they're actually making an application to us with the cost cert, we've deemed that as being an application, and we can actually allocate more credits to them if they need more credits and they can justify more credits.

And I don't have it -- in front of me this percentage, but if it's over a certain percentage -- I think it's 10 percent -- then it would have to come back to the Board for a re-evaluation. But if it's under 10 percent, we can do that with executive director approval.

MR. CONINE: And why are the 4 percent credits not capped from the federal government like the 9 percent credits are?

MR. GOURIS: They're an automatic credit that you're eligible for if you beat the 50 percent debt structure situation. You're eligible for them based on the eligible basis and based on the gap. If you can -- if it's not more funds than you need based on the gap and if you can claim the eligible basis for it, then that's the credit amount you should be getting.

In Texas, we require that they make application for the credits before they finish the bond transactions. In other states, you can do the bonds and go all the way down the road and then come back and get the credits at the end once you know what the final amount is.

In Texas, we don't -- the legislature doesn't allow that. And so you have to get a determination notice to know that you're going to get credits. And so we really haven't allocated them there. We really are allocating them at the end.

And so to allow them to take advantage of what every other state does, we allow them to go up if they need more. We don't lose any credits if they go down.

MR. CONINE: Let me see if I can --

MR. GOURIS: Say that in English?

MR. CONINE: -- expand on that a little differently.

When congress passed the law in '86, the 9 percent credits were fixed on a per-capita basis. So they could control the hits to the federal budget by fixing them that way. The way he just described the 4 percent credits, you would think it would be almost unlimited, which would not be a thing that the congress would want the federal government to have exposure to.

The way they control that is -- if you go back to -- remember the pie chart for the bond program? You have to couple the 4 percents with bonds, and the bonds are capped at a certain amount.

MS. ESCAREÑO: Oh. So there is a --

MR. CONINE: So we only get so many. So the way that the federal government looks at it, they've capped both, and they're giving you, the developer, the alternative to pick which program works for you in that particular location in whatever state you're in. But they both appear to be capped just from a bond proceeds and from a 9 percent tax credit proceeds so that they -- we just can't go crazy giving this stuff away.

I think it's lunch time.

MR. GERBER: I think so. There's a buffet outside. Why

don't we reconvene at one o'clock?

MR. CONINE: That sounds good.

MR. GERBER: Good.

(Whereupon, at 12:05 p.m., the workshop was recessed, to reconvene at 1:00 p.m. this same day, Tuesday, February 26, 2008.)

AFTERNOON SESSION

(Time Noted: 1:05 p.m.)

MR. GERBER: Jeannie, why don't you take over and walk us through?

MS. ARELLANO: Okay.

The HOME division is responsible for administering both the federal HOME program and the state Housing Trust Fund program. Our staff is comprised of approximately 28 full-time employees. We have ten program specialists, which handle the production end of the programs, the application award processes, funding and disbursements and environmental clearance which is applicable to the HOME program itself.

We also have a team of performance specialists that were added to the division as part of a re-org that occurred in October, and they provide technical assistance and performance oversight to the entities that are awarded contracts. We have roughly 300 -- 350 active contracts in place at any given time.

MR. GERBER: And let me say that has been a significant reorganization within the Department. Previously Portfolio Management and Compliance had the Performance section within Monitoring.

We felt that it was more important that -- on the front end of the operation, at the time we should not only be making the awards but also be working with people on their performance to ensure their success on that side of the house, to have that distinct and separate from the monitoring function, which is now much smaller but much more robust in their monitoring

of the program.

MS. ARELLANO: Okay.

And we also have three loan closing specialists that prepare both our single family and multifamily transactions for loan closings. They ensure documentation and the due diligence requirements are in place. A lot of the conditions that Tom may put in the underwriting report are covered by these staff to make sure that we can get to a loan closing. And they also guide our awardees and our developers through that process.

And there's a staff of eight for management and divisional support, administrative planning, training and data reporting requirements.

This is the actual federal purpose of the HOME program. The HOME program you'll hear referred -- us refer to the final rule, which is the federal regulation that governs the program. And then you'll also hear us refer to state program rules, which are rules that are actually approved by the Board.

Every year, the Department receives approximately \$41 million in HOME funds from HUD. The amount depends on -- it's formula based, and it depends on population, age of -- rental housing units, vacancy/occupancy and the age of the rental unit stock that we have in Texas. And the most recent figures released indicate that the 2008 allocation will be closer to 39 million. There has been kind of a slow decrease in the amount of funds that are available.

And as a federal requirement, the Department submits a consolidated plan to HUD every five years. It's kind of like our application to

HUD to apply for the funding. It's updated annually in the one-year action plan. So it'll be called the Consolidated Plan One-Year Action Plan whenever we present it to the Board.

It does outline the activities that we will be funding with the HOME program. It has a funding plan included in it, and we try to also point out what needs we're trying to address in the state and goals and objectives for the Department.

And outside of the federal requirement for the 15 percent set-aside for Community Housing Development Organizations, which we refer to as CHDOs, the Department has quite a bit of flexibility to determine the funding plan amounts and set-asides for the annual allocation.

MR. GOURIS: Does everybody understand what a Community Housing Development Organization is? It's a non-profit whose mission or purpose is to develop affordable housing. And they're a special entity that gets a certification from a HOME --

MS. ARELLANO: It's a HOME-defined term --

MR. GOURIS: Yes. So --

MS. ARELLANO: -- or organization.

MR. GOURIS: So as a HOME provider, we can designate a CHDO or a local participating jurisdiction can designate an entity as a CHDO if they find it to meet the general requirements.

MR. GERBER: There are very significant differences in capacity of CHDOs, and we struggle with their capacity questions routinely.

MS. ARELLANO: Prior to submission to HUD, this plan is

published as a draft for public comment, and then it's finally presented to you all for approval. And this is your first opportunity to set policy on the programming of our HOME funds, our annual allocation.

DR. MUÑOZ: We do it annually, Jeannie?

MS. ARELLANO: Correct.

DR. MUÑOZ: Annually. And we -- you say we have great, or some flexibility?

MS. ARELLANO: There is quite a bit of flexibility in how the funds are programmed. The only federal requirement is that 15 percent is set aside for CHDOs.

MR. GOURIS: And then there are activities that are eligible activities that you have to be within, but there's a wide variety of those.

MS. ARELLANO: And flexibility within these requirements here. The statutory requirements are that 95 percent of our annual allocation must be directed to non-PJs. Non-PJs are mainly urban cities and some rural consortia that are either not eligible to receive an allocation from HUD because of population size --

MR. GERBER: Well, hold on.

MR. HAMBY: Can I clarify that?

MR. GERBER: Yes.

MR. HAMBY: They're not urban areas, the participating jurisdictions.

MR. GERBER: Yes. Participating --

MS. ARELLANO: Not --

MR. HAMBY: You said non-PJs are urban areas. But they're normally not urban areas.

MR. GERBER: A participating jurisdiction is --

MS. ARELLANO: I'm sorry.

MR. GERBER: -- a jurisdiction that is participating in the HOME program and they're getting their own direct allocation of funds, because they're a larger city and have capacity, straight from HUD. A non-participating jurisdiction is typically a rural community, and those are the ones that we -- 95 percent of our funds are statutorily required to go to those non-participating jurisdictions.

So it's -- so we're really essentially only serving rural areas except for that 5 percent, which Jeannie's going to touch on, which can be spent on people with disabilities in any part of the state.

DR. MUÑOZ: Well, what --

MR. HAMBY: And when we say, "Urban," we can mean things like Richardson that's next to Dallas. That has a population of about 300,000, but they get a direct funding from HUD of \$150,000 or something like that. So it's not urban like we think of urban. It's really rural.

MS. RAY: It is not the San Antonio --

DR. MUÑOZ: Is there like a population limit for what's considered rural?

MS. ARELLANO: Yes. The formula calculation -- I believe it's \$750,000 that would end up being an allocation from HUD. And it's based on population -- that formula. And so if the jurisdiction does not hit that

\$750,000 benchmark, they won't qualify for an allocation from HUD.

So occasionally, rural communities will form consortia. So you may have three or four counties that get together that pool together their populations and all the other factors that are used in that formula to be able to apply for funding and may receive a direct allocation from HUD.

And in some cases, cities within those rural counties can not have their populations included in that. And therefore they would be considered a non-PJ for our purposes because they've excluded their populations from the rest of the county.

MR. GOURIS: So you could have a little island of population there.

MS. RAY: So either you are getting a direct allocation or you're not?

MR. GERBER: That's right.

MS. ARELLANO: Correct. And HUD publishes that list annually.

And as Mr. Gerber mentioned, the remaining 5 percent must be spent on people with disabilities in any part of the state. So that can be non-PJ or PJ.

Additionally, as was discussed earlier today, the regional allocation formula must be applied in distributing these funds to the 13 regions for the first-time allocation when we receive it initially at the beginning of that year.

MR. GERBER: And that's really important because when

funds come back if there's funds that are made available but don't ultimately get used -- they're first disbursed, you know, on a regional basis. But then when they come back, you'll notice that we have these NOFAs that we've brought to you where that can be really a first-come-first-served or a different kind of competitiveness, but the regional allocation requirement is no longer in place. It's that first time out.

MR. GOURIS: And that is a big distinction, what they call the 95-5 Rule or -- we call the 95-5 rule, because that 95 in non-participating jurisdictions and 5 percent for disabilities -- it never loses its character. It doesn't matter how many times it comes back and forth to us; it's always the 95-5 Rule. The regional allocation can change.

MS. ARELLANO: And to meet the Department's Rider 6 mandate, we do set aside a minimum of \$2 million for contract for deed conversions. And finally, to meet --

MR. GERBER: And Rider 6 is the rider in the state appropriations bill that allocates the funds to the Department where members of the legislature have been very explicit that they want \$2 million set aside for us to do contract for deed conversions using HOME funds.

MS. RAY: Please explain contract for deed conversions for me.

MR. GERBER: Contract for deed conversion is a process of transferring a contract for deed to a fee simple title. It's a more conventional title, and generally what it's coupled with is the need to also make significant improvements to the property. It's a much more safe and stable home

ownership position for the family of that property.

Generally we're talking about properties along the US/Mexico border where someone has been put into a contract for deed, which is a much riskier ownership position.

MR. HAMBY: Which are now illegal in the state of Texas. They can no longer do contracts for deeds, but we still have several of them that are outstanding.

MR. GERBER: Yes. But what happens with the Department, interestingly, is that we wind up putting in an additional -- it's costing, you know, 55- or \$60,000 to get that house up to sufficient standard in order to be able to move forward with the -- with that conversion.

MR. GOURIS: Well, that's actually the rule the Board passed this year. We haven't had that previously.

MR. GERBER: Yes. Right.

MR. GOURIS: And so that's why we're hoping we'll see more contract for deed properties switch, because there was a cap on what we could actually acquire and change. And Jeannie came up with the plan to make that a little more friendly.

MR. FLORES: But, Mike, on that one, that's different than the Colonia projects. Right?

MR. GERBER: It is. That's correct.

MR. FLORES: But it actually hits the same area of the state.

MR. GERBER: It does. That's correct.

MR. FLORES: And who's eligible for a contract for deed?

MR. GERBER: Anyone who's a --

MR. FLORES: What's the eligibility?

MS. ARELLANO: There is a time limitation on it. I believe it's any contracts for deeds that were put in place after 1996, January 1, 1996. But it is any home owner that has or -- a home purchaser that has a contract for deed in place.

Through the process, there are some other requirements that are imposed. We have to have copies of the actual contract for deed that -- the actual sales contract and also payoffs. And we can't roll in like late fees that have been charged to the purchaser through time.

MR. FLORES: What about the --

MR. GOURIS: There are income restrictions.

MS. ARELLANO: But beside the overall income restrictions --

MR. FLORES: Yes. That's what I was wondering. Income restrictions?

MS. ARELLANO: Yes.

MR. FLORES: And what's the upper limit?

MS. ARELLANO: For the HOME program, it's 80 percent AMFI across the board.

MR. FLORES: Okay. So it's generally people that we deal with; it's not a guy with a quarter-million-dollar mansion, or something like that, in Starr County?

MS. ARELLANO: Correct.

MR. HAMBY: Yes. Those, hopefully, won't be contracts for

deeds.

MS. ARELLANO: Yes.

MR. FLORES: Well, it's just that I see some of those in Starr County.

MR. HAMBY: Yes.

MR. FLORES: But I think they got paid off, anyway.

MS. ARELLANO: And the program, I think -- previously, it was programmed to 60 percent below AMFI for contract for deed conversions.

And finally, to meet the 2306 requirement, our governing statute, is funding -- we fund a Colonia Model Subdivision Program. Tom referred to this earlier with single family developments.

This is for the new construction of affordable housing units, single family housing units. It's still in somewhat of a pilot mode; we made our first awards last year and are getting through contracts and actual implementation of these contracts now.

MR. GERBER: You will undoubtedly hear about this, because there are developments that are along obviously -- you know, for those of you who are representing and who are from border communities, where there are folks who are wanting to do much more with their award and to advance the funding as much as they can. The Department has real capacity questions about many of those who have received awards. So the Board has put in place -- I think it's three units --

Is it three units at a time?

MR. GOURIS: Right.

MR. GERBER: Allowing them access to funds to do just three units at a time. So we're working through those issues, but it has been a difficult pilot program to administer.

MR. GOURIS: Because those are for-sale transactions; they're not rental transactions. And so you have to have a buyer ready to go and have everything -- other financing ready to move forward.

DR. MUÑOZ: Where is that located?

MR. GOURIS: Along the border areas and in the Colonias.

DR. MUÑOZ: Along the border areas, or a specific part of the border?

MR. GOURIS: Any place that is within 150 miles --

MR. HAMBY: 150 miles of the border.

MR. GOURIS: -- of the border.

MR. HAMBY: And that meets a certain -- there's a statutory definition of what is a Colonia. And so it has to meet that definition.

MS. ARELLANO: And these statutory requirements are -- we are programming our NOFAs to try to meet all of these requirements as we present NOFAs to the Board for approval throughout the year.

The main activities that are funded by the HOME program -- and these are the current activities and amounts that were approved by the Board for the 2008 allocation -- are the Owner-Occupied Housing Assistance program. This provides assistance to eligible homeowners to have their homes either rehabilitated or reconstructed, and it must be the principal residence of the homeowner.

And they also must meet Texas minimum construction standards once complete. This is a standard that is set by the Department; however, it's required and approved by HUD.

And the amount of the subsidy to the individual household is generally \$60,000, since most of the units are actually reconstructed to avoid lead-based paint, and any of the -- another thing that we're really seeing is mold remediation when they're going into these houses and trying to evaluate whether or not it's a rehab or a reconstruct.

Under the Homebuyer Assistance program, down-payment and closing cost assistance is provided to homebuyers for the actual acquisition of affordable single family housing, and it can also be used to provide construction costs associated with architectural barrier removal, to assist homebuyers with disabilities by modifying it to meet their accessibility needs.

Homebuyer Assistance construction costs can also be provided as part of the program just to rehab a property, which is technically what happens with our contract for deed conversion program. It's an acquisition of the actual contract for deed, converting it to home ownership and then also providing rehabilitation to bring it up to standards.

DR. MUÑOZ: And this is happening in non-participating jurisdictions?

MS. ARELLANO: Correct.

MR. GERBER: Correct.

DR. MUÑOZ: All right.

MS. ARELLANO: Typically, the amount --

MR. HAMBY: Except for the two middle ones, because they can be for persons with disabilities. Well, that's not on this one. You have it on a different spot?

MS. ARELLANO: It's -- yes. It's on the next page.

MR. HAMBY: Okay.

Similar activities that are targeted towards persons with disabilities.

MR. GERBER: To meet that 5 percent.

DR. MUÑOZ: And this is where the 95 percent is going? Of the 41-, maybe 39 million?

MS. ARELLANO: Correct.

DR. MUÑOZ: Okay.

MS. ARELLANO: The amount of the subsidy for Homebuyer Assistance without construction is typically limited to \$10,000 and down payment assistance.

And the Tenant-Based Rental Assistance program is basically a rental subsidy and security and utility deposit assistance program to tenants.

It's a portable Section 8 -- if you see it that way. It's for a period not to exceed 24 months.

And since it is temporary, it's -- we require a self-sufficiency plan which -- one of the objectives is to get the tenant to move to an affordable housing -- into permanent affordable housing at the end of the rental subsidy. So at the end of the 24 months, the should be getting the tenant into another form of assistance.

MR. GERBER: And TBRA is one of the big tools used by the disability community for deinstitutionalization. They use it as a stop-gap until they can get those persons onto some other form of subsidy, including Section 8. And they make use of our project access vouchers, which the Board just increased the number of from 35 to 50.

And so -- but there's -- still, again, it's a temporary form of assistance. And the Board has generally been hesitant to allow extensions of this beyond the 24-month period.

MR. HAMBY: Well, that's actually a HOME rule issue that --

MR. GERBER: That's -- yes. We have done it.

MR. HAMBY: There's a weasel.

MR. GERBER: There is.

MR. HAMBY: But --

MR. GERBER: But in general --

MR. HAMBY: But in general, the federal HOME final rule requires it to be 24 months. The weasel is that they have, Unless other funds are available to go further. But it's intended to be a 24-month program.

MR. CONINE: Jeannie, isn't the real problem with the self-sufficiency plan how you get their income in 24 months up to a sustainable level where they can afford to pay rent at a normal place?

MR. GOURIS: Well, or, How do you get them a permanent Section 8 voucher when their waiting lists are closed.

MR. CONINE: Right. That's the real --

MS. ARELLANO: And the self-sufficiency plan requires that

they customize it to the individual tenant to find out if there are training needs or educational needs to get them to a point of the earnings that they need in order to qualify for some more permanent housing, whether that's subsidized or not.

And in the HOME program, Rental Housing Development is multifamily, which we -- it's just the term that we use as rental housing development. And we have a set-aside for \$5 million for that.

These are awards that are made to eligible applicants for the acquisition, construction or rehab of affordable multifamily rental housing. We will not provide -- we cannot provide funding to someone that has already received funding through the HOME program unless they've passed their affordability period. And I'll talk about that a little bit later in the slides.

MR. FLORES: Jeannie, before you move on, the -- do we have enough applicants for all four of those programs? Do we have any money left over to -- is there a lack of applicants in any of those categories?

MS. ARELLANO: Well, it has changed over the years.

MR. FLORES: Well, what about the present time?

MS. ARELLANO: At the present time -- because we did a dual-funding cycle in 2006, we accepted applications to fund applicants in 2006 and in 2007. A lot of applicants were not prepared to apply for funding two years in advance. They either had contracts with us already at the time or they weren't anticipating what the needs of their community were going to be later.

So last year, in 2007, when we did receive our allocation from

HUD, we applied the applicants that we had received from 2006. And so we did not fully fund or allocate all of our 2007 allocation.

And in rental housing development, typically they apply for projects that are layered with tax credits. So some of what we wait for is how the tax credit applicants shake out and what the awards are there. There's -- it's very rare that we receive a HOME-only rental housing development application.

MR. FLORES: Do we ever have to send any money back?

MS. ARELLANO: Not yet.

MR. FLORES: Okay.

MS. ARELLANO: I hope not.

MR. CONINE: We've got how many years --

MS. ARELLANO: We have --

MR. CONINE: -- two years or three years --

MS. ARELLANO: We have several open --

MR. CONINE: -- to burn it up?

MS. ARELLANO: We have two years to actually commit the funds, which means getting to a written agreement with a developer or, with an individual homeowner, to commit the funds to them and five years to expend it.

And we have several open NOFAs out right now, and we are receiving quite a few applications.

We have a \$15 million rental housing development NOFA that's out that, as I left yesterday, they told me we have \$12 million in requests in. So --

MR. FLORES: So the federal government doesn't give you --

MS. ARELLANO: And we're trying to get it committed and expended.

MR. FLORES: -- good leeway between commitment and expenditures, huh?

MS. ARELLANO: Uh-huh.

And all of these numbers are estimates until we get our final funding agreement from HUD, which I think is in the process of being sent.

So these -- there are also set-asides that we -- when we talked about the statutory requirements and where -- we try to meet the statutory requirements with these activities. They're set-asides, but they use the same type of activities that I just described to you. So our contract for deed conversion program is a combination of like the Homebuyer and Owner-Occupied Assistance programs, since it is acquisition and rehab.

The Colonia Model Subdivision is a program that's single family development, which we didn't cover as one of the activities because we do not currently have an actual pot of money designated for single family development, but we meet -- the Colonia Model Subdivision helps us meet our CHDO set-aside requirement, because Colonia Model Subdivision applicants must be certified as a CHDO.

MR. GOURIS: We don't have another funding source for that kind of activity other than the Colonia Model Subdivision. So if you want to do that in some other part of the state, we're not doing it right now.

MS. ARELLANO: And the CHDO is -- again, the CHDO set-

aside is 15 percent of our annual allocation. So the \$2 million for the Colonia Model Subdivision program offsets the \$6 million that we have set aside for CHDO.

MR. CONINE: And what do the CHDOs use the money for?

MS. ARELLANO: In that program?

MR. CONINE: Uh-huh.

MS. ARELLANO: To be a single family developer to acquire lots, to provide for the construction of the actual units and to qualify home purchasers to move into those.

MR. GOURIS: To be considered CHDO funds, they have to own --

MS. ARELLANO: Be owner, sponsor or developer.

MR. GOURIS: Of the project. So they can't use it for Homebuyer Assistance unless they are developing the lots themselves and building the homes themselves. And --

MS. ARELLANO: They have to be taking on the risk.

MR. CONINE: And that's where we have a shortage of applications --

MR. GOURIS: In the CHDOs.

MS. ARELLANO: Correct.

MR. CONINE: -- for the most part?

MR. GOURIS: Because, One, it's limited to the number of activities, and, Two, there are a limited number of qualified CHDOs that are able to --

MR. HAMBY: Take the risk.

MR. GOURIS: -- take the risk in non-participating jurisdictions.

MS. ARELLANO: And then lastly, as we mentioned, the \$2 million that's set aside for persons with disabilities. We typically use the Tenant-Based Rental Assistance and Homebuyer Assistance activities to meet that, although next -- I'm sorry -- as part of the 2008 allocation, we have also incorporated some Rental Housing Development and multifamily -- a part of that into it.

And it's important to note that none of these set-asides are subject to the RAF, to the Regional Allocation Formula. So these can go anywhere in the state with the exception of the limitation on the Colonia Model Subdivision as it relates to Colonias.

DR. MUÑOZ: All right. I'm going to ask a question again about these non-participating jurisdictions.

MR. GOURIS: Anywhere in the state except for PJs. They can't go to PJs.

DR. MUÑOZ: Who defines non-participating jurisdictions? Is that by statute?

MR. GOURIS: HUD.

MS. ARELLANO: HUD.

DR. MUÑOZ: HUD?

MS. ARELLANO: Every year.

MR. CONINE: Any city over --

DR. MUÑOZ: Because I think Lubbock as rural. But --

MR. HAMBY: It's not.

DR. MUÑOZ: It's not?

MR. GOURIS: It's --

DR. MUÑOZ: Okay. Midland --

MR. GERBER: But it's not, because they're getting a direct allocation of funds.

DR. MUÑOZ: Okay. I mean is there --

MR. HAMBY: And the only reason we use the term "rural" is because it tends to help people decide that it's -- actually, a small community is what you probably need to think of.

DR. MUÑOZ: How small?

MR. HAMBY: Usually --

MR. CONINE: 25,000?

MR. HAMBY: -- pretty small.

MR. CONINE: Okay.

MS. ARELLANO: 500 -- 300 -- cities of 300.

MR. GOURIS: But again, you could be a city of that size and connect up --

DR. MUÑOZ: And form a consortium, right. I get that.

MR. GOURIS: -- and then be a PJ, and then we can't serve you.

DR. MUÑOZ: Right.

MS. RAY: In other words, you can either get your money directly from HUD or you -- if you don't get it directly from HUD, you can get

it from Jeannie over there?

DR. MUÑOZ: Yes. Well, we're in the housing authority. They had -- a number of small communities approached the Lubbock housing authority to be the sort of administrator of that kind of consortia. I just was trying to get a figure. Okay? So 50,000 and smaller?

MR. HAMBY: Well, it's actually kind of a black-and-white test. If you get money from HUD --

MR. GOURIS: Right.

MR. HAMBY: -- you're not.

DR. MUÑOZ: Okay.

MR. GERBER: It's not like CDBG, where it is \$50,000.

MR. HAMBY: You are. And if you don't, you're not.

MR. GERBER: At \$50,000-plus, you're an entitlement city. You're getting a direct allocation. At 50,000-under, you're not an entitlement city. It's not as black and white as that.

MS. ARELLANO: There are about four or five other factors that are in use in the formula calculation by HUD to determine whether you get -- what the amount is for the allocation.

MR. CONINE: How many PJs in Texas would you guess?

MR. GOURIS: Over 100.

MS. ARELLANO: I could look it up, but I don't even want to venture a guess. I want to say it's close to 100.

MR. GOURIS: Yes. I'd bet around 100.

MS. ARELLANO: Maybe 90.

DR. MUÑOZ: Participating jurisdictions. Right?

MS. ESCAREÑO: And they all receive money from HUD?

MR. GERBER: That's right.

DR. MUÑOZ: That's what --

MR. CONINE: Yes.

MR. GOURIS: Direct.

MR. GERBER: That's right. Unless they are --

MS. RAY: And everybody else is not?

MR. CONINE: That means we're everybody else.

MR. GERBER: Unless they're serving persons with disabilities.

DR. MUÑOZ: We're everybody else? Okay.

MR. GERBER: Then they can get part of our 5 percent.

DR. MUÑOZ: Okay.

MS. ARELLANO: Okay. Finally, if it hasn't been confusing enough --

(General laughter.)

MS. ARELLANO: We also fund another activity for disaster relief. This funding is provided to communities that may have received a state or federal disaster declaration -- if there has been heavy rain or flooding in an area or a tornado has hit. And they are allowed to apply for funding to the HOME program to do the Owner-Occupied rehab assistance program.

So it is to either rehab or reconstruct a homeowner's property. That's the only activity that's allowed under this. And it is important to note

that we cannot duplicate any federal assistance that's provided there. So if they receive -- if an individual homeowner receives a FEMA award of \$10,000, per se, to do some repair work on their house and our assistance would be 60,000-, we would only be providing \$50,000, because we cannot duplicate those federal benefits in that community.

And these funds are administered in accordance with the Department's deobligated funds policy, which was approved by the Board. And we currently have \$6 million set aside from our uncommitted and deobligated funds in anticipation for applicants to apply for disaster relief. And you'll be seeing one applicant at next month's Board meeting.

MR. GERBER: And that probably sounds higher than it probably, you know, should to you, because, you know, all it takes is a couple of, you know, fires or floods. And, you know, all you need is six or eight \$500,000 applications coming in.

And that's enough to fix, you know, eight or ten homes, and -- so just to give you a sense of perspective. And we will routinely see, you know, a lot of -- a fair number of those in the summer time, given, you know, weather conditions.

MR. FLORES: And, Mike, do you have authority or does the governor give you authority or do we give you authority to move on with that? Because normally, when a disaster happens, you have to move on and do something. How does that --

MR. GERBER: Well, we're generally --

MR. FLORES: -- take place?

MR. GERBER: Well, we're generally, of course, not a first responder. You know, we come in with a financing tool to repair homes after really FEMA has left. And after what FEMA pays or SBA pays, then it's whatever else is sort of an unmet need in that community.

They'll submit an application to us. And, you know, we get that usually 60 to 90 days after the event happens.

MR. FLORES: Okay. So we're not a first responder type. So that takes us out of the emergency business.

MR. GERBER: Well, we do work with the division of emergency management to try to make sure that we're in there, you know, at Day One. And we often times participate in those teams. And we have somebody who goes and is part of that so we know what's coming.

So we'll anticipate -- for example, a couple of years ago when we had fires in northeast Texas, we were part of that team. We were out there, we knew, and we were able to advise the Board, you know, in the next 60 to 90 days, anticipate that at one of those couple of Board meetings you're going to see a couple of disaster awards coming your way.

But the governor's disaster declaration or a letter to us indicating that he has determined that a disaster exists kicks us in to making them aware of what opportunities are available under the HOME program and getting them in the queue to come before the Board for however much they're asking for.

DR. MUÑOZ: Okay. This is offline. And the modules that we saw at the last meeting? How do they factor in to this, by competition with the

different home designs?

MR. GERBER: Oh. It's -- that's separate. Because with Hurricanes Rita and Katrina, there was -- because there were no good solutions other than trailers, what we did is -- we had a request made of us to go and set aside \$250,000 to see if architects in the state could come up with a different home design. They used another program, the Housing Trust Fund, that the Board awarded that \$250,000 for to go and ultimately build the winners of that competition.

So ultimately, at some point down the road, if those designs bear out --

DR. MUÑOZ: Right. If that works out --

MR. GERBER: -- they might have some value and be things that we would fund down the road. But they would -- I think there's probably an intermediate step of going to FEMA, as well, and saying, Hey, this is a good quick-build alternative.

MR. CONINE: Jeannie, would you describe what a deobligated HOME Fund dollar is?

MS. ARELLANO: A deobligated HOME fund is one that has gone out in an award to an administrator -- the awardees that receive a contract under the single family-type programs are called contract administrators. Once the funds have gone out in a contract -- they've signed an agreement to administer one of these single family programs -- if for some reason they voluntarily or involuntarily return those funds or a portion of those funds, that dollar is then considered deobligated.

It has gone out, it has been committed to an actual entity, and it has come back in because it has not been used -- versus uncommitted, which means that we've either not been able to have enough applicants apply to a NOFA to actually commit the funds -- we've been undersubscribed -- or we have not committed it -- HUD has another term that they use uncommitted for -- if we've not committed it to an individual household yet.

MR. CONINE: So the money goes out. It comes back in within the five years that we talked about or -- seven years, really. And so now we have a policy that deals -- the Board has to decide a policy that, When dollars come back, here's what we do with deobligated funds.

MR. GOURIS: And it's a total of five years. And we don't wait for the five years to happen.

MR. CONINE: Right.

MR. GOURIS: We put a shorter leash on it because -- we have to get it funded or it goes back to HUD. So we put a shorter leash on it so that if it does come back, we can still get it out again -- if it has been deobligated and it has never been expended --

MR. CONINE: And --

MR. GOURIS: -- and, therefore, it has to get out.

MR. CONINE: And we're spending money on a program that didn't exist in the first batch of programs when the money went out, which is kind of different.

MS. ARELLANO: And there is no NOFA for this program. It is first-come-first-served, to respond to the needs of a community if they need to

apply for funding.

MR. CONINE: And the policy itself has a pecking order, I guess, of other -- things that we do other than this, or not? I don't remember.

MR. HAMBY: Well, it actually doesn't have a pecking order. It has a list of things that apply, and there is no --

MS. ARELLANO: What they have to comply with.

MR. HAMBY: Yes, what -- some things that are eligible. And you'll recall that at one point we had one where we could add money to existing contracts, but they had to justify what has changed to make the addition unusual or unique. And that's one of the requirements that the Board put under that rule so it's not just adding funds to contracts and keeping them going.

And this is by rule. The Board adopted this rule. And if you want to revisit it, you certainly can.

MS. ARELLANO: So the general requirements of the program, again, are that the household must income qualify, federally they have to be at or below an 80 percent AMFI as defined by HUD; however, contract administrators are encouraged to serve families earning less than 30 or 60. And, as I mentioned, the contract for deed program requires that they be under 60.

And there are also other restrictions that may apply based on activities which would be delineated in the NOFA as it's brought before you for approval.

Another -- some of the other restrictions that apply are a primary residency requirement that's very typical for all of the programs under HOME and an affordability period, since this is really our only tool to ensure that a particular income level is being served over a specific period of time.

There are some defined federal requirements for home ownership and, also, for rental housing development. It's tiered based on the amount of assistance that goes to that unit or that development.

And that will then determine how long the affordability period is. But that is where there's a written agreement in place, like a deed restriction, that enforces that affordability period over that time period.

And there are construction standards that -- as I mentioned earlier, we have the Texas minimum construction standards that every -- any construction that occurs, rehab or new construction, has to apply with those standards. HUD makes us have those standards in place. And any other local building codes are also required -- at a minimum.

So all of our housing program solicitations are announced through a NOFA, which is Notice of Funding Availability, which provides the terms under which an application may be submitted. And it also includes the rules and requirements governing that program or that activity.

And while our NOFAs may be published either as competitive or open cycle -- at the division, we had previously issued NOFAs that were competitive, having scoring criteria similar to what you heard Robbye mention today about the tax credit program -- we have moved to some open cycle NOFAs in order to get funds committed and award funds as soon as possible

to be more responsive again to the needs and demands of the communities.

Also, we do have some threshold criteria in the NOFAs that they do have to comply with just to be able to have their award considered. And there are also application requirements. And all our NOFAs are presented to the Board for approval to submission before they're published in the Texas Register. And so this is your second opportunity to kind of look at the programming of the funds.

MR. GOURIS: I guess more specific -- it actually goes down to the detail of the activity that your program is. So you initially do the annual plan, and then that doesn't actually set those monies in motion. It's the NOFA that actually sets them in motion to receive applications.

MR. CONINE: Do you go over later on who's eligible to apply?
Or --

MS. ARELLANO: Actually, the next one.

MR. CONINE: Okay.

MR. HAMBY: There you go.

MR. FLORES: Good question.

MR. CONINE: You'd think I'd have seen the slide, wouldn't you?

MR. GOURIS: Yes. He was just trying to get me to move on, I think.

(General laughter.)

MS. ARELLANO: Our eligible applicants are units of general local governments -- so cities and counties -- public housing authorities, the

CHDOs and other non-profit organizations and for-profit organizations.

In 2008, with our 2008 allocation, we're planning an open application cycle -- this is the big pot that we receive -- again, to be more responsive to the needs of the communities. And we can customize the awards to local demand. We're hoping that this model will create less of a barrier to entry for especially smaller organizations and small communities or organizations that may only be serving three units, versus ten units.

In the past, with the competitive application cycles, we had a lot of point chasing going on. And there are several grants writing consultants involved in the single family programs, and so a lot of it was not really looking at the needs of the community, but it was looking at, you know, "How can I get this application funded and an award made to this community," instead of, "What does the community actually need, and will we be able to carry it out."

Staff is also going to be providing more direct marketing of our programs and our NOFAs out to the cities, counties and non-profits who we do business with, and much more technical assistance during the application process, so that they have a real clear understanding of, "This is what you're applying for; this is what you're going to have to do at the back end if you do get an award," and to prepare them for that.

DR. MUÑOZ: How?

MS. ARELLANO: Through the workshops. We do workshops. We actually go out into the areas and do workshops. Sometimes they're done in areas, depending on what we're going out with and what activity --

DR. MUÑOZ: And not participating jurisdictions?

MS. ARELLANO: Correct.

MR. CONINE: You've got it down.

MS. RAY: By Jove, I think you've got it.

(General laughter.)

MR. HAMBY: And we also have a list serve that we --
How big is our list serve for HOME, Jeannie?

MR. GOURIS: Huge.

MS. ARELLANO: Oh, I don't know.

MR. HAMBY: We have a pretty big list serve --

MS. ARELLANO: It's pretty extensive.

MR. HAMBY: -- that we send out these kinds of
announcements to on a routine basis so they will know where these
workshops are. And --

MR. GERBER: And let me add also that --

DR. MUÑOZ: How many have been done in the west Texas
area -- the high plains?

MS. ARELLANO: I would have to check on that.

DR. MUÑOZ: Ball park, the last two years?

MS. ARELLANO: Oh. Well, at least --

DR. MUÑOZ: One?

MS. ARELLANO: I would say at least one per year, because it
was an application cycle.

MR. GOURIS: And then they'll also do technical assistance
with specific administrators who need that and do one on one, either by phone

or go out and visit, to do what needs to be done.

MR. GERBER: Because, remember, we try to keep -- I mean, you know, we really do sort of in all our programs sort of think about things in that regional allocation sort of way. We don't -- we won't hit all 13 service regions every year with public hearings and with technical assistance workshops and other things, but we will hit a wide, you know, range and get pretty darn close.

DR. MUÑOZ: No. I appreciate that, Michael.

MR. GERBER: Yes.

DR. MUÑOZ: But I mean a lot of Board members are close to the I-35 corridor. Out there in west Texas --

MR. GERBER: Sure.

DR. MUÑOZ: -- the size of Nebraska --

MR. GERBER: Sure.

DR. MUÑOZ: -- you know, Hereford -- Earth, Texas -- and there really is a place called Earth -- and I mean those places -- I mean I appreciate an e-mail, but sometimes more has to be done. So I'm just curious sort of about those small towns --

MR. GERBER: Oh, sure. Yes. We --

DR. MUÑOZ: -- and how they might be, even more so than alerted, encouraged to take advantage of the training.

MR. GERBER: Sure.

DR. MUÑOZ: I mean you get an e-mail, and it may not be the same as, you know, We want to come up and have you coordinate a regional

meeting there in your town and invite --

MR. GERBER: Yes. No. It's a really valid point. And in fact, I think what you're also getting at is something that we've as a Department experienced significant challenges with.

I mean it should not take a consultant to be able to get a small community through the maze of this program. And what has happened has been a very small group of consultants has managed over many years --

DR. MUÑOZ: To monopolize --

MR. GERBER: -- to lock down the program. And we've been trying to make it simpler to the extent that we can and trying to open the program up so that there's greater accessibility, greater technical assistance and, also, greater odds that they're going to complete the use of those funds within that two-year period.

You -- this Board has been put in the unenviable choice of your two years -- you've got a two-year award. You know, less than ninety days out from the completion of -- from when that award's supposed to expire, they go and they demolition houses. So those families are out of those houses, and you're stuck with the decision of having to go and extend the contract for however long to help those families.

And the Board has always opted to help the families. The Board has had real issues and staff has had real issues in being sympathetic to consultants like that, and we have tried on the management side of the house to make sure that that's no longer possible.

And we've tailored the rules over the last two years to stop

those kinds of abuse, as well, but they do periodically still crop up from old HOME contracts; we're slowly working them out of the system. But getting around and doing those technical assistance visits statewide in rural areas is absolutely key. And we'd love to -- any help that we can get to get the message out to invite people to attend those things is always appreciated.

MS. ARELLANO: One of the other things that we're planning is that as -- we receive a lot of calls from individual homeowners that are calling and saying that, We were affected, and I need to have my house repaired, and I've heard about this HOME program. We get a lot of individual homeowners that call that way.

And our hope with the 2008 allocation, especially for the owner-occupied activity, as it opens is to actually tell -- inform the homeowner to, you know, contact their city or county and see if there's someone that would be interested in applying for funds, and for us also to make a proactive call to that city's or county's offices and talk to someone there that may be interested in submitting the application for funding to the program.

We also plan on doing some direct marketing to all of the non-profits -- I'm sorry -- the cities and counties and non-profits that we have on our list serve to notify them -- not just through the Texas Register, but to directly notify them about these NOFAs that are coming available.

MS. ESCAREÑO: Jeannie, I have a question about -- you had mentioned on the rental housing development part, the multifamily -- right -- that -- you had said typically they apply with projects that are layered with tax credits. Is that so -- is there some kind of due diligence or prioritization or

ranking that goes on?

I mean if there's -- are those more -- are those better candidates, or not? Or -- since they're already receiving tax credits, are they -- how are they considered in terms of the prioritization of who gets those monies?

MS. ARELLANO: Well, the application cycle itself is open cycle. So it's -- quite a bit of it is driven by the -- if they're layered with the tax credits.

MR. GOURIS: We try not to do them -- do the tax credits and then come back for HOME funds later. What we'd like to do and what we encouraged and what we, you know, try -- because we've gotten direction from the Board in the past, is to have them come in at the same time.

So they're -- as they're applying for tax credits, they're also applying for HOME, and it's part and parcel, the same application, basically, with --

MR. GERBER: So he's underwriting those deals --

MS. ESCAREÑO: So you're --

MR. GERBER: -- with HOME at the same time.

MS. ESCAREÑO: -- considering it during underwriting?

MR. GOURIS: Right.

MR. GERBER: That's right, and at the same end-of-July Board meeting where you're awarding the credits, the very next item is generally the award of the HOME multifamily awards, as well. So you're --

MR. GOURIS: But as far as priorities go, if they're not in the

money for the tax credits, they typically won't move forward as a HOME deal because the tax credit's such a big piece of it that it's not financially viable without, you know, 70 percent of the funds. So we wouldn't move forward with it --

MS. ESCAREÑO: So one -- okay. So like -- if we went back to your bar graph where you showed the financing, debt and equity and then soft financing, where -- so somebody's in that 9 percent -- they're in the 9 percent program. Where are those HOME funds? Are they in the soft?

MR. GOURIS: They could be. Or they could be part of the --

MS. ESCAREÑO: The equity? The --

MR. GOURIS: -- the debt funds, as well.

MS. ESCAREÑO: Oh, the debt? Okay.

MR. GOURIS: Yes, because it may be that they have a conventional loan and a HOME funds loan that's actually going to be repaid and really considered to be hard funds, but in a second lien position. Or they could be soft funds that are maybe underwritten at a zero percent or at a deferred forgivable so that they might be forgiven at the end of the 30-year period, or whatever.

MS. ESCAREÑO: Those HOME funds might be?

MR. GOURIS: Could be.

MS. ESCAREÑO: Okay.

MR. GOURIS: We'll look at what they've asked for. And if what they've asked for is within the rule for that year, you know, we'll underwrite it that way. It may be that you all look at that and say, you know, I

don't want to see our HOME funds being granted or deferred forgivable. And then you all would make those --

MS. ESCAREÑO: Okay. So if there was ever a question, "Does a development that's in the money for tax credits -- do they -- are there times where they also need HOME funds to finish the deal," then absolutely there are plenty of developments like that -- projects that need that?

MR. GOURIS: The --

MS. ESCAREÑO: I guess, from a community standpoint, some -- I'm just trying to help like -- in terms of -- help get clear on -- is there a misperception of double-dipping? Or --

MR. GOURIS: Yes.

MS. ESCAREÑO: I mean there's a lot of overlapping of all of these different assistance programs. So sometimes it takes a village to build a village? I mean --

MR. GOURIS: The reality is that in many cases, the HOME funds are relatively small and could be absorbed by deferring developer fee. Deferring developer fee is not a good thing, because it means that the cash flow that the project was going to provide now has to go to repay the developer the fee that he earned when he constructed the thing. And so you want to minimize the amount of deferred developer fee.

MS. ESCAREÑO: Okay.

MR. GOURIS: And so there is a public benefit for allowing HOME funds to be used to reduce the amount of deferred developer fee

necessary.

MS. ESCAREÑO: Okay.

MR. GOURIS: Not everyone believes that. Not everyone agrees with that premise, though. And so --

MR. HAMBY: Well, there's also another part of that. Because the HOME funds are a point matter, if you have local political subdivision involvement or participation, you get additional points on your application.

MR. GOURIS: Right.

MS. ESCAREÑO: For tax credits?

MR. HAMBY: For tax credit purposes.

MS. ESCAREÑO: Yes.

MR. HAMBY: The way we've done that is -- because -- these HOME funds, the HOME funds we have, are not available for cities to give directly whereas, if you have a deal going on Richardson, they can award HOME funds to it. So we've allowed applicants to get a resolution from the local non-participating jurisdiction that says, We are allowing this Applicant to apply for HOME funds on our behalf.

MS. ESCAREÑO: Okay.

MR. HAMBY: And so they may not actually completely complete the application process until they find out they're in the money, but they will do part of that -- they'll have the resolution, and the city --

MS. ESCAREÑO: And have it ready --

MR. HAMBY: -- or the town will have already committed to seeking those funds.

MS. ESCAREÑO: I gotcha.

MR. HAMBY: So there's a little bit of the chicken and the egg, because some of it's point questions and some of it's, Do we need the money to complete the deal. And that's where Tom's group comes in.

MR. GOURIS: So they might go after the HOME funds for the points, but then ultimately decide that the HOME funds are more trouble than they're worth and --

MS. ARELLANO: And turn them back in.

MR. GOURIS: -- turn them back in.

MS. ESCAREÑO: Okay.

MR. DALLY: And there's a later implication of HOME funds are layered in with tax credits that Patricia will talk about.

MR. GOURIS: Yes. There are some special rules depending on how -- what interest rate you're using.

MS. ARELLANO: And --

MR. FLORES: It sounds like it's not free money.

MR. GOURIS: Yes.

MS. MURPHY: There's a catch.

(General laughter.)

MR. CONINE: I was going to say you kind of glossed over the --

MR. FLORES: The original was free money and then when you get the other details, you find out, I don't know if I can put up with all this stuff.

MR. CONINE: Well, you have kind of glossed over all the uses of HOME funds and whether they're grants or whether they're loans and the mentality behind all that.

MR. GOURIS: It's coming.

MS. ARELLANO: Well, I think the next slide will cover that.

MR. GOURIS: You're keeping us on pace. Very good, Mr. Conine.

MR. CONINE: I've got to be quiet.

MS. ARELLANO: Okay. These are recent developments, changes -- issues, I guess you could say.

In January of 2007, the HOME division was reconstituted, bringing back together into one division both the single family and multifamily program components, also incorporated the Housing Trust Fund and the provision of technical assistance and environmental clearance procedures. And then in October of 2007, we were further reorganized, bringing the full administration of the program under one division.

And we had the addition of the performance team to provide oversight to the active contracts and technical assistance to ensure that they're meeting their contractual requirements, pushing them along so they don't wait until three months before the end to say, "We need more time," or "To demolish a unit." And the contract monitoring function is conducted independently by staff in Patricia's division.

And in an effort to provide for recycling of program funds, the Board approved a rule change in the form of assistance on our Owner-

Occupied Housing Assistance program from grants to loans in February of 2006. And the implementation process for these loan closing requirements has been quite challenging for both us and the administrators, but I am happy to say that we have successfully closed nearly a dozen OCC loans at this point.

And it has taken quite a bit of retraining of our administrators. And over 30 files are currently in our legal division for the represent of closing documents for closing to occur within the next month or so.

MR. GERBER: It has been a huge issue switching from grants to forgivable loans. And it's being deferred -- it's being forgiven at a rate of 20 percent per year. And so it, of course, has the effect of a grant at the end of the five-year period, but, to ensure that those dollars stay in rural communities, the Board made that decision.

There was an effort last legislative session to go and preclude the Board -- preclude the Department from doing anything but grants. That was taken out. But we are struggling immensely -- and have -- with trying to get low-income people confident in the idea of still signing what's a loan. I mean it's a complicated loan document. We're working through it, but it has been tough.

MR. GOURIS: And --

MR. HAMBY: Well, rollover funds was a part of it, but there's also the affordability period, making sure that the people who received those benefits actually lived in the home for five years, so we didn't have people either tossing out grandma after their home was reconstructed or, conversely,

saying, Jackpot, and I'm going to sell this home for whatever I can get out of it and take the funds and go somewhere I want to live.

And the other side of it was that the legislature, as we said earlier, does have a requirement that we serve a certain number of people 30 percent and below. And so the Board provided the incentive of a deferred forgivable loan for people who were 30 percent and below, repayable or deferred forgivable at longer terms.

And so that's why we we're using these funds to meet the statutory requirements to push down to the 30 percent level, because nobody wants to serve the 30 percent because, quite honestly, they're harder. They're just harder to deal with all the way around.

MR. GOURIS: And I mean that's the case with the HOME funds in general. There's a lot of pieces to it and a lot of rules that you have to keep up with. And so there are grant administrators that are less likely to want to participate in a program where there's another layer of difficulty. And so you've heard or you will be hearing more from those folks who help communities get into these programs about the need for grants versus loans.

MR. CONINE: Talk about the multifamily piece and how it recycled.

MR. GOURIS: Well, if we've made an allocation and they decide that that's too complicated or that it's not worth the effort, then they'll return those funds. It'll be -- they'll be awards that are deobligated.

MS. ARELLANO: Or uncommitted.

MR. GOURIS: Or uncommitted.

MR. HAMBY: No. I think he means the loans that get repaid.

MR. GOURIS: Yes, I know. I'm starting with the first piece first --

MR. HAMBY: Okay.

MR. GOURIS: -- because it's all part of the piece.

And then they'll do -- if they keep the HOME award in place, it'll be either in the form of a loan or a grant or, more likely, a loan with a deferred forgivable piece where we determine that they fit within our construct of the 1-to-15 to 1-to-30 debt coverage ratio with repayment of some of the HOME funds, but the rest of the HOME funds are going to be provided but then put off to the side as far as repayment until the end of the term, and then potentially forgiven at that point.

We want to get as many dollars back into the program as possible. And so we're always going to try to structure a transaction with repayability, either in zero percent or with a longer term of repayment schedule, but oftentimes that's not possible.

If it's below market, if it's below a rate that the IRS determines, then special conditions apply where they may not be eligible for the full tax credit amount unless they do certain things. And it gets kind of complicated from there.

But basically, if it's not -- if it's below that amount and they can't repay that except for if it's below that amount, then they're not eligible for the 9 percent credit and they have to set aside 40 or 50 -- they have to do all these other things to try to make them still be eligible for the full credit

amount.

Is that where you're going with the recovery?

MR. HAMBY: But from a purely HOME group, it becomes program income. And so that comes back to the Department to reissue.

MR. GOURIS: Right.

MR. HAMBY: Not with the tax credits.

MR. GOURIS: Right.

MR. HAMBY: That's a whole -- that's a specialized deal.

MR. GOURIS: Right.

MR. HAMBY: But whenever we do a multifamily deal or we do anything that is a repayable loan out of the HOME programs, it's considered program income, and it comes back to the Department to re-spend in a similar HOME-type manner. So it continues to have the revolving fund for the Department. So even as our HOME funds get cut, we still have dollars coming in so we can continue in our same manner.

MR. DALLY: Yes. If there's a 41/39 million fresh money each year coming from HUD, this program income is in addition to that and can be a longer-term stream of funds back to the Department.

MS. ESCAREÑO: But you're going to -- we're -- that's -- I mean you just finished saying that for your single family-type deals, you're seeing those as mostly forgivable. And -- but for the multifamily side, it becomes an -- income back. It's revenue back into the Department to use.

MR. GOURIS: Yes. The single family --

MS. ARELLANO: And it's -- it can be both on the single

family side, because, if they don't comply with the affordability period --

MS. ESCAREÑO: Right. But I mean the intent is that they comply with whatever --

MS. ARELLANO: Yes.

MS. ESCAREÑO: -- the forgiveness or deferment is. And --

MR. HAMBY: Well -- and there are some higher income levels where we do have just repayable loans. We don't see those as often --

MS. ESCAREÑO: I see. Okay.

MR. HAMBY: -- again, because we are pushing down. And that's part of that issue.

MS. ESCAREÑO: I see. With the 30 percenters?

MR. HAMBY: We'll make the 30 percent, the easiest to give --

MS. ESCAREÑO: Yes. Gotcha.

MR. HAMBY: -- be grant-like in form. And so that push-down does allow -- does basically push most people into doing that, because they can sell that loan or they can sell that type of an arrangement to the people they're trying to help, as opposed to the people who are between 60 and 80 that have to repay that loan but don't really want to go through that.

MR. GOURIS: And then HUD requires us to spend those program income dollars before we actually spend our new monies. So when we get those monies in, we have to -- those go out first.

MS. ARELLANO: But in effect, that creates additional units that we're serving, because if it's \$2 million a year that we're getting in program

income, that's another \$2 million worth of units that we're serving. So we'll reprogram that.

MR. CONINE: Right. And if you do that multiple years, then, all of a sudden, you've got a huge pot of money that -- rather than just getting 40 million in and granting 40 million out, you're getting 40 million in and loaning some of it out that recycles. And after ten years, you double the pot, basically.

MS. ESCAREÑO: Right.

MS. ARELLANO: And that has been a bit of the discussion from HUD officials that -- you need loan programs in place to -- because the allocations are decreasing. As you can see, this year, we got 39 million. We were, I believe up to about 45 million at one point, and now we're down to 39 million. And that's -- what they keep advocating is to put programs in place or loans in place to make sure that you are recapturing and recycling some funds and getting loan repayments.

MR. HAMBY: And one of the things that Jeannie did research on -- and we've made this switch -- and the Board was cognizant of: In Texas --

Well, you can tell the story.

MS. ARELLANO: Almost all of the PJs in Texas do provide their owner-occupied rehab programs with the form of loans, and some of them are even actually repayable loans. So that's not unusual.

Also, in doing research, in talking to the other top ten state PJs, which -- there's only a few of us that have the large allocations that we do at

this end. And so when you get down to the top ten, there's -- the tenth has a much lower allocation. So it's not as easy to compare.

However, almost every state that I talked to except Pennsylvania requires loans for their programs or requires their state sub-recipients to do loans for their owner-occupied rehab program of some form.

And lastly, as we already talked about, the two-year funding cycle in 2006 resulted -- there was an intent to spread the funds out to more communities. And unfortunately, we had decreased awards last year because, again, applicants were not ready to submit two years in advance. That's another reason that we're moving to these open application cycles.

And our goal -- the staff and I -- our goal is to try to have at least one success for some of these small communities -- even if they administer a small award, let them have that success -- to build on that capacity and be able to apply for another award of funding.

So from the HOME program itself, you will see vary -- I don't think you'll see very many issues come before the Board that are challenging, you know, applications, awards, or appeals for termination of an application. I don't think that's much of what you'll see coming from the division, but what you will see is lots of HOME amendments, as we refer to them.

We've got some old contracts that have been sitting out there that were larger dollar amounts -- like -- our 2005 contracts typically had \$500,000 in them -- that are either coming in and have not progressed very far in their contract and are wanting extensions to be able to carry out the activities under that program or they've demolished a unit and, you know,

didn't think about, I need this much time to still get done, and the contract's ending before that time.

So we have been -- we are -- we have a process in place for a contract administrator to request an amendment, and, basically, they have to submit some justification, a compelling reason, for the request. And the -- if anything in their request would have resulted in them not receiving the award, because of the point structure at the time of the application, they would not be able to move forward with the request that they're asking for.

And they also have to still be in compliance with the Department's compliance and monitoring and auditing requirements. So at this time, because of the performance specialist team, they will typically be the -- all of our contracts are now assigned to an actual staff member or performance specialist so they have a point of contact.

And at this time, those performance specialists will be the first line of contact in an administrator thinking they're not going to get done or running into some issues that they need an extension or an amendment for. And they are ensuring that they provide any support, any explanation, whether it's pipelines or agreements with contractors, letters from contractors or any documents that we need to make sure that loan closing can even move forward before we will even entertain the request.

So they have to really show us their plan if they do want a three-month extension or a six-month extension, and it has to be a reasonable plan that we can see will allow them to carry out their activities by the end of the contract period. We will --

MR. HAMBY: Which is a significant change which is having some negative impact across the consulting community -- that they are being required to submit more information before they make their amendments. So you will hear complaints from consultants about that process.

MS. ARELLANO: And there are a lot of contracts that are just turning in the money because they know that don't have the documentation to say why they're not at this point or that, "We can get it done in the next six months," when they really need another two years to get done.

We are pushing back on those. And we are sending out termination and deobligation letters for those.

And if they do -- obviously, the applicants have the right to appeal that decision, whether that's a letter that comes from myself or from Mr. Gerber. They can appeal that, and then they may end up before the Board to discuss those scenarios. I do think that those will decrease because, as I mentioned, they're turning in the money.

MR. CONINE: Rather than face the Board.

MS. ARELLANO: Any amendment requests that either -- Mr. Gerber does not have the authority to approve will be presented to the Board for approval. These are typically covered in our rules. They're two categories, typically: Time extensions -- Mr. Gerber does have the authority to allow one six-month extension unless there is some documentation of unusual circumstances and unforeseeable issues.

And Mr. Gerber then will still -- if he's not comfortable with those, will still, I guess, either deny the request or defer to the Board for

approval.

As it relates to increases in award amounts, one of the examples that I've handed out to you all is just this. If there's an increase to the overall original contract award amount -- they were given 500 -- and if the increase will result in a 25 percent increase to the award, those are also amendment requests would have to come before the Board for approval.

So I've handed out a couple of examples of amendments and what these look like. The first one is Down payment Dreams, Inc.

MR. CONINE: Did you make that one up?

MS. ARELLANO: Yes.

MR. HAMBY: The names have been changed to protect the innocent.

MS. ARELLANO: Yes.

(General laughter.)

MS. ARELLANO: This was a Homebuyer Assistance contract administrator. They were requesting their second amendment to extend their contract end date for six months. And in addition to that, they also requested a reduction in their amount of match required.

We go through, again, describing what activities they have already set up in our system. This lets us know how ready they are to get done with the end of their contract.

And then also, there's an analysis in that fourth paragraph down under the background that describes that if we did reduce their match -- we rescored them -- this would not have affected their application. And then

we also point out that they have served six households at a lower income level than what was contractually required.

So our -- and then you'll see a current status of it, which shows the contract end -- start and end date, their total amount and then what they've drawn to date, how many units they've served, and our recommendation -- staff's recommendation. And if you do approve, choose to extend that contract, there are some conditions that we would suggest being added to that extension. The --

MR. CONINE: Did you -- I see the ADDI listed here. Did you confuse them with that explanation? Yes?

MS. ARELLANO: I'm sorry?

MR. CONINE: The ADDI, American Dream Down payment Initiative. Did you try to differentiate that between the regular HOME funds? Or --

MS. ARELLANO: It -- our awards that went out for Homebuyer Assistance included the ADDI funds, American Dream Down payment Initiative. That allocation is a separate allocation from HUD, and it's very difficult to administer because the way that they track it on the timeliness on it is different from the rest of our allocation.

So we ended up -- when we went out with these Homebuyer Assistance NOFAs, we ended up putting the restrictions on all the funds for what the ADDI restrictions were.

MS. ESCAREÑO: Oh. How much is that -- of the allocation, how much is ADDI funds?

MS. ARELLANO: It depends on the year. But next year's is only \$232,000.

MR. CONINE: Congress passed the HOME legislation in 1992, I believe, as kind of the first rattle out of the box for Clinton. And then in 2003, I think, the American Dream Down payment Initiative -- Bush signed it into law -- which is just an extra chunk of down payment funds essentially.

So we get both allocations on an annual basis, and, as she said, they have different rules. And, again, it's just confusing.

MS. ARELLANO: And when they came out with them in 2003, we didn't get them until 2005. So then we had to roll the two allocations together. And the way they track it, that two year/five year thing -- they only track two things. It's two years to commit and expend. It's tracked a whole other way.

MS. ESCAREÑO: So you just apply the ADDI rules to the -- to all of the applications?

MS. ARELLANO: Homebuyer Assistance, yes, which -- the essential difference is that it's -- the max is \$10,000 or 6 percent of the purchase price.

MS. ESCAREÑO: Yes.

MS. ARELLANO: And they have to be a first-time homebuyer. Regular Homebuyer Assistance for HOME does -- you do not have to be a first-time homebuyer, and the down payment assistance can be higher than that.

MR. CONINE: Other than that, there's not much difference.

(General laughter.)

MS. ARELLANO: The second one is an extension that is requested basically for construction issues. There was -- this was for Lone Star County. They basically had a large contract and had several units to serve; however, as they were working through these contracts, they discovered four households that had some special circumstances.

One was that if you take a -- this is just a unique thing for the HOME program. If you take a manufactured housing unit and replace it with a site-built, it does require an affordability period, a federally-imposed affordability not the same as our state imposed through the rules -- loans through the rules. And you have to handle the transaction a little differently.

And in this situation, they needed the time to actually be able to close on these loans. And there were also two units that were also being assisted with CDBG funds. Those CDBG funds were being used to elevate, and that has to be provided in the form of a loan. So in this situation, they asked for an extension to be able to complete those.

And staff, in looking at it and seeing that we've got everything in line to move forward with it, but knowing that we still need time for the loan closing to occur and the construction to actually occur, were recommending that the extension be approved.

And the last one is City of My Dreams, or City Not in My Dreams, depending on how you want to look at it.

MS. RAY: Nightmare City. Right?

MR. CONINE: Deep Water.

(General laughter.)

MS. ARELLANO: But this is one example of what I think you're going to be running into especially in our OCC program, where the extensions are typically for construction delays, whether that's through the bidding and the procurement process of the contractor, weather-related delays -- we've had a situation where a contractor may walk off. We've had situations where a consultant walks off and the city is kind of left trying to pick up a program that they're not even familiar with administering.

And in this scenario, basically, the request was to increase the budget for two of the units but not -- it would not be more than a 25 percent increase for the total award. So there were two households that were requesting to change the individual assistance amount from 55- to 66-.

Historically, the program has provided \$55,000 in assistance per household, and that was kind of a max that was imposed just through the carrying out of the program, the administering of the program. And in February of 2007, the Board approved an amendment to increase project funds for all 2005 and 2006 active OCC contracts by 9.09 percent, but no more than 5 percent per unit, so they couldn't exceed the 60-.

And our HOME rules that were approved for 2008 actually changed and formalized what the amount of assistance could be, and it's tiered based on household size. So we still have -- there was no formal action taken for the 2007 contracts.

So you will -- it's possible for us to see some requests where the cities are going to be asking to increase the amount of assistance above

55- and possibly closer to the 2008 rules, and, in some cases, possibly even above that, because they're having to rehabilitate or reconstruct a home that is a historic home that has a larger square-footage.

What typically happens in this program: They reconstruct the unit, and they take it from whatever size it was to a very standard 888-square-foot reconstructed home. And so sometimes we run into situations where there may be a more advanced septic system that's needed or there are some elevation issues on site for moving the household out of the flood plain.

There are just a lot of construction issues that may end up happening. And the staff and I will be doing due diligence to try to collect any and all documentation and justification for those, but I do anticipate that some of those may be coming before you.

MR. HAMBY: When we're -- again, where this is -- part of this goes back to that "reasonable person" test. And like -- one of the ones we had last year was an individual elderly lady who was living in a home that was significantly larger than what we would have normally agreed to build, and the reconstruction or rehabilitation on that home was going to exceed the 55,000 -- I think it was like up to 73,000, as I recall -- and the Board was uncomfortable with that, because we were talking about an elderly lady and we were rebuilding the home at more than the cost that we normally would build somebody else's home for.

And what the family -- well, actually the Board member said was this was actually benefitting the family, who may or may not be in the right income levels, and, Is there nobody else in this community that needs these

funds more than this person. And so it's kind of that test for you to work through in your mind: Are there issues here that I want to consider to be reasonable.

You know, if you're in Lower Colorado River Authority's district, you may have heightened septic requirements. So that may be a reasonable thing in your mind to allow a few more dollars to go.

But those are the kinds of questions for you to ask in your own mind and say, Is this a reason to put more funds into this, or should we tell them to go find somebody else.

MR. CONINE: As I recall, too, that house was like an old Victorian house, you know.

MS. RAY: It was historic, yes. A beautiful house.

MR. CONINE: It had a historic thing to it. So do you spend a few, 20,000, more out of your HOME funds to go fix up an old gingerbread house, or, again, do you go back and find another \$55,000 person in town that doesn't have a Victorian house?

MR. HAMBY: But those are decisions that you can make. And that's what staff -- especially if you give staff some direction on it -- I always want to know why the construction costs are increased. You know, I want to know how much the developer cost is. I want to know, Did materials go up; give me some justification for it. And staff will always try to provide that for you when it's one of these construction cost questions.

But there are people who just want more money in the program, and, you know, that's their goal. And so they're going to bring

these to you. And that's where your role comes in.

MS. ARELLANO: And to give you some idea of how these deals are usually structured, it's -- again, the assistance is 55,000- to \$60,000. The actual cost of constructing the unit is typically 50- to \$53,000 per unit, because the program does allow 12 percent of hard costs for the soft costs associated with it. But this is not the typical soft cost that you would see as a contractor, because that 53- or \$52,000 would already have any contractor overhead built into it because that's the actual bid from the builder.

That other portion of it is soft cost related to more the administration of the program. It's typically going to a service provider or a consultant for doing things like the inspections for environmental clearance, all of the administrative-type functions to assist that unit. And so that amount is usually built into the actual total amount.

MR. HAMBY: And they also get a 4 percent administrative fee on top of that 12 percent. So they get a 16 percent administrative fee basically to build these houses. So there is money in the program to do the administrative portion of it.

MS. ARELLANO: There is a lot of rumbling right now about, it's not enough money, because we're down to a 53- or \$52,000 actual construction cost to be able to build the house. I think you're going to end up with smaller units.

And I don't know how much smaller you can get than 888 square feet, because that's what they come in at, without, you know, trying to increase those construction costs that are allowed -- not the soft cost, but the

actual construction costs for the units.

We have heard that there are some contractors that are just going to step out of -- and there have been some contractors that have stepped out of the OCC program because they cannot build the units for that amount. But I think that's some of the issues that are going to be coming before the Board.

We also implemented some soft cost limitations with the 2008 rules to try to push down on this so that more of the funds can go toward the actual construction of the unit. And I am anticipating that you may actually receive some -- if not public comments, some requests for exceptions to those limitations.

MR. FLORES: Jeannie and Kevin, refresh my memory. We had a long debate about the first lien on these things among us at the Board. And where did we wind up after all that?

MR. HAMBY: We don't have a firm policy in place. The Board at that time gave us direction that you never -- if we had more money into the deal, you never wanted to be in an inferior lien position. There are some difficulties with that, of course, because there are prior existing liens on a lot of these properties.

MR. FLORES: Yes.

MR. HAMBY: And so we find it difficult to get prior existing liens to subordinate. And so it then is whether or not we go -- whether or not -- the Board has never given us the direction and we didn't interpret it to be a prior existing lien -- we could not go into that unless they subordinated.

So we allowed the prior existing liens to continue to exist especially when we had a deferred forgivable existing on that property or -- we were going to put a deferred forgivable on that and allow the existing lien to stay there.

Where we have had bigger issues and it'll probably come up on the Housing Trust Fund side of it is in our --

MS. ARELLANO: Bootstrap.

MR. HAMBY: -- OCI --

MS. ARELLANO: Bootstrap.

MR. HAMBY: -- Bootstrap program, where we are funding parallel with like a Habitat for Humanity or somebody \$30,000 each to build a \$60,000 home. And so we have difficulty in that.

And we also have difficulty in multifamily deals where people have tried to say we're not putting in -- you know, they get a \$400,000 bank loan and the bank says, "We're not going to be in a second lien position; we have to be in first lien position," despite the fact that we may have a million-and-a-half in the project and they have 400,000. And we have basically told them, No, the Board has told us not to do that any more.

And so we have a first lien priority built into the rules in the OCC, but what has happened is, like with Habitat for Humanity, where we do a lot of our -- not OCC; I'm sorry --

MS. ARELLANO: Bootstrap.

MR. HAMBY: Bootstrap programs. They'll go in and put in the 30- and then only request 29,000 in funding from us so they can keep a first lien position in the program. And so they're to some degree gaming the

system. But we are fairly aggressive in telling people that we're not going to put on a second lien or a subordinate lien position, based on the Board's comments.

MR. CONINE: Yes. And I was all right with that, because it -- because of the five-year, it burns off, anyway.

MR. FLORES: Yes. But there's no set policy from what I understand. There's no set policy, but they kind of get the mood of the group.

MR. GOURIS: We've been discussing, though haven't moved as far along, on helping develop and propose a policy for you all to consider. We just haven't made the progress that we need to make on that. And that was an assignment that I was given, and I haven't pursued that as far as I need to.

It's difficult, though, because when you -- you know, the more rules you have, the more constraints you have. And there are times when you want to be able to be more flexible. And so it's a tough thing to set a hard policy on.

MR. FLORES: But on the OCC program, the way I remember it, Tom, we were discouraging families and people to -- discouraging them from getting into the program. So therefore, you know, people who had an elderly parent or so on all of a sudden were not participating and this poor, lonely person was living in a shack, you know, that was unlivable, so to speak, when we could have done something. So you had all these complications, and you still do. And it's a tough one.

MR. HAMBY: Well, that's how we've looked at it more and,

when we have a deferred forgivable situation, we don't insist on the first lien position.

MR. FLORES: Okay.

MR. HAMBY: Because it's not -- we're not necessarily ever going to foreclose on that piece of property, we don't need to protect our lien interest.

MR. FLORES: Yes.

MR. HAMBY: And so -- but that is a bit of a challenge. And that is -- the biggest challenge is that we have to tell some people no.

MR. FLORES: I'm sure.

MR. HAMBY: And what ends up -- we have that issue with other tax liens and other things that come up. What we end up having to do more so on the multifamily ones, where -- we have to tell people, If you want this \$1.5 million, we're in the first lien position. And then so far, I don't believe anybody has completely turned back their loans.

MR. GOURIS: Not for that reason alone.

MS. ARELLANO: Yes.

MR. HAMBY: Not for that reason alone.

(General laughter.)

MR. FLORES: But I see that as an easier one than a single family dwelling where the problem is the elderly person in it.

MR. HAMBY: And we're less -- because of what the Board has told us, we're less --

MS. ESCAREÑO: Rigid?

MR. HAMBY: -- restrictive on that.

MR. FLORES: Yes.

MR. HAMBY: Because we find a lot of these homes have home equities. We do require -- and it's one of the things that Jeannie and my staff go or -- Jeannie's staff and my staff go back and forth on all the time. We do require a hold harmless any time we work on a single family home that has a pre-existing loan.

We won't -- Legal just says we will not consider anybody who doesn't sign a hold harmless doing anything with that property, because we're not going to buy their note, you know. And so that's one where -- because that's a protection of the Department's interest.

MR. FLORES: Yes.

MR. CONINE: And, Jeannie, on your Board action request, under the current status, those little areas back there -- as a Board member, I tend to think those are very useful. And I thought we had talked about this, but maybe we hadn't -- about going ahead and repeating who the administrator is under the, "Current status," column --

MS. ARELLANO: Okay.

MR. CONINE: -- as well adding any consultant that they may have used on this one.

MS. ARELLANO: Okay.

MR. CONINE: I know it may be politically sensitive in some cases, but, from the Board's standpoint, I would think it would be helpful just to have all that information under that, "Current Status," column.

MS. ARELLANO: Okay.

MR. FLORES: Also, it tells us if the consultants are causing the problems, too.

MS. RAY: Exactly.

MR. FLORES: And that's what I want to know.

MS. RAY: Exactly.

MR. FLORES: Because we kicked one or two out of the program, as I remember, or at least -- what do we call them where you --

MS. RAY: One.

MR. HAMBY: We didn't debar them.

MR. GERBER: We haven't debarred them yet.

MR. FLORES: Well, we --

MR. HAMBY: We didn't debar them, but we wouldn't --

MR. FLORES: But we put the fear of God into them. I'll tell you that for sure.

MR. HAMBY: Well, no. Actually --

MR. GERBER: We've got a process coming --

MR. HAMBY: What the Board did was refuse to give the extension. It was conditioned on terminating the contract with the consultant for the administrator.

MS. RAY: That's right.

MR. FLORES: But when you start seeing the same things over and over, you know, I mean there's a red flag, and you've got to do something about it.

MR. CONINE: Again, for the new Board members, a lot of these consultants were also the builder. You just think about that for a minute and how all that works.

MS. ARELLANO: Okay. On the Housing Trust Fund.

MR. DALLY: On the Housing Trust Fund, very quickly.

MS. ARELLANO: The Texas Housing Trust Fund is the only state-funded housing program that we administer. The funds for the program come from the general revenue, and it's allocated biannually from the legislature.

Other sources of funds that are included in the trust fund itself are loan repayments for previous developments or programs that we've funded with it, also residual bond funds and interest earnings, occasional donations that we actually receive from private parties, and then also the fees that are collected from cell phone violations during Board meetings, for which Kevin owes a check.

(General laughter.)

MS. ARELLANO: During the 80th Legislative session, we did receive an increase in Housing Trust Funds of over \$2.7 million per year, which got us to a total of 5.8 million per year. That also includes the \$900,000 that we anticipate in loan repayments. And in accordance with Rider 10, we have to submit an annual plan to the LBB to define what our funding plan is for the actual funds. And that was approved at the September 13, 2007 Board meeting.

MR. CONINE: LBB?

MS. ARELLANO: To the LBB.

MR. DALLY: Legislative Budget Board.

MS. ARELLANO: I'm sorry.

MR. CONINE: There you go.

MR. DALLY: Who are the analysts who work for the legislature. They help prepare the budgets for the legislature.

MS. ARELLANO: And we have already released all the NOFAs and contracts to allocate those 2008 funds. And when this plan is approved by the Board, it's your first opportunity to set policy on the programming of the funds. There are some restrictions --

MR. CONINE: Again, you might want to highlight the \$900,000 in loan payments. Again, we're recycling the money rather than just giving it away. Twenty years from now, somebody will like us for that, maybe.

MS. ARELLANO: There are some restrictions. The first 2.6 million has to be made available to be set aside for local government, public housing authorities and non-profits. And then whatever is left after that, 45 percent of those remaining funds also has to be made available to non-profits.

We typically achieve this target by funding the Texas Bootstrap Loan program through the Office of Colonia Initiatives since that funding is limited to non-profits and public housing authorities.

The funds also must be allocated through the RAF if it's over \$3 million after the set-asides. This really hasn't been triggered yet at this point. And again, we set aside the \$3 million for the Texas Bootstrap Loan program to meet the requirements of our governing statute.

The activities that are funded are very flexible. We provide single family and multifamily activities that benefit low and very low-income households, and we do encourage the leveraging of funds and structures that are repayments to the program.

In 2007, we had approximately \$3.4 million available in local revenues for funding. This was, again, repayments, interest payments, deobligated contracts and funds from activities where we went out with a NOFA and had no applicants come in.

There were these four programs that were funded with it. I don't want to go into too much detail with them, but the Texas Grow Homes Demonstration program is what we referred to from the last Board meeting where the winning designs were announced.

The Texas Veterans' Housing Support program provided -- it was a NOFA that went out and closed in December, December 28. It's over-subscribed. It was a million dollars, and it was over-subscribed by \$400,000. It provides rental subsidies and homebuyer assistance to veterans transitioning to permanent housing.

MR. GERBER: And you already at the last Board meeting awarded, I think, about \$800,000-and-some-odd.

MS. ARELLANO: \$816,000.

MR. GERBER: We'll have more awards coming to you. And we'll probably make a recommendation then with the excess Housing Trust Fund dollars to fund those additional worthy projects.

There's -- some of the applicants are still working through

some documentation requirements.

Also provided for, foreclosure prevention training. These were train-the-trainer sessions for non-profit finance agencies to provide training to their staff about mitigating foreclosure. And then, again, the -- there was an amount that -- whatever we had left over, to a certain amount, that would still be designated for Bootstrap because, in the prior year, the Bootstrap program had been over-subscribed two to one. So there was definite need there.

MR. GERBER: And Bootstrap is our self-help sweat equity program that Nancy Hanson has out in -- with the Lower Valley Housing Corporation. And you'll see that we do a lot of strong partnerships with Habitat for Humanity across the state that enable those dollars to get out in a timely way.

MS. ARELLANO: So our 2008 activities. The annual plan that I had mentioned that was approved in September was set up to fund \$3 million to the Texas Bootstrap Loan program. It also set aside \$1 billion to make funds available for households that had a remaining gap in funds through the CDBG Disaster Recovery program. These were typically small amounts that were \$3,000 or \$5,000.

We have already reserved funds for a handful of households to close that gap. And these were funds that were provided to the existing councils of governments that are doing the CDBG program.

We also have a NOFA out for a rental production program. This was to promote small-scale developments in rural Texas without tax credits. It also provided incentives to go to hit -- target very low-income

households at 30 percent and below since it allows for the possible -- it was the first NOFA that kind of allowed a forgivable loan structure if you were targeting really low-income households. We --

MR. CONINE: Twenty units here, ten units there, just --

MS. ARELLANO: Or even less than that.

MR. CONINE: Right.

MR. GERBER: We have not had that program well-subscribed to. And we'll be making some tweaks to it that will affect market issues, as well as --

MS. ARELLANO: Some market study issues. Just some of the interested applicants have indicated that it's very -- it's costly to provide some of the stuff that we ask for for a regular multifamily deal, because they are rural and they're smaller organizations, and that's to do a fourplex or an eightplex.

The NOFA was released in December. And we do have one application in, and it's undergoing a review process right now.

We also just released our SuperNOFA. And this NOFA was called the SuperNOFA because it provides three basic -- three activities for home ownership.

One was zero-percent interest loans for homeowners that were trying to rebuild from disasters other than Hurricane Rita -- so it provides the whole mortgage financing for that -- interest -- zero interest gap financing or down payment assistance for first-time homebuyers, and then zero percent interest rehab loans for homeowners, including barrier removal. And again, all

of these were set up as loan programs at zero percent and targeting 50 percent and below AMFI households. So --

MR. GERBER: Let's -- why don't we stop there? I think we've -- unless there's anything else you think we need to talk about on HTF, why don't we?

MS. ARELLANO: Okay.

MR. GERBER: That's a good overview, I think, of that program. Anything else staff wants that we're missing sharing with the Board?

(Pause.)

MR. GERBER: Great. In the interest of time, why don't we move on to -- does anyone want to take a seventh-inning stretch?

MR. CONINE: Yes.

MR. GERBER: Good.

FEMALE VOICE: There's cookies out there.

MR. CONINE: Yes.

MR. GERBER: There we go.

(General laughter.)

(Whereupon, a short recess was taken.)

MS. MURPHY: I'm going to go over where Compliance plugs into some of the different things you've heard from Tom and Jeannie and Robbye and talk about some of those long-term affordability requirements that we monitor for.

In the Compliance Division, we have 35 full-time employees.

We have oversight for construction monitoring where, prior to the award of final funds or the issuance of the 8609, we do have staff that goes and visits the property and confirms that the amenities promised at the time of application were there and that the property is accessible to persons with disabilities if it's required to do so.

There are sort of two sections of the Compliance Division. There's a group of monitors that conducts long-term monitoring for home rental developments, Housing Tax Credits, Housing Trust Fund, the bond program and the FDIC's affordable housing program. In addition, there's another group of auditors that monitors the stuff that Jeannie was just talking about.

So if the Department gives funds to do a tenant-based rental assistance contract, they go out and make sure that the right households are being served and that the administrator's correctly calculating income and following all those federal rules.

We have compliance monitoring rules in the Texas Administrative Code for a number of reasons. First and foremost, Section 42 of the Internal Revenue Code says that if you want to allocate credits, you must have a plan for monitoring. So our compliance monitoring rules set out what is our plan for monitoring the credits that TDHCA hands out.

In addition, there are certain sections of 2306 that require the Department to adopt rules about certain items. In this last legislative session we saw them put in a requirement about things that have to be in lease agreements on Housing Tax Credit developments, so we've adopted some

rules to comply with that section of Chapter 2306.

MR. CONINE: What year was 2306 passed?

MS. MURPHY: 2306 was passed whenever TDHCA was formed. Right?

MR. HAMBY: I believe the first one was 1997 -- '6.

MR. CONINE: I'll rephrase it.

MR. GERBER: No.

MR. HAMBY: No. '91. I'm sorry.

MR. GERBER: '91.

MR. CONINE: '91?

MR. HAMBY: '91.

MR. GERBER: Yes.

MR. HAMBY: Yes.

MR. GERBER: When the Texas Agency --

MS. MURPHY: The Agency and Health --

MR. GERBER: -- and Community Affairs were combined.

MR. CONINE: Okay. Got it.

MS. MURPHY: So that's the Texas -- the enabling legislation for the Department.

MR. GOURIS: But it's modified every two years.

MS. MURPHY: Yes.

The rules certainly also reflect the Board's policy decisions, and our rules are enforceable. Whereas we do a lot of outreach in the compliance division to train owners and managers in what are the rules, what

are the expectations, but -- our manuals and our training presentations -- those are not necessarily enforceable. These rules are enforceable.

The rules don't really create any new requirements. They allow for administration of the program. So, for example, the treasury regulations state that every Housing Tax Credit development owner has to submit an annual report, but the rules say, Okay, that report, everyone, is due March 1. Because there's 2,000 developments, I can't have everyone rolling in a report at a different time. So it's to enable me or the Department to administer the program.

Tom, do you want to go to the next slide?

There's three sections of Chapter 60. There's the compliance monitoring rules, which I'm going to spend some time focusing on. Chapter B is about accessibility requirements. That -- again, 2306 has some accessibility requirements for our programs. And we've adopted some rules to kind of spell out a more clear policy on what are those expectations.

Subchapter C is about enforcement. We do have some developments in our portfolio that do not comply with the programs' requirements. And --

MR. CONINE: Really?

MS. MURPHY: Really.

Despite the numerous letters I send them and phone calls and visits and that we've put them in material non-compliance, which we'll talk about, and my reports to the Internal Revenue Service, there are some properties that still do not comply. And Subchapter C spells out enforcement

penalties that the Department can take as -- it's another tool for us to bring about compliance in our portfolio.

MR. GERBER: This is a dramatically different section over the last two years that turns the screws. We have the ability to get bad actors out of our system.

MS. MURPHY: Yes.

MR. FLORES: And you're going to give us some examples?

MR. GERBER: Yes.

MR. FLORES: At a later time?

MR. HAMBY: Well, actually, that'll be much later, because --

MR. GERBER: Well, it'll be coming -- it's coming forward.

MR. HAMBY: -- we won't actually do any of those for probably another --

MR. GERBER: Six to eight months.

MR. HAMBY: -- 180 days.

MR. GERBER: Yes.

MS. MURPHY: If you want to, go to the next slide.

MR. GOURIS: That's going to be interesting.

MS. MURPHY: Yes, interesting.

MR. GERBER: And that's because the rules just took effect in December and you've got to go through due process. She has got to go back and reinspect those properties. So the problem children will not be coming to us until those due diligence steps are --

MR. FLORES: But she has the authority. Right?

MR. GERBER: I'm sorry?

MR. HAMBY: We have the authority.

MR. FLORES: She has the authority?

MR. GERBER: She has the authority. And --

MR. HAMBY: Right.

MR. FLORES: Yes. So it's a matter of just getting --

MR. DALLY: And they've had notice that there will be penalties.

MR. HAMBY: Yes.

MS. MURPHY: Yes.

MR. FLORES: Okay.

MR. HAMBY: And we have to have due process about --

MR. CONINE: Oh, boy. I can't wait for the fall and the winter. It's going to be a great second half of the year.

(General laughter.)

MR. FLORES: So, Mike, we're about to hear a different group comes before us and complains about how bad this particular person is?

MR. GERBER: Well --

MR. FLORES: Yes. "You're too rough on me." I can just hear it already.

MR. GERBER: Interestingly and -- I'm sorry that Jim's not here.

MR. CONINE: With a smile.

MS. RAY: Not my fault.

MR. GERBER: But the apartment association and the industry group, the biggest groups of developers and property managers, were very supportive of these penalties. They want bad actors out of their system, too.

MS. MURPHY: Sure.

MR. FLORES: But these are the competitors on the private industry side. Right? The ones you're talking about -- these groups you're talking about?

MR. GERBER: No. These aren't.

MR. FLORES: No?

MR. GERBER: These are the affordable housing people.

MR. GARRISON: Those are the affordable housing people.

MR. FLORES: The affordable housing people?

MR. GERBER: That's right.

MR. FLORES: Okay.

MS. MURPHY: Within the compliance monitoring rules, there's one thing that may come across at a Board meeting. Once the Department allocates Housing Tax Credits, the property -- Robbye went through some time lines that are in the federal that they need to meet about the 10 percent test and placement in service.

One thing that we have in Texas is that by December 1 of the year following the award, they have to commence what's called substantial construction. And the definition of, "What does it mean to have commenced and continued substantial construction," is in the compliance monitoring rules.

And for new construction -- you can read -- it means they

have building permits, foundations of all residential buildings and clubhouse are in place, 50 percent of the framing's complete and 20 percent of the construction contract is expended. There's another definition for rehabilitation.

But if a property is not able to establish that they've met this definition of commencing substantial construction, they do need an extension request. And in the past, those have gone to the Board. So this is something that you may see related to the compliance monitoring rules at a Board meeting.

Tom, if you want to, move forward.

MR. CARDENAS: Just a quick question.

MS. MURPHY: Sure.

MR. CARDENAS: How would you know if they're not to the definition of substantial completion? Would you send someone out to --

MS. MURPHY: It's a certification that they send in to us.

MR. CARDENAS: So it's a --

MS. MURPHY: It's an architect form.

MR. CARDENAS: It's a --

MS. MURPHY: Can you remember the architect -- AIO-something?

MR. CARDENAS: Yes, AIA Form-something.

MR. CONINE: Whatever it is.

MR. CARDENAS: Yes.

MS. MURPHY: That they send in where their architect certifies

that they're this far along and how much of the budget has been spent. If we don't hear from them, then we send them a notice saying, you know, You were to commence or -- notify us that you've commenced substantial construction. So it's one way that we are, you know, keeping our arms around the portfolio and seeing that people are moving along in the process.

If you want to, move on.

Tom touched on utility allowances. This is sort of a hot topic in our monitoring. Remember that the rent the tenant pays plus an allowance for utilities cannot exceed the maximum program rent limits. And obviously, the lower the utility allowance is, the greater the amount of rent that the property can charge the tenant.

There are some pretty stringent rules about when the allowance changes that -- it has to be implemented within 90 days. So this is an area where if there is non-compliance, it affects all of the units on the property. Because, you know, they're using the wrong utility allowance, it's pretty much going to be a property-wide problem that they have in showing that -- they're not able to demonstrate that their units are in compliance.

So we do have a special section of the compliance monitoring rules that provide some guidance for owners and managers on utility allowances, and it's very much compatible with Treasury Regulation 1.42-10. That's the IRS regulation that governs utility allowances for the Housing Tax Credit program.

We conduct onsite monitoring visits. In general, we go once every three years to all of our rental developments. One of Tom's slides

covered, How is the credit allocated. And it's a math formula. It's eligible basis times applicable fraction, which is low-income occupancy times the credit percentage. And for tax credit monitoring, it's focused on those three numbers and any changes to those three numbers.

So the bulk of the monitoring is certainly related to applicable fraction or low-income occupancy. That's the biggest focus for us: Are the tenants low-income. There's a lot of rules about student households, and they're not eligible if they're students unless they meet certain conditions.

Is it rent restricted? Is it suitable for occupancy? All of those things affect that applicable fraction and the amount of credit that the owner is entitled to claim.

So when we go out onsite, we review 20 percent of the low-income units. We look both -- at the resident file, and we do a physical inspection of the property. All properties that are funded by this Department must comply with HUD's Uniform Physical Condition Standards. You'll probably hear that UPCS.

And I've sort of -- given you another handout that has this on the cover. And in your handout, there are two UPCS reports, and I just kind of wanted you to have a feel for, What do they look like, and what do they inspect.

The first one just scored very well. So on a scale of one to a hundred, it scored a ninety-six. So this is just like your --

DR. MUÑOZ: Hold on.

MR. FLORES: Which one is it?

DR. MUÑOZ: Where's that form?

MS. MURPHY: It's --

MR. GERBER: In the big one here.

MR. HAMBY: It's in this big binder clip.

MR. FLORES: Oh. This one?

MR. GERBER: The big binder.

MR. FLORES: Okay.

MR. GERBER: Two pages back.

MS. MURPHY: With this.

So we get these reports. And it goes through all the inspectible areas of the property. It's really an inspection that looks at, "Is the property being maintained, you know; Does the trim need to be replaced; how are the carpets; do the building exteriors need to be painted," that sort of thing.

So in your -- I've provided for you one that did very well, with a 96, and I've provided for you one that did not do as well --

MR. CONINE: Patricia.

MS. MURPHY: -- and scored a 42 on a scale of one to one hundred.

MR. HAMBY: You'll be seeing that one later in the enforcement actions.

MR. GOURIS: Yes.

MR. FLORES: That's what I'm afraid of.

MS. MURPHY: So here's another one that scored a 42. Just like back when you were in grammar school, on a scale of one to a hundred, is

forty-two a good score? No. Forty-two's not a very good score.

MR. CONINE: It's failing.

MR. FLORES: It's failing.

MR. CONINE: I know that's failing.

MR. FLORES: Go back to the second grade.

(General laughter.)

MS. RAY: How far -- it's hard for us to keep up with you,
dear.

MS. MURPHY: I'm sorry.

MR. FLORES: Yes. Where is the 42? I want to see that one.

MS. RAY: Can you tell us how far, deep, is that 42?

MR. GERBER: If you go --

MR. FLORES: I found it.

MS. MURPHY: It's the back of your packet.

MR. FLORES: It's the second half of --

MR. GERBER: If you go back about 35 pages --

MR. FLORES: -- the stuff there, Gloria.

MS. MURPHY: I'm sorry, Ms. Ray. I should have numbered
or tabbed them for you.

MR. FLORES: Boy, this -- is this a real place, Bonham
Village?

MR. CONINE: Oh, yes.

MR. HAMBY: Yes.

MR. GERBER: Oh, yes.

MR. HAMBY: These are real places, but they are public documents under the rules.

MR. CONINE: Notice the number, though, 91.

MR. FLORES: Oh. It's in Massachusetts?

MR. CONINE: 1991.

MS. MURPHY: No, it's not in Massachusetts.

MR. HAMBY: No. Our --

MR. FLORES: Oh. Okay. All right.

MR. HAMBY: Our outside contractor is based out of Massachusetts.

MS. MURPHY: Yes.

MR. FLORES: Okay. Gotcha.

MS. MURPHY: We --

MR. FLORES: And these reports are done by outside contractors almost all the time?

MS. MURPHY: We have outsourced --

MR. CONINE: This is the year the credits are granted.

MS. ESCAREÑO: Oh. Okay. So '02 --

MR. CONINE: '91.

MS. ESCAREÑO: Gotcha. Okay.

MS. MURPHY: We have outsourced the bulk of the physical inspections. And that's -- another thing that does come to the Board is when we do a request for proposals for contractors to perform these inspections on our behalf. For the past three years, the contractor has been this company

from Massachusetts called On-Site Insight. So we get these reports in from On-Site Insight --

MR. CONINE: Who pays for them?

MS. MURPHY: Excuse me?

MR. CONINE: Who pays for them?

MS. MURPHY: It comes out of the PM's budget.

MR. CONINE: We pay for them?

MR. HAMBY: The Department does, but through the PM's --

MR. GOURIS: Compliance fees.

MS. MURPHY: Compliance monitoring fees.

MR. HAMBY: Right.

MR. CONINE: We get -- and they pay --

MR. HAMBY: We get that from the developer -- the property --

MR. CONINE: Each of the projects pay an annual compliance fee of --

MR. HAMBY: Correct.

MR. CONINE: -- \$25 a unit, or whatever it is?

MS. MURPHY: In -- a few years ago, we increased it to \$40 a unit, partly to --

MR. HAMBY: That was 2006. So most of these are 2005 and before. So they're \$25 a door 2005 and before and \$40 a door 2006 and after.

MR. FLORES: And is there enough competition for this

business? In other words, is there more than one vendor coming to you?

MS. MURPHY: We have not awarded this year's contracts.

I'm not really sure --

MR. HAMBY: We've had -- in the past, we've had two or three people, and then it's scored and ranked.

MR. GOURIS: Yes.

MS. MURPHY: Yes.

MR. HAMBY: Didn't you have three people last year?

MS. RAY: It's a competitive process?

MS. MURPHY: It's a competitive process. And --

MS. RAY: A competitive award?

MR. HAMBY: It is competitive. We put out an RFP. And --

MS. RAY: I think that was his question.

MR. FLORES: Yes, because I visited one of them in San Francisco at that convention we went to. And, you know, they were talking about it was competitive -- the people out there. And I said, How can you make money at this. That was my first question. I mean at 25 or 40 bucks a unit, and so on. But, obviously -- they promised me they did. So I'm assuming there's enough competition for this kind of work.

MS. MURPHY: We are certainly trying to --

MR. FLORES: We'll find out in the next cycle, I suppose.

MS. MURPHY: -- get more competition for this contract.

MR. FLORES: Yes. It's just not a whole bunch of money. And we go at it, I believe, once every three years, physically on site.

MR. CONINE: It depends on your perspective.

MR. GOURIS: Yes. We --

MS. MURPHY: Correct.

MR. FLORES: Huh?

MS. RAY: That doesn't mean they get paid \$40 a door.

MR. HAMBY: Yes.

MR. CONINE: It depends on your -- depends on his -- my perspective.

MS. RAY: That doesn't mean they get --

MR. FLORES: Well, I wouldn't do it for that. I'll put it that way.

MR. CONINE: I can understand why you wouldn't.

MR. FLORES: Yes.

MS. RAY: Well -- but that doesn't mean they're getting paid \$40 a door.

(General laughter.)

MR. GOURIS: Mr. Flores --

MS. RAY: That does not mean they're getting paid \$40 a door.

MR. CONINE: Right.

MS. RAY: That doesn't mean that at all.

MR. GOURIS: This is in addition to the ones every three years that we go out. Right?

MS. MURPHY: This is --

MR. FLORES: What does he mean? They --

MS. MURPHY: They're inspecting on our behalf.

MR. FLORES: How?

MS. RAY: They can get paid a lot more than that.

MR. GOURIS: But we still go out once every three years --

MS. MURPHY: And do files.

MR. GOURIS: -- and do files. Make sure that's clear.

MS. RAY: We only charge a fee of \$40 a door.

MR. CONINE: Well, just ask her what we're paying for it.

MS. RAY: And we're only inspecting them once every three years.

MR. CONINE: What do we pay per property on these things?

THE REPORTER: Excuse me. I can't get anybody when everybody's talking at once.

(General laughter.)

MR. CONINE: What do we pay per property on one of these, average?

MS. MURPHY: I believe we pay about \$25 to \$30 a unit.

MR. CONINE: Okay.

MS. MURPHY: The contractor's bid is based partly on the size of the property.

MR. CONINE: Right.

MS. MURPHY: The larger the property, it might be a little bit less a unit. And sometimes it's based on the location that -- you know, it's

easier for them to get to Dallas to do inspections than some other areas of the state where they might charge us a little bit more.

So once every three years, we go to the property, we do a 20 percent file review, we have a physical inspection of all the buildings, the grounds and the exterior and 20 percent of the interior of the units. So --

MR. GOURIS: That we do. We do that inspection.

MS. MURPHY: Some of the inspections are conducted by TDHCA staff who have recently been trained in the UPCS protocol, and some of the inspections are outsourced to contractors. Those properties that we anticipate may have more serious physical issues we outsource.

MR. FLORES: Is there such a thing as certification for these guys, in other words, where you have a stamp of approval from somebody?

MS. MURPHY: There is a HUD certification for the Uniform Physical Condition Standards inspection protocol. It is a difficult certification to get. I believe you have to have a professional license, as well, like a plumber or electrician or something like that. And I don't believe -- no one on staff has that kind of a license.

MR. FLORES: Yes.

MS. MURPHY: In addition, you have to do so many inspections per year, and there's criteria for doing that. We have the training. And I have one person on the staff who has been through a week-long training with HUD in Washington, D. C., but none of us on staff have that actual certification. The inspectors that represent these contractors most likely have the certification.

So these reports that we receive at the Department -- we assess these reports and say --

If you want to, move forward two -- one more slide.

So when we get this report in, we evaluate it to say, Okay, is this major, is it minor, or is this just an administrative thing that we're just -- we're required to report this to the IRS, but we really think this is just a little hangnail, or is it -- are there no findings, and is it perfect?

So this is probably going to end up being just administrative. It's just a function. We're required to report to the IRS there was a sink stopper missing, or whatever the problem was.

We look at these reports. And if they score less than a 60, we say, You have a major problem. In addition, we look at the violations that are noted. How severe were they? So if they have a lot of Level 3 violations, those are more serious, and we kind of push those into the, You have major problems. And that's all spelled out in the compliance monitoring rules -- how we do this.

MR. GERBER: What are examples of Level 3?

MS. MURPHY: Let's look at --

MR. GERBER: Oh. I'm sorry.

MS. MURPHY: Level 3, if -- we want to look at this property that scored a 42. If you turn forward -- flip through the report several pages in like -- on page 1, it lists all their deficiencies. So a Level 3: There's a tripping hazard on the exterior of the building, there is exposed rebar, there is missing pieces of the wall.

And so let's take missing pieces in a wall as an example. If it's the size of a pinhole, you know, it's going to be a Level 1. But it's a Level 3 because it's an area larger than 8-1/2 by 11 inches. So there's a pretty good sized hole in that wall there which rates it a Level 3.

So -- or when you look at the cabinets, if there's a problem with one little cabinet door, it probably doesn't even rate. But if more than 50 percent of the cabinet doors in the kitchen are damaged or inoperable, it's Level 3. So each kind of violation has a different severity level.

MR. FLORES: And then there's the fire and safety types of things that -- those are --

MS. MURPHY: Level 3.

MR. FLORES: -- immediate -- the kind of immediate things, I would imagine, like fire exits and so on.

MS. MURPHY: Correct.

MR. FLORES: Yes.

MS. MURPHY: Correct.

MR. CARDENAS: At the last meeting, we had two or three people that were in violation or looking for or -- were not in compliance or seeking amendments on some of these things. Is that not the case?

MR. GOURIS: Yes. We had a transfer of ownership that -- the new entity that it was being transferred to had some material non-compliance issues that they had corrected, but their corrected score was still high.

MR. CARDENAS: But were these found through this process?

MR. GOURIS: Some --

MS. MURPHY: Yes, they were.

MR. GOURIS: Some of the issues were those, and some of them were rental --

MS. MURPHY: File issues.

MR. GOURIS: -- file issues.

MS. MURPHY: Do you want to flip forward?

Any time we do monitoring, we provide a written notice of the violation. So these owners will get a letter saying, There was a physical inspection done of your property; it resulted in findings of non-compliance.

And there is a 90-day corrective action period for the owner to respond back to us. The owner can request an extension for an additional 90 days to give them a total of 180 days to correct the issues that are identified.

MR. FLORES: Did we set that rule, or is that a HUD rule?

MS. MURPHY: The rule is set by the treasury regulations.

MR. FLORES: So if there's a fire and safety violation, you'll let it go for as long as six months?

MS. MURPHY: Good question. Actually, a fire and safety hazard --

MR. FLORES: Yes, where the fire marshal came out and said, You've got these problems, and you've got to correct them.

MS. MURPHY: They are handed -- if it is an exigent fire and safety or health hazard, they are handed a notification during the inspection -- at the end of the inspection that they sign acknowledging, I was notified of

what the issue is, and I've received this document. It must be corrected within 24 hours, and they must notify us of that correction within 72 hours.

MR. FLORES: I feel better already. Thank you. You had me worried because --

MS. MURPHY: Yes. Smoke detectors --

MR. FLORES: -- I've had customers that just about closed down their business on that.

MS. MURPHY: Yes.

MR. FLORES: And they don't have any people, and it's just a warehouse or something. So I mean, goodness, for people, it ought to be certainly more stringent.

MS. MURPHY: I hear --

MR. DALLY: Patricia, under what instances will an owner or property manager -- do they go around with the inspector, or does the inspector point out things so that, This is what I'm talking about?

MS. MURPHY: The -- a property representative must accompany our inspector, whether it's our contractor or a TDHCA staff person. We don't do this by ourselves.

And each deficiency is called out to the property representative to, you know, say, "There's a stained tile right there in the ceiling," so that if the report comes back --

MR. HAMBY: That has been bothering her all day.

MS. MURPHY: You can't turn it off.

MR. FLORES: It is stained.

MS. ESCAREÑO: It has been bothering her all day.

MR. CONINE: Everywhere you go, huh?

MS. MURPHY: Oh, I know. You just can't turn it off.

(General laughter.)

MS. MURPHY: So that -- when they get the report and they read, "Level 1: Ceiling damage, stained," or whatever, it was pointed out to them during the inspection.

In addition -- this is in the property that scored a 42. Here is -- at about the middle of the report, it has that notification that's given to the property representative to say, "On this property, there were several inoperable smoke detectors," and whatnot, where the property representative signs and acknowledges, I understand. This tells them, You must fix it within 24 hours; you must notify the Department within 72 that you've corrected these things.

The other types of where you get a written notice are -- let's say you do a file review and we say the household in Unit 101 -- their income is over the limit. So a math mistake was made -- or that kind of thing. We provide the 90-day notice. They have an extension period of up to 180 days.

At the end of that corrective action period, the Department is required to notify the Internal Revenue Service of any findings within 45 days whether or not the issue is corrected. So during the corrective action period, they have the opportunity to supply us with documentation showing there never was a violation.

They -- if it's an ineligible household, often they can gather old

W-2s or tax returns or something to show they really did end up being under the limit -- that sort of thing -- and we can just drop it. But if there is a violation, if the person really is over the income limit, even if it's corrected we are required to report all of that to the Internal Revenue Service. The IRS form number used is 8823. And we do supply owners with copies of our 8823s.

Those 8823s and our monitoring processes feed into the material non-compliance methodology -- and this is also in the Texas Administrative Code in Chapter 60 -- where each development that we administer has a score. And ideally, you want your score to be zero.

And if you're a Housing Tax Credit development and your score is greater than 30, that means you're in material non-compliance. And at the staff level, we would deny the application for funding if an owner of a property in material non-compliance requested additional funding.

We talked today about how properties often have more than one program, that often the HOME funds come with the tax credits, that those two programs come together. A development that has more than one program will have more than one land use restriction agreement and be monitored for two different sets of rules, and it will have two different scores.

DR. MUÑOZ: Give me an example of two sources of funding.

MS. MURPHY: Sure. Let's say a property gets an allocation of 9 percent tax credits and they receive TDHCA HOME funds. It has got two sources of funding. When our staff goes to visit the property, we monitor for both programs.

DR. MUÑOZ: The same person or team?

MS. MURPHY: Yes, the same person. So we'll look at the file, and we'll say, Are these people eligible under the tax credit program; are these people eligible under the HOME program.

I mentioned students are a big deal for the IRS. For HUD? Not a big deal. So you could have one household, and they are eligible under the HOME program, but they're not eligible under the tax credit program. And that's why one property would have a score for HOME and a score for tax credits.

We go to the next slide. For a Housing Tax Credit development, if their score is 30 or higher, they're considered to be in material non-compliance.

For non-Housing Tax Credit developments, it varies by the size of the property. If you have one to fifty low-income units and you're over 30, you're in material non-compliance; 51 to 200, it's 50. And if you have over 201 low-income units and your score is over 80, you're considered to be in material non-compliance.

There is a section of the compliance monitoring rules that are a big incentive for an owner to promptly correct issues that we identify. So if a property owner corrects everything during our corrective action period, gives us all the documentation we need to see that it's corrected and they have no other uncorrected issues of non-compliance, despite what their calculated score will be, we'll drop them one point below the threshold for material non-compliance.

So if a property's sort of raw score was 45, if they fix everything and nothing is outstanding and they give it to us during the corrective action period, we'll drop them to 29. We'll keep them one point below the threshold.

In the back of your handout, I've printed out the charts from the Texas Administrative Code that cover all of the events of non-compliance. What are the -- it's the -- I'm sorry.

MR. HAMBY: That was the original handout that you got with the slides.

MR. FLORES: Oh. Okay.

MR. HAMBY: So it's not binder clip that you --

MS. MURPHY: Not the UPCS report.

But we -- it covers all of the different events of non-compliance that we monitor for like -- we talked about property condition violations, if you don't have your LURA in time, units not leased to eligible households, rents over the limit, using the wrong utility allowance. There is -- it's the Texas Administrative Code --

I'm sorry, Leslie.

MS. ESCAREÑO: That's all right.

MS. MURPHY: There are too many pieces of paper.

MS. ESCAREÑO: That's okay.

MS. MURPHY: It goes through all of the different issues of non-compliance and how many points are associated with things. So any event of non-compliance is worth more points if it's not corrected. Once they

correct it, the points drop. And then after it has been corrected for three years, it falls off their score all together.

And in the too-many-pieces of paper I've supplied you, I gave you two different properties. And this is what their report looks like. So one of the properties scored a 21, and the other one has a 16.

And it gives for the Board a history of the development's non-compliance throughout the property's affordability period. What are the things that we've identified? When was it identified? Is it corrected? Is it not corrected?

MR. FLORES: This is kind of a score card?

MS. MURPHY: This -- yes. It's kind of their score card, yes.

MR. FLORES: Yes.

MS. MURPHY: Yes.

MR. HAMBY: And the point of keeping a score on there even after they've corrected is that some things -- they're kind of put on probation. And you want to make sure they don't do it again. It's the same issue with getting a 29 after they've corrected everything. If -- you know, we want them put on a very short leash, and make sure that they don't get into non-compliance with anything again.

DR. MUÑOZ: How can you tell from this sheet whether it's an HTC or non-HTC?

MS. MURPHY: You could have by its ID. I --

DR. MUÑOZ: Okay.

MR. FLORES: The ones you wrote down?

MR. GERBER: We redacted it, but --

MS. MURPHY: I protected the innocent in this one.

MS. RAY: Or the guilty, as the case may be.

(General laughter.)

MR. CONINE: What does the IRS do with the 8823s?

MR. GERBER: Good question.

MR. GOURIS: A big box.

MR. CONINE: Hmm?

MR. GOURIS: A big box.

MR. CONINE: I mean they've got to have buildings full of those things.

MR. GERBER: They do nothing, which is effectively why we now have -- the ability to do meaningful enforcement. They do very little.

MR. HAMBY: They can recapture the tax credits.

MR. CONINE: But they've never done -- but they never do?

MR. GOURIS: They --

MR. HAMBY: We don't know that they have or not --

MS. MURPHY: We never -- don't know.

MR. HAMBY: -- because we're not privy to that.

MR. GOURIS: They prioritize their audit activity based on who's doing what and how many bad activities are going on. And they've got a lot -- they get a lot of information from Texas and have prioritized a lot of audit activity in Texas and have not been as -- I don't think it has been as rich as --

MR. CONINE: Audit the partnership?

MR. GOURIS: Uh-huh.

MR. CONINE: But how's that going to pick up the physical deformities of the property if they're auditing the tax returns of the partnership?

MR. GOURIS: Well, if -- that might not be the only thing that they're -- that might be an ancillary, additional issue. They've got these other cost issues or whatever other reasons to look at that, and now they see that they've got all these 8823s on that same property or that same property owner's or, you know, series of owners: Geez, that might be a really good -- let's prioritize that.

MR. CONINE: Do you think they connect the dots that way?

MR. GOURIS: I think that's their -- I think that's why they all get sent to a central location.

MR. CONINE: Wow.

MR. GOURIS: I think that's their intent.

MR. DALLY: That causes them to look at that population. They'll pull a tax return of the whatever, because they see the 8823s, and put them under an audit.

MS. MURPHY: Okay. I've only got 15 minutes left.

MR. GOURIS: It's certainly the fear they want to --

MR. CONINE: Hang on, Patricia.

MS. ESCAREÑO: She'll adjourn without the rest of you.

MR. CONINE: You'll get through it.

MR. GERBER: Patricia, is it fair to --

MR. FLORES: Patricia's about to get off the hook here.

MR. CONINE: If not, we'll do it again.

MR. FLORES: Oh, no.

MS. MURPHY: Any other questions?

(General laughter.)

MR. FLORES: I have one question. How many of these properties did you say you monitor?

MS. MURPHY: It's approximately 2,000.

MR. GERBER: Which we'll do a third of each year.

MR. HAMBY: With a staff of --

MR. FLORES: Yes. I realize that, but -- that's still a lot, though.

MS. ESCAREÑO: And how many units is that?

MS. MURPHY: With a staff of 17.

MR. FLORES: Wow.

MS. MURPHY: And they keep building them. So --

MR. CONINE: Oh, really?

MS. ESCAREÑO: How many units?

MS. MURPHY: There's over 200,000 units.

MS. MEYER: Build them, and they will come.

MS. MURPHY: Yes.

MR. GERBER: And just to give you a sense, I mean it's a significant staffing issue. I mean for each year --

MR. FLORES: Oh, yes.

MR. GERBER: -- with the new awards that you give, we could really use one additional -- we need one additional person basically each year --

MR. FLORES: Once upon a time --

MR. GERBER: -- for compliance.

MR. FLORES: -- I asked, Why don't we monitor with our employees. I don't even want to think about that now. Oh, no. That's a lot of people out there.

MR. GERBER: It's a lot.

MR. FLORES: Yes.

MR. GERBER: It's tough staffing.

MS. MURPHY: So whenever a request for funding is made from the Department, the staff in Portfolio Management and Compliance does a previous participation review of the applicant to see if they are currently in control of any properties that are in material non-compliance. And so let's say Kevin had a property in material non-compliance and he applied for HOME funds from Jeannie's area.

Well, before Jeannie and the HOME Division award those funds, they'll ask us to do like a background check on Kevin to say, Does he have any properties in material non-compliance. And if he does, staff recommends termination of the application. And they can appeal to the Board. That's something that could possibly come before you. Well, it did --

MR. GERBER: It did last time with the --

MS. MURPHY: It did last time. That --

MS. MEYER: The ownership transfer.

MS. MURPHY: Yes, for the ownership transfer. And --

MR. GERBER: That was the transfer of the 50 properties over to a new owner.

MS. MURPHY: Yes.

MR. GERBER: They had compliance issues.

MS. RAY: Yes.

MS. MURPHY: Yes.

MR. GERBER: But you chose to waive those.

MS. MURPHY: Yes.

MR. CONINE: The management company had compliance issues, or the acquiring entity had compliance issues?

MR. GOURIS: The owner.

MS. MURPHY: The owner.

MS. RAY: Southwest --

MR. GOURIS: The acquiring --

MR. GERBER: The acquiring owner did.

MR. GOURIS: -- entity did.

MS. MURPHY: The acquiring entity.

MR. CONINE: Okay.

MS. MEYER: Well, both.

MR. HAMBY: Both, actually.

MS. MEYER: Both, actually.

MR. GERBER: Well, actually, Pinnacle did, too.

MS. MURPHY: Yes. So --

MR. GERBER: Yes.

MS. MURPHY: For Housing Tax Credit applications, the check is done on May 1. So on May 1, we run everybody's score to see who's in material non-compliance. And as the applications are going to underwriting, they're coming to Compliance and we're doing that check on the ones that look like they're potentially going to get funded. For carryover allocations, we check again on October 1.

So if the Board awards funds in July, there's the potential that they could be in their corrective action period and not have their score yet and have gone into material non-compliance by October, in which case we would recommend that you do not execute a carryover allocation with them, and, you know, go to the next person on the waiting list. Again, that's something that can be appealed to the Board.

MR. GOURIS: The point is they don't get the score until the corrective action period --

MS. MURPHY: Is past.

MR. GOURIS: -- is past. So there -- they could be in huge material non-compliance effectively --

MS. MURPHY: Potential.

MR. GOURIS: -- but be working on cleaning that up, and get cleared up before they would get a score.

MS. MURPHY: And if they fix everything and give it to us to

show everything's fixed and nothing else is outstanding, it keep it below. So it's people who don't fix their issues and -- who don't get into compliance. And there are --

MR. CONINE: It seems like we had that happen a few times, if I remember correctly.

MS. MURPHY: Well, Kent, it happened once, and the Board granted the appeal. And then the compliance rules reflected this concept of, if you fix everything, we're not going to keep -- hold you in material non-compliance.

MS. MEYER: And they will also delay their response to the Department to avoid --

MS. MURPHY: Avoid.

MS. MEYER: -- those two dates. So if they get past the corrective action period so it won't go into material non-compliance, we don't have a way to stop them. We would have to go through with the -- I mean we don't have a stick to say no. But they do --

MS. RAY: They know how to game the system, don't they?

MS. MEYER: They do that.

MR. FLORES: It sure sounds like it.

MR. DALLY: The other thing that -- we get good compliance on getting our fees as long they still want to participate in the ongoing cycle. So before they can participate or get an award in this upcoming cycle, they will have to be current on compliance fees and some of the fees they owe to the Department.

MS. MURPHY: In January of 2007, the Internal Revenue Service released an 8823 audit guide. And this is -- it is not to have the same authority as the treasury regulations or the Tax Code or a private letter ruling, but it is interpretive guidance of the Tax Code, the revenue rulings, the pertinent treasury regulations, all that in sort of lay-persons' language. And it's intended for owners and managers of Housing Tax Credit developments, for state housing finance agencies and for revenue agents.

So if the IRS assigns an audit of a Housing Tax Credit development, this is the guide meant to help that revenue agent audit the property. It was released in 2007.

And Texas has implemented the guide. We have adopted it in whole, and not every state has. And there are certain sections of the guide that are less than popular.

MR. GERBER: There --

MR. HAMBY: Controversial.

MS. MURPHY: Controversial.

MR. GERBER: And there might be parts that we ourselves even disagree with. Nonetheless, we are beholden to uphold what the IRS has in the guide. We will join in opposing something to the IRS; nonetheless, we will still submit the 8823.

Case in point, why don't you describe one or two of the recent issues that we've dealt with?

MS. MURPHY: Well, one issue that recently we've been struggling with is, in the audit guide, it makes it very clear that the application

fee that an apartment complex charges a prospective applicant cannot exceed the actual out-of-pocket costs for processing the application. So if it costs the property \$15 to check the person's credit and criminal background, when someone fills out an application, the property should charge them \$15 .

And we identified properties that were charging \$50, which put the unit out of compliance. And it was a surprise to some management companies and owners and a less-than-popular position to take.

Another quite controversial issue that the 8823 audit guide emphasizes is Treasury Regulation 1.42-9, which addresses the requirement that Housing Tax Credit properties both comply with the Fair Housing Act and be available to the general public.

This impacts a number of different groups that have already received an allocation of Housing Tax Credits or would like an allocation of Housing Tax Credits, including artists, farm workers and, like Jeannie was talking about, a HOME program for veterans that would not necessarily be the general public under the Housing Tax Credit program.

MR. GERBER: That project for teen moms.

MS. MURPHY: A project for teen moms.

MR. HAMBY: Yes. The Seton --

MR. GERBER: That was a --

MR. HAMBY: The AIDS group that we heard from in the last Board meeting.

MR. FLORES: When did this regulation come into effect?

MS. MURPHY: Treasury Regulation 1.42-9? I do not know the

effective date. I have it with me.

MR. FLORES: Recent?

MR. GOURIS: No.

MS. MURPHY: No.

MR. HAMBY: No. It has been -- it's long term.

MR. GOURIS: It has been around for awhile.

MS. MURPHY: It has been around for a long time. The
audit --

MR. CONINE: But the audit guide has reinterpreted the
regulation -- is what it sounds like to me.

MR. GERBER: That's right.

MR. FLORES: Oh. A --

MS. MURPHY: So it's the IRS --

MR. FLORES: -- reinterpretation of the existing?

MR. HAMBY: Right -- well, it's not a reinterpretation. It's an
interpretation. It's not that they said, Well, this is what it used to be, and now
it's this. This is how the IRS says they've read it all along.

MR. GOURIS: Right.

MR. HAMBY: They're just now telling the public --

MS. MURPHY: In plain language.

MR. HAMBY: -- This is how we read it.

MR. GOURIS: Right. But --

MR. FLORES: So Avenue CDC in Houston that promotes artist
housing for that particular thing is probably walking right on the edge, I would

imagine, of this --

MR. GERBER: Yes.

MR. FLORES: -- particular rule.

MR. GERBER: No. They're --

MR. HAMBY: No. They're walking on the other side of it.

MR. GERBER: They're in violation of it.

MR. FLORES: They're walking on the other side of it?

MR. GERBER: Yes. They're in violation of it.

MR. FLORES: So they're violating --

MR. GOURIS: If they limit --

MR. GERBER: As the IRS audit guide says. Now, there are a number of tax counsels that -- including our own -- we take a different view from our -- from Tony, who say, "That's nonsense; the IRS doesn't know what they're talking about; you know, we opine this, and that this type of housing is perfectly reasonable," and have encouraged other states not to comply with the 8823 audit guide.

We would be fine with supporting those kinds of projects that we've awarded tax credits for and would encourage the IRS to reinterpret the audit guide, but we are not going to not file the 8823 and be in violation of that guide. We're going to take a strict interpretation of it. We're going to follow to the letter what the IRS has said.

MS. RAY: Let me ask you a question on that. Just using the unwed mothers situation, it's not open to the general public.

MR. GERBER: That's correct.

MS. RAY: So that's really in non-compliance. Right? And so you have to issue an 8823, and it goes to the IRS and goes in a big, dark hole somewhere.

MR. GERBER: Uh-huh.

MS. RAY: What penalty is it against the development?

MR. GOURIS: The credits aren't valid. Recapture of the credits.

MR. GERBER: Potentially.

MR. HAMBY: Or possible --

MR. GOURIS: Big, big -- they --

MR. GERBER: Potentially.

MR. HAMBY: But 99.99 percent that they have out there -- they can't file those, and they get -- they can't use those on their tax returns. So it's the most draconian penalty that you can have --

MR. FLORES: Yes.

MR. HAMBY: -- in a tax credit development.

MR. FLORES: A death penalty.

MR. GOURIS: They --

MR. HAMBY: More or less, yes.

MR. GOURIS: They can ask for clarification specific to their property and ask for a private letter ruling to try to get clarity for their own particular property.

MR. FLORES: Has anyone done that that we know of?

MR. GOURIS: I -- we don't have the results of any, but I

would imagine that there are some out there.

MR. FLORES: Well, I would think somebody's going to do it.

MS. MURPHY: I would think so, too.

MR. GERBER: Oh, yes.

MR. FLORES: It would be interesting for us to find out whenever someone does that. But --

MR. CONINE: Tony'll know.

MR. GOURIS: But --

MR. GERBER: And we'll be part of that discussion. But --

MR. GOURIS: But --

MR. HAMBY: Actually --

MS. MURPHY: If states ignore it --

MR. GOURIS: -- those private letter rulings are generally not public. They're --

MR. HAMBY: Yes. Actually, I don't think -- Tony didn't tell me that he had filed any requests for private letter rulings. He has opined on the subject, but he has not issued any requests for private letter rulings.

MR. GOURIS: Yes.

MR. CONINE: He has opined on -- 1.42-9 is what he has opined on.

MR. HAMBY: He has opined on 1.42-9, which, for us, his statement back to us is, The state, of course, can follow this completely, and you're taking no risk there whatsoever, because you're agreeing with the IRS. We are the agent for the IRS in this program. It's not really our

program; it's the IRS's program. So we follow the IRS guidance.

MR. CONINE: Treasury. Use the word, Treasury. I like that better than, IRS.

MR. HAMBY: Okay. Treasury.

(General laughter.)

MR. GOURIS: But it's --

MR. HAMBY: It's the treasury's program. And so to the extent that we follow treasury guidelines --

MR. GERBER: Like agents of the IRS?

MR. FLORES: But if one of our developers gets a private letter ruling and it comes out negative, then it sounds like to me that, you know, the whole program is in -- has got a problem throughout the country. Doesn't it? Do I have this right?

MR. HAMBY: Do you mean by negative --

MR. FLORES: Negative --

MR. HAMBY: -- that, You can't do this?

MR. FLORES: -- meaning, You can't do this.

MS. MURPHY: Like not --

MR. HAMBY: Private letter rulings technically are not transferable from one issue to the next. And so while they provide guidance, you're not allowed to rely on them.

MR. GOURIS: Generally.

MR. FLORES: Which I find --

MR. GOURIS: So they would get -- they may or may not get

relief from a private letter ruling for that project. But regardless of if they do or they don't, whatever that ruling says wouldn't be necessarily applicable across the board, because that's not how they work.

MR. FLORES: If Developer A asked for this letter and got a negative ruling and I'm Developer B, I think I'd be a little bit reluctant to keep, you know --

MR. GOURIS: Asking?

MS. MURPHY: Yes. I agree. So --

MR. FLORES: -- applying, you know, year after year --

MR. HAMBY: And that's the way --

MR. FLORES: -- until somebody gives me a definitive ruling about the entire program.

MR. CONINE: The way you get around that is you make your units available to the general public.

MS. MURPHY: Right.

MR. FLORES: You're right.

MR. CONINE: And --

MR. FLORES: You're right. And no more --

MR. CONINE: -- it just so happens that only unwed mothers come walking in here.

MR. FLORES: Yes. And no more set-asides for veterans and AIDS patients and artists, and so on.

MR. CONINE: Or maybe there's an unwed father that comes walking in. I don't know.

MR. FLORES: Yes.

MR. HAMBY: There are lots of those, but you don't really --
(General laughter.)

MS. MURPHY: So it's -- it is a controversial issue. And it potentially could come before you. If someone applies for funding in a round that does not clearly meet this, then we would terminate their application. And that they could come to you for an appeal is how this may end up being something that you see in front of you.

Other possible issues that I think you could possibly see related to PMC certainly I've talked about are related to material non-compliance. And I do want to explain that it is possible for a property to have no uncorrected issues -- they've fixed everything -- but their score still exceeds the limit.

And that's because, remember, all -- even if you correct an issue, that has a certain number of points. So if they don't fix everything during the corrective action period, we don't drop their score down to the threshold. So it's possible for a property to be -- have nothing outstanding, but they're still in material non-compliance --

MR. CONINE: They're just late?

MS. MURPHY: Yes. And that's the kind of thing I could see that -- they would come ask for a waiver from this Board.

Another possible issue that you could see --

And, Kevin, I don't know if you want to jump in here and talk about this.

But it's possible that you might see an owner ask to have their land use restriction agreement released.

MR. HAMBY: Actually, we gave you another one of those little slips of paper.

MR. FLORES: Well --

MS. MURPHY: Yes, one more piece of paper from Compliance and Legal.

MR. FLORES: Well, we had one of those that was a partial release.

MS. ESCAREÑO: What's PMC?

MR. HAMBY: PMC is Portfolio Monitoring --

MS. MURPHY: Portfolio Management and Compliance.

MS. ESCAREÑO: Portfolio Management.

MR. CONINE: Patricia --

MR. HAMBY: Patricia Murphy.

MR. HAMBY: That's good.

MR. GOURIS: Yes.

MR. FLORES: We had one --

MS. MURPHY: Patricia Murphy Compliance.

MS. ESCAREÑO: Patricia Murphy Compliance.

MR. CONINE: Yes.

(General laughter.)

MR. FLORES: We had one where the LURA was released on part of the property that Barry Kahn brought before us which had excess

property. And they wanted the LURA released because they wanted to develop that portion of the property.

MS. MURPHY: Yes. It was a partial release.

MR. HAMBY: Well, actually, you did it as a conditional release.

MS. MURPHY: Yes.

MR. HAMBY: Because -- you conditioned it on building additional property there.

MR. FLORES: On it being used.

MR. HAMBY: So you didn't really release it. You allowed them to come back and, if they got tax credits on that other piece of the land, then you would move that piece of land into the new property and then they'd be separated.

MR. FLORES: Yes. This one would have one LURA, and this one would have another LURA.

MR. HAMBY: Correct.

MR. FLORES: Yes.

MR. GOURIS: There were no units on that property being --

MR. FLORES: How's that?

MR. GOURIS: There are no units on that part of the property that are being released.

MR. FLORES: No. That he had excess land that was never developed is what happened.

MR. HAMBY: Well, let's go -- because this is a big issue for us and it's going to get -- it's only getting bigger, and it's -- if everybody

has these little things. And the IRS -- and the reason we end up doing a lot of these in Legal is because there's only so far that PMC can take them and they say, Now it's a legal matter. And we have to work with that.

There are only three ways that a foreclosure or -- that a LURA can be released according to the IRS Code.

It's the IRS Code. I'm sorry, Kent. It's not the treasury code. It's the IRS Code.

MR. CONINE: Geez.

MR. HAMBY: It's foreclosure by a third party on the property. So when one of these syndicators has to close on a bond deal or -- has to foreclose on a bond deal, we are allowed to release a LURA there. Or if the lender forecloses on a bond deal, we are allowed to release a LURA there. It's -- actually, by statute, it's released.

Then the other one -- and we did not bring this up at this meeting, because it is an extremely confusing topic: Purchase under the terms of a qualified contract that, at Year 14, there could be a petition to sell the property and, if we don't find buyers, then the LURA can be released for the second half of the monitoring period.

And so -- but it's a very -- highly technical, lots of moving parts on it. So we didn't really discuss it, but that is Way Number 2. And really the only other way is if the end of the term of the LURA or the 30-year period has run.

What we end up with -- and we'll go through these four examples really quick: The property was sold and the second buyer claimed

not to have notice of the LURA even though it was filed in the county land records. The property consists of two single family homes that were sold as part of a larger package of rental property and they have 20 years left on a LURA and they've asked to be released out of the LURA because they didn't have any notice of the LURA whenever they bought it.

We are in litigation on this. This is the one that shows up on your Board agenda frequently, in Potter County. Our response is, Sorry. It's -- that's what we have said in our litigation.

They -- and one of the things you'll see throughout these LURAs is that people are always offering to pay back their tax credits. They say, We'll pay it back if you let us out of the LURA.

MS. MURPHY: Yes.

MR. HAMBY: Which is not something we'd particularly agree to, because when we financed the buildings, we were trying to get the affordability. So it's not the cash; it's the affordability that we're concerned about.

The second one -- and this is a real-life example -- is that they have a single residence in an area that is switching from residential to commercial. It's one home, and it was done in the early part of the program. The owner can't find people to actually rent the property on the 60 AMFI and still make his payments and everything on it.

And so the LURA has -- he has asked to be released from the LURA because it's, again, one single property. And he has offered to repay, and he has done everything he can. And so now he's just basically going to

be in non-compliance, and we're going to start doing enforcement penalties on him now. We've already sent in 8823s on him, and now the next step is to start enforcing our LURA.

Again, he has offered to repay the amount of the credits given, which was minuscule. I mean for both of these, it's probably like \$5,000. I guess it's \$50,000, but it was like a \$5,000 -- whenever we first started this program, the amounts were really small.

Another one that we've also had that we actually kind of punted on the Board -- this one actually came before the Board: The owner's family received credits. And the owner came and got clear title of the property by paying past taxes to the city. So it wasn't really a foreclosure. Because his family owned the property, he paid off the tax liens on it. So he got control of the property.

The new owner tore down all the buildings. And so there's no more buildings there. And then he wants to sell the land for redevelopment with a clear title. So he has asked us to release the LURA. And his argument was, of course, at the time that, It wasn't profitable to fix the up, so, therefore, I just tore them down.

And the city doesn't want any more units built in this area, any way, because they consider it to be over-developed. So he's basically on that argument making a financial argument: We can't build these units; they don't exist any more; how can you enforce a LURA. But the LURA's are land use restriction agreements. And so it's supposed to run with the land. So that is -- anybody who wants to rebuild there has to build affordable

housing.

And we will start doing penalties. This is -- one of the reasons we needed penalties is because we basically had nothing to do to this person.

MS. ESCAREÑO: And how much time is left on that one?

MR. HAMBY: It's probably about --

MS. MURPHY: Twelve years or so.

MR. HAMBY: Twelve or thirteen years.

MS. ESCAREÑO: Okay. So a little over half over.

MR. HAMBY: Yes.

MR. GOURIS: But he has probably been out of compliance already for awhile.

MR. HAMBY: He has been out of compliance for 20 or -- it will have been out of compliance for 20 years over that period of time.

And then finally, the one that gives me the most trouble, which is also a real-life example, is land that was sold to a school district. They ripped down all the property there and put in a school, an elementary school.

MS. MURPHY: Yes.

MS. ESCAREÑO: Oh, man.

MS. MURPHY: And I checked. There's no one living there.

MR. FLORES: And they got a permit for it.

MR. HAMBY: And they got a permit for it.

MS. ESCAREÑO: Yikes.

MR. HAMBY: And so we're just sitting here. They didn't do it through eminent domain. So there was no tear-down of the -- there was no

take-down of the LURA or anything.

MR. GOURIS: In foreclosure.

MR. HAMBY: They bought the property outright. And so we in essence will have to start -- if we want to do it, start enforcing against the school district for failure to meet their LURA.

MR. CONINE: Go get them.

MR. HAMBY: That's okay. They'll come to you guys, not us.

But one of the things that you will hear on all these cases that will come before the Board and we get -- we have probably -- I don't know.

What do we have?

A stack of 20 or 25 of these that have asked to be released from their LURA that -- we've just said, No, that's not a qualified item under the IRS. And so eventually, they will come up as an appeal to the Board.

But because there is no particular way -- economic difficulty is not a legitimate reason to release a LURA because, if you read the Code, it actually says that they expect you to lose money over the life of these properties or some period over the life of these properties and you'll get the property free and clear at the end. So we're actually in kind of a difficult position.

The flip-side of this, as your legal counsel, is there are no particular penalties from the IRS for ignoring their rules, except they can eventually take away the program.

Treasury. I'm sorry.

(General laughter.)

MR. HAMBY: I mean if they found us to be too far in non-compliance. And the other thing that's a little different about a LURA is in every single LURA -- we could release our part of the LURA, but there is a third-party right of action in every single LURA. So individuals could sue the developer still.

So just a release from us doesn't really release them clean and free from the program, because we don't have all the rights of action; third-party rights also exist. So there's the fun.

MR. GERBER: There's obviously much here for compliance. And well continue to -- you'll hear more and more.

As Tom is pulling up the slides for community affairs, I'd like for Kevin just to briefly highlight for you all -- we had some conversations with Mr. Conine about how every Chair puts their own imprint on Board procedure and on the procedure of Board meetings. We've talked a little bit about public comment.

And, Kevin, why don't you outline what we have -- that the Chairman has -- is leaning towards? And we have -- go.

MR. HAMBY: We actually have rules in place that require -- statutory requirements that we have public comment both before the meeting and at the individual items, but the Board is supposed to set reasonable rules for doing so.

We have a pretty expansive rule in the Texas Administrative Code about public comment, but what we don't have anywhere that's set out that I think the Chairman has expressed an interest in is the time limits that are

actually involved in that. Especially as you get into the tax credits season where people are asking for forward commitments, they' ll bring entire residential communities in to talk, and each person in theory gets three minutes or can transfer their minutes to somebody else.

And Kent basically asked if we could do this to where we could limit the number of transfers of time to a maximum of five minutes for any one individual. So everybody in the audience can stand, and that says, We' re -- all these people agree with me. And that would not count against their time, but they could not get more than five minutes total or one transfer, regardless of the people who' ve provided time to this person.

And then coupled with -- that would be both in the public comment section and at each item. So you' d -- everybody gets three minutes as a max, and then you can get one transfer of time up to two minutes. So no person could speak longer than five.

MR. FLORES: You' ve convinced me.

MR. HAMBY: And then --

MS. RAY: I like that.

MR. GERBER: So we won' t have the yielding of time of --

MR. FLORES: You convinced Gloria.

MS. RAY: Oh, I like that.

MR. HAMBY: And then the other side of it is: Because some of these issues are controversial, we' ll hear the same things over and over again.

MR. FLORES: Over and over and over.

MR. HAMBY: Each side on any particular issue would get a maximum time allotment of 15 minutes. So they could structure the 5-minute pieces any way they want to, but, when we're listening to two arguments or two different positions on the subject, no more than 15 minutes could be for either side.

DR. MUÑOZ: How do you decide? I mean I could envision somebody making an argument sort of in support of something and then somebody saying, "Well, my argument is a bit more nuanced," not -- closely resembling this argument, but not exactly this argument. So am I entitled to an additional 15 minutes? I mean I don't know that you can just split -- I mean do you have people who, when they sign up, they say, "I'm for this," or, "Against it"?

MR. HAMBY: For and against and testify only.

DR. MUÑOZ: Okay.

MR. GERBER: Generally, we do. And so, for example, on the most controversial issues, it'll be 15 for and 15 against, and they'll decide and, hopefully, have three or more people, as they choose to use the time, to have value-added comments. There will be some folks from the advocacy community or, you know, from, well, some other part of the public --

MR. FLORES: The disability community.

MR. GERBER: -- that wants to talk about a broader policy question.

MR. FLORES: San Antonio Redshirts. I mean there's just -- I mean we have all kinds of groups come before us.

MR. GERBER: Yes. That's right. Well, the broader issues that are just intended to enlighten the Board on some aspect of policy won't be deducted from anyone, and that can be at the Chairman's discretion. The same is true also for elected officials who might wish to come, speaking on behalf of -- for or against.

MR. HAMBY: Legislators --

MR. GERBER: Legislators.

MR. HAMBY: Not all elected officials.

MR. GERBER: Not all elected officials, but legislators who choose to come.

MR. FLORES: Not the county commissioners and not the city council members --

MR. GERBER: No.

MR. FLORES: -- but the state reps and senators.

MR. GERBER: The state legislators who come will be given a wide berth.

DR. MUÑOZ: I'm not averse to the policy. I just asked the question because it seems to me that you could run up against times when determining sort of -- you might have a group and -- so that they agree that their 15 minutes will be allocated this way, because it seems to me that you can run up against time when determining sort of -- you might have a group and so that they agree that their 15 minutes will be allocated this way, somebody might have another position on the issue and say, Well,

I'm not part of that group, I don't want my 15 minutes to be associated with them. I mean --

MR. GERBER: I think you then create a third 15 minutes. I mean you try to do as many logical groupings as you can in accordance with the chairman's discretion.

MR. CONINE: Yes, I would -- I think probably we need to take a look at the witness affirmation form and probably sculpt it to fit this new policy. But I can tell you, from my perspective, I've sat through individual agenda items that have lasted for an hour and a half.

MR. FLORES: Mrs. Treviño and her group from the Valley.

MR. CONINE: And I don't think that's good, healthy, or anything else. And so if we -- you know, if you had three for and three against, that's a good 30 minutes total. That's plenty. Believe me. And if we start -- if they start pulling out witness affirmation forms and we see that we've got, you know, maybe three groups that are against, we can get Nidia to go get them to huddle up over there and get their talking points lined up. I mean I just think we need to do that just to control the time that we spend at these --

DR. MUÑOZ: For declaration of comments, no, I agree.

MR. CONINE: And we end up -- they end up repeating themselves a lot more than they end up coming up with new ideas.

MR. FLORES: But then I think it's incumbent on you, Mike, to have somebody with some political moxie out in the hallway directly traffic and say, Well, yes, I'm for, or I'm against, but then the guy that says I'm not with that group I'm from the other side of the state or whatever, to cluster these things and then come, you know, tell the chairman that we have this thing there, you're going to have to use the chairman's discretion on this particular issue or other.

MR. CONINE: Well, we are going to --

MR. FLORES: Because normally they're big groups the way they --

MR. CONINE: -- we are going to draft this policy so that it'll be in a written form --

MR. FLORES: Yes, no, I think you have to.

MR. CONINE: -- so that we as a Board can --

MR. FLORES: Yes.

MR. CONINE: -- hopefully look at it and decide upon it, and then as that becomes --

MR. FLORES: And maybe have it available as they sign up --

MR. CONINE: Available. Right.

MR. FLORES: -- you know, where they can see what the rules of the meeting are.

MR. CONINE: And the word will spread pretty quick, I mean --

MR. FLORES: Oh, I think so too. I think so too. But I'll tell you what --

MR. HAMBY: It'll actually be in the form of a resolution.

MR. FLORES: Yes.

MR. CONINE: Right.

MR. FLORES: We have had certain projects that all we got is just waves of people from the housing units coming over, repeating themselves three minutes at a time, the same thing over and over again, and so -- or tell you a story about how much I love living in the project, how wonderful such and such is that runs the project.

MR. CONINE: Well, the last meeting, as you guys saw, God bless the disability group, but they -- sometimes they'll show up with 30 people --

MR. FLORES: Yes.

MR. CONINE: -- to talk.

MR. FLORES: Thirty people times three minutes.

MR. CONINE: And it's -- you just sit there and

listen to them, the whole time. You can't do anything else, but, because we didn't have some policy to limit debate.

MS. RAY: Let me ask you a question about that, directed to our counsel over there.

MR. HAMBY: Sure.

MS. RAY: We don't have to go out and ask the public, Mother, may I on this, do we? Because we can build our own rooms. Right?

MR. HAMBY: Well, actually we're not going to do it as a rule, you're going to do it as a resolution if you want it in writing. We can just announce at the beginning of a meeting, but if you actually want something the people can see, you can do it in the form in a resolution that spells out these are the rules. And then it's a Board resolution and the public doesn't have to do anything with it. It's your interpretation of your Rule 1.10.

MS. RAY: I like the idea. I really do.

MR. FLORES: Me too.

MS. RAY: Because it just gets to be a little bit much.

MR. FLORES: You've kind of institutionalized it if you put it on the record, and then it's up to --

MS. RAY: I like that.

MR. FLORES: -- the chairman and --

MR. HAMBY: We'll make sure it's on --

MS. RAY: I really like that idea.

MR. HAMBY: -- the agenda.

MR. FLORES: -- and you need --

MS. RAY: Thank you, Mr. Chairman.

MR. FLORES: -- to get together and make it
work.

MR. GERBER: Hopefully that'll --

MR. CONINE: That's what being on the Board for
10 years does for you.

(General laughter.)

MR. GERBER: Hopefully that will allow a little
bit more predictability in the time needed --

MR. FLORES: Yes.

MR. GERBER: -- for Board meetings, and
hopefully, you know, with the way the Board books have
been, I mean, you know, and hopefully it stops some of the
fatigue that sets in, you know, about 3:00, you know,
everybody's just -- with that said, I promise you'll --

MR. CONINE: Kind of like right now, huh?

MR. GERBER: -- be out here by 4:00.

(General laughter.)

MR. GERBER: Amy's going to give --

MR. CONINE: Poor Amy.

MR. GERBER: -- a very easy and shortest
overview --

MS. OEHLER: I tried.

MR. GERBER: -- she can.

MS. RAY: That's what you get for being the new
kid on the block, Amy.

MS. OEHLER: That's all right.

MR. GERBER: It's a complex set of programs and
we'll talk a lot more about it as we move to future Board
meetings, and probably at that Board on the 12th. But to
give a 10 minute taste of --

MS. OEHLER: Okay. And I'll taper --

MR. GERBER: -- your hundreds of --

MS. OEHLER: -- my comments --

MR. GERBER: -- programs.

MS. OEHLER: -- to items that require Board
action. I think that's probably the best place to start,
and then, you know, at a later date I can describe details
about the programs, or you're welcome to contact me as
well.

But the community affairs division is
responsible for the administration of five federally

funded programs, three of which I'll discuss today. The two that aren't listed are the emergency shelter grants program and the Section 8 housing choice voucher program.

These three programs account for 80 million of the 90 million that passes through the community affairs division. These funds are distributed through a formula allocation, which I've given you a little bit more detail in the second handout that talks about how these funds are distributed to what we call the sub-recipient network. And the network consists of community action agencies, private non-profits and units of local governments.

And the formula, as is listed in the detail, is primarily based on the percentage of poverty per county. There are some other factors that play in as well, the inverse density ratio, and the median income of the county, and the weather factor based on heating and cooler degree days.

The two programs that -- the low income home energy assistance programs funds are the comprehensive energy assistance program, and the purpose of that program is to address the energy needs of low income households, and that can be through utility assistance, and repair, replacement, and retrofit in efficient appliances, and client education. And one of the most important factors

that impacts anybody's energy consumption is the behavior of the people who live there. And so that's a huge piece of what we do, we provide client education.

The focus of the weatherization assistance program is to address the energy efficiency of a dwelling.

The goal is to not only decrease the consumption, but the amount that they spend on their utility bills, which allows more funding -- or more income to spend on other necessities.

And then also there is a certain percent -- we're allowed to spend 10 percent to address health and safety issues such as we test for carbon monoxide, we're allowed to put in smoke detectors, so there's a certain level of health and safety that we're able to address.

The two primary funding sources are the U.S. Department of Health and Human Services and the U.S. Department of Energy. We do receive 1.2 million from investor owned utility contracts -- or companies. And we have those contracts at the moment.

One was terminated last year mainly because all electric companies are receiving increasing pressure from the Public Utility Commission to report higher savings. And so they're basically looking for more bang for their buck, and so they didn't feel that this weatherization

program was giving them what they needed.

The eligibility is set -- and this was a decision that was made by the Board, it's set at 125 percent of the federal poverty guidelines. We're allowed -- that could be increased to 150 percent. The reason that -- and this, again, would be at the discretion of the Board, but at the moment in the energy assistance side of the equation, we're only able to serve about 7 percent of the eligible population at the 125 percent level. And so if you increase it to 150, really you're just -- there would just be more households that you wouldn't be able to serve.

All of our programs require prioritization, and that's set forth in federal statutes. We're required to prioritize households with elderly members, disabled, and families with young children. And that's something that we require of our sub-recipients, and they have to prioritize those groups.

As far as the Board actions for the energy assistance programs, each year we're required to submit a low income home energy assistance program application to Health and Human Services, and a plan to the Department of Energy.

And you will see, at the March 13 Board

meeting, we'll be bringing forth the Department of Energy plan. And that plan will include some public comment. And what we do in LIHEAP is a little bit different in DOE, because DOE doesn't really give us enough time to present draft plan to the Board. They give us grant guidance in December, and then the plan is -- you have to submit your plan February 1. So it basically gives you a month to take it to a Board and get public comment, and then take it back to the Board.

And so what we've done with DOE is the draft plan get routed through the executive team, the draft plan does, and then we go out for public comment, and then the Board will see the plan with the comments. And then we'll -- and we've spoken to DOE about this time crunch, and we're not the only state that's in this position, and so they're pretty flexible about -- they will allow you to submit it, you know, 60 to 90 days after the deadline because they realize that it creates a time crunch.

The Weatherization Policy Advisory Council is another area where the Board could use their discretion to get involved. At the moment the executive director -- that staff would propose members to the executive director, and those would be approved by Mr. Gerber, but it certainly is something that you could either make a

recommendation, or it could be something that you could approve.

There are three different groups that are -- and this is actually required by DOE, each state has to have a Weatherization Policy Advisory Council, and the three groups are -- you have to have members from weatherization providers, energy conservation interests, and consumer related interests.

MR. GERBER: I have no idea who those nine people are.

(General laughter.)

MS. OEHLER: Well, they're -- actually --

MR. HAMBY: You haven't approved them, they were --

MR. GERBER: I haven't approved --

MR. HAMBY: -- approved by -- you haven't seen the list yet to approve -- they were approved by --

MR. GERBER: Are they coming my way? Okay.

MR. CONINE: You will by March 13.

MR. GERBER: Okay. So --

MS. OEHLER: And actually there's -- in this additional informational they're all listed.

MR. GERBER: Great. Great.

MS. OEHLER: Like there's three vacancies, so

we'll be --

MR. FLORES: Some people are lining up for those --

MS. OEHLER: -- making some --

MR. FLORES: -- jobs too, by the way.

MS. OEHLER: -- recommendations.

MR. CONINE: Yes.

MR. GERBER: I'm open to recommendations.

MR. CONINE: There they are.

(General laughter.)

MS. OEHLER: And the energy assistance programs are administered by 49 CEAP sub-recipients and 33 weatherization sub-recipients. Those overlap, so it's not like we have 49 and 33 separate entities. Those -- most of our providers, they administer the comprehensive energy assistance program, the weatherization program and the community services block grant, which I'm about to go over. Most of those overlap.

Under the performance numbers, last year -- and actually this says per year, but this is really basically last year -- the CEAP served 51, over 51,000 households with utility assistance and/or we addressed their heating and cooling appliances, and close to 3,000 homes were

weatherized last year.

And just to put this into perspective for you, we have over 14,000 households on waiting lists for weatherization. And so every year we just chip away, and the waiting list continues to grow. So, and as energy prices rise, it affects everyone, but certainly low income households.

MR. CONINE: And this can be anywhere, it doesn't -- it has nothing to do with participating jurisdictions.

MR. GOURIS: Right.

MR. HAMBY: Right.

MS. OEHLER: Right.

MR. GERBER: And our ability to affect --
I'm sorry, Bill, go ahead.

MR. DALLY: Well, the other thing is there are funds being collected as part of utility bills that are collected in part of a state treasury in something called the system benefit fund, and at one time we had use of those to supplement the federal funds and meet more households. But that's been held in abeyance, away from us in the last couple of sessions. It helps balance the budget and --

MR. GOURIS: The other way.

MR. DALLY: -- I can't explain that part of it, but --

MR. CONINE: Well, I can. It's like social security funds at the federal level. It just balances --

MS. OEHLER: Right.

MR. CONINE: -- the budget.

MS. OEHLER: And I think that this issue might exist in other programs as well. But just a little more detail about system benefit fund, those funds are only collected in deregulated areas of the state, but then they're put into general revenue. So basically the whole state benefits, but really they're only collected in the deregulated areas.

MR. FLORES: Maybe --

MR. GERBER: We've sought those funds and we'll continue to as well.

MR. FLORES: What is the average cost per house on that 2960?

MS. OEHLER: It's about \$4500 is that average.

MR. FLORES: For each house?

MS. OEHLER: For each house.

MR. FLORES: Yes, so that's a freebie they get. Right? Absolutely free?

MS. OEHLER: Yes. Yes, sir. And that \$4500

includes -- most of the time it includes attic and wall insulation, air -- it addresses air infiltration, all of the heating and cooling appliances, you know, water heaters as well as refrigerators, HVAC systems, there's a whole house assessment that's conducted by weatherization assessors to determine the energy efficiency, or lack thereof, of the households.

And then that information that is collected during the assessment is put into a computerized energy audit, and the energy audit helps you determine what is most cost effective. It generates what's called a savings to investment ratio and then that helps you determine if you invest X number of dollars into this house, this is the savings you will receive over time. And that helps -- and so the sub-recipients have to balance that with what's generated by the audit as well as with the funding you have available for that particular household.

MR. FLORES: Okay. In my part of the state, HVAC would be a very important piece of that. Would they replace a unit? Suppose you have a 20 --

MS. OEHLER: Yes.

MR. FLORES: -- year old unit here that's --

MS. OEHLER: Yes. They --

MR. FLORES: -- would they replace it

completely?

MS. OEHLER: Well, the conduct an assessment and they either repair or replace or retrofit. It just --

MR. FLORES: I can see the --

MS. OEHLER: -- depends on --

MR. FLORES: -- people lining up for that, yes.

MS. OEHLER: Right. I would -- yes.

MR. FLORES: Yes.

MS. OEHLER: It's an excellent -- when, you know, a person's name comes up on the waiting list, and when this program works, it's very effective. It's just, you know, like anything else, there's more need than there are --

MR. FLORES: Oh, sure.

MS. OEHLER: -- funds.

MR. GERBER: And those are often people that have been receiving utility assistance payments for years --

MS. OEHLER: For years, yes.

MR. GERBER: -- and, you know, that --

MS. OEHLER: And that's a mandate, yes.

MR. FLORES: Okay. And what's the income level?

MS. OEHLER: It's 125 percent of the federal

poverty guidelines, and I want to say for a household of four it's around 25,000. Is that right?

MS. RAY: It's not much.

MS. OEHLER: 20,000? It's not -- yes, it's not --

MR. CONINE: It's got to be 30 percent plus a little bit. Yes.

MS. RAY: Yes, just a little bit.

MR. CONINE: Thirty-five percent of median roughly --

MR. FLORES: Okay.

MR. CONINE: -- would be my guess.

MS. OEHLER: And the bulk of the clients are either -- are over 65. And so we're talking about, you know, clients on a fixed income, most of which have worked their whole life, but don't have enough for -- to meet the needs at the end of their life.

MS. RAY: Does the Department encourage leveraging with other entities? I know in San Antonio we leveraged a goodly sum from our CPS that supports our weatherization program in the -- within the ACOG.

MS. OEHLER: Yes. And, in fact, we're able to report those leveraged funds to HHS and we receive an award, a leverage award based on the number of dollars

leveraged throughout the state. So, yes, we definitely encourage that, and collect that information.

And there -- we encourage them to leverage their investor owned utility contracts too, to be able to have a more dramatic effect on the home, because you can imagine that, you know, \$2,000 spent on a home is not much when you're talking about insulation and HVAC and refrigerators.

MR. GERBER: And at some point as we travel to each of your respective communities, we'll take you on a tour of a HOME home and a tax credit development, as well as a house that we've done weatherization on. It's really a fascinating process to see.

Let's touch real briefly on community services block grant --

MS. OEHLER: Okay.

MR. GERBER: -- and then we're done.

MS. OEHLER: Okay. The other program is the community services block grant, and this program is the administrative support for most low income programs. And on the very last slide, Slide 11, it details all of the different types of programs that these funds can support.

And oftentimes, you know, of th non-profits that we provide funding to and the clientele that they

serve, CSBG is the one program that ties it all together.

Because oftentimes these other federal programs don't have enough admin money to support the activity. So CSBG is the important glue that ties it all together.

But in addition to supporting these programs, there's also some funds -- there's -- 90 percent of the funds go towards these activities, 5 percent of the funds are for state administration, the other 5 are for discretionary fund, the CSBG discretionary funds. And you will see this probably several times throughout the year because you voted in December to make these funds competitive in 2009.

So in 2008 we funded the groups who have typically applied, but we've also -- we recently -- we sent letters to all of the recipients last week that said basically this was your last time of just getting the funds. You will have to apply -- we'll release a NOFA at the end of this year, and we'll come to you before that time and make recommendations about the types of activities that we would like to fund, and then those grants will be competitive.

MR. GERBER: To quote of former chair --

MR. HAMBY: That's only for the discretionary fund?

MS. OEHLER: Just the discretionary.

MS. ESCAREÑO: Yes.

MR. HAMBY: Just that 5 percent. Everything else is --

MS. ESCAREÑO: Everything --

MR. HAMBY: -- required --

MS. ESCAREÑO: Okay.

MR. HAMBY: -- to be followed --

MS. ESCAREÑO: Gotcha.

MR. HAMBY: -- it's an evergreen program, which -- well, it's mandated by federal law to continue with the same program.

MR. GERBER: And the 5 percent in most cases have also been evergreen programs. We will now be moving that to -- we've told them, this is your last year.

MR. HAMBY: We treated them as evergreen, they were not evergreen.

MR. GERBER: They weren't, but they were treated, that's right.

MS. RAY: Now is this program for participating -- non-participating jurisdictions only, or is it throughout the state?

MS. OEHLER: It's statewide.

MR. GERBER: It's throughout the state.

MS. OEHLER: Statewide.

MS. RAY: Statewide.

MR. CONINE: And this money comes from Health and Human Services?

MR. GERBER: Correct.

MS. OEHLER: Yes.

MR. HAMBY: Really only HOME funds are the PJ issue.

MS. OEHLER: Yes, it comes from the Office of Children and Families at Health and Human Services.

MR. CONINE: It's the Community Service Block Grant, CSBG, instead --

MS. RAY: Right.

MR. CONINE: -- of CDBG --

MS. RAY: CDBG --

MR. CONINE: -- which comes --

MS. RAY: Right.

MR. CONINE: -- from HUD. A totally different deal.

MR. GERBER: This is an outgrowth of the old war on poverty programs, and it was intended to be a source of funds to serve as an administrative anchor, as well as to do some programming along the lines of what Amy just shared. And communities themselves decide which

programs are most needed, transportation systems, meals on wheels, other programs.

What happens is is that other federal programs want to go where these CSBG dollars are. The Department of Energy and Health and Human Services want their energy dollars there, weatherization dollars and utility systems dollars, to be plugged in where those CSBG dollars are because there's an administrative cost that they don't have to pay that are paid for, or helped along with, with those CSBG dollars.

So we may have a \$2 million investment, or a million and a half dollar investment in a community action agency, part of our community action network, but that agency itself might actually have, you know, \$25 million worth of programs, other federal programs that have been, you know, plugged in, taking advantage of the leveraging that comes from CSBG being the anchor there.

MR. CONINE: And all of these recipients are audited by Health and Human Services, or who?

MS. OEHLER: Well, the sub-recipients are monitored my community affair staff, we have a monitoring staff.

MR. CONINE: In your shop?

MS. OEHLER: Yes.

MR. CONINE: Not in your shop?

MR. GERBER: Not in her shop.

MS. OEHLER: Correct.

MR. CONINE: That's your shop?

MS. OEHLER: Correct.

MR. GERBER: And that's one of the policy choices that we're looking at now is whether or not monitoring should be limited. In some states it's been done very effectively where they have been together, in some states not so, so we're exploring that. We will come to you all with a recommendation.

MR. HAMBY: And your internal auditor is looking at --

MR. GERBER: Is there an audit.

MR. HAMBY: -- this particular division right now at your -- when you approved your audit plan, and that's one of the topics that you all discussed with her when you approved your audit plan is tell us about structure.

MR. CONINE: Then we get up in the morning and we open the newspaper and we read about one of these agencies that we've disallowed funding, it was because our monitoring had come up with some irregularities, not some federal agency's --

MR. GERBER: That's correct.

MR. CONINE: -- monitoring.

MR. GERBER: No --

MR. DALLY: There's another coverage too and it -- they -- all these things fall under a single audit act, and so a community action agency, they would have CSBG, plus, you know, Health and Nutrition, or WIC, or any of these other programs, when all of that is more than 300- or \$500,000 --

MR. HAMBY: 500,000.

MR. DALLY: -- \$500,000, they raised it to \$500,000 in a year, then they've got to have a single audit. So there'll be a CPA that does the single audit and they're -- if they're one of our programs, they need to send that in to our groups.

MR. HAMBY: Well, and the other side that you could have is, if we hear Headstart has pulled out of a community action agency, then that automatically triggers us to look at them as well. Conversely, when we pull out of somewhere, where we've put some of that cost reimbursements, it sends a signal out to everybody, so it's kind of a mutual monitoring.

So you may hear, as we did with one of the agencies, that the Medicaid program -- I think it was the

Medicaid program -- found a \$3 million short fall and we kind of started talking to them, and that particularly agency voluntarily gave up our program, in addition to all the other programs and went out of business because of somebody else's monitoring.

So we all -- it's a group effort to some degree, but we have a responsibility.

MS. OEHLER: And with Headstart, we send -- if we monitor an entity that has -- that administers Headstart, we send them a copy of our monitoring report and they send us a copy of their Prism report. That was something I think that was decided last year, and so that's been very helpful, to be able to see their report as well.

MR. GERBER: We will continue to discuss this as we get to the March 12 meeting, although the focus of that is largely going to be single family bonds. We'll probably continue with just a little bit of -- more discussion, and we'd ask and appreciate you all be willing to come in around 4:00 that day to try to go through your understanding of our, you know, billion dollar plus bond program that -- to make sure you have a good understanding under state law. That is a part of your training, what we think we owe you to make sure you understand it and have

that information about the health of that program.

And I thank you for your time today. We really appreciate it.

MR. CONINE: Well, we appreciate -- and I appreciate all the Board members coming in. And staff did a wonderful job.

MS. RAY: Outstanding.

MR. CONINE: Thank you very much.

(Applause.)

MR. CONINE: And we stand adjourned.

(Whereupon, at 4:10 p.m., the meeting was concluded.)

C E R T I F I C A T E

IN RE: TDHCA Board Workshop

LOCATION: Dallas, Texas

DATE: February 26, 2008

I do hereby certify that the foregoing pages, numbers 1 through 380, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Barbara Wall before the Texas Department of Housing & Community Affairs.

(Transcriber) 3/4/2008
(Date)

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