TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

John H. Reagan Building
Room 140
105 West 15th Street
Austin, Texas

January 23, 2014
10:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair
J. MARK McWATTERS, Member
LESLIE BINGHAM ESCAREÑO, Member
LOWELL KEIG, Member
ROBERT THOMAS, Member
TOM GANN, Member

TIMOTHY K. IRVINE, Executive Director

I N D E X

COMMUNITY AFFAIRS

f) Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (ANOFA@) for Fiscal Year 2014 Emergency Solutions Grants Program (AESG@)

g) Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (ANOFA@) for Fiscal Year 2014 Community Services Block Grant (ACSBG@) Discretionary funds 11

h) Presentation, Discussion, and Possible Action on approval to release and subsequently award a Request for Applications (ARFA@) to administer the Comprehensive Energy Assistance Program (ACEAP@) in Hays, Caldwell and Blanco counties

I) Presentation, Discussion, and Possible Action on approval to release and subsequently award a Request for Applications (ARFA@) for qualified firms to develop a Utility Allowance (AUA@) Schedule for use in the Section 8 Housing Programs

j) Presentation, Discussion, and Possible Action on Approval of the Draft FFY 2014 Department of Energy (ADOE@) Weatherization Assistance Program (AWAP@) State Plan for Public Comment

MULTIFAMILY FINANCE DIVISION

k) Presentation, Discussion, and Possible Action Regarding the Issuance of Multifamily Housing Revenue Bonds with TDHCA as the Issuer, Resolution #14-011 and a Determination Notice of Housing Tax Credits for Decatur-Angle Apartments

l) Presentation, Discussion, and Possible Action regarding Awards of HOME funds from the 2013-1 HOME Multifamily Development Program Notice of Funding Availability

HOUSING RESOURCE CENTER

m) Presentation, Discussion, and Possible Action to Ratify withdrawal of the 2014

P R O C E E D I N G S

MR. OXER: Good morning, everyone. I'd like to welcome you to the January 23 meeting of the Texas Department of Housing and Community Affairs Governing Board. Hopefully everybody had a joyous and safe holiday, refreshed and ready for 2014. Time to get back to work.

So we'll open, as we do, with our roll call here. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Professor McWatters?

MR. McWATTERS: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

MR. OXER: I am here. Mr. Thomas is not here and won't be. We have five, we have a quorum, so we're in business.

Tim, lead us in saluting the flags.

(Whereupon, the Pledge of Allegiance and the Texas Allegiance were recited.)

MR. OXER: As we pointed out last, or I pointed out at the last meeting in December, the Capitol Complex here lost a friend in Don Jones, who was chief of staff for Jose Menendez. I think we have a memorial resolution in his honor that we would like to consider, so do we have that to read? Michael, please read that resolution.

MR. LYTTLE: The memorial resolution in honor of Don Jones reads as follows:

"Whereas, the Government Board and the staff of the Texas Department of Housing and Community Affairs were deeply saddened to learn of the passing on December 11, 2013 of Don Jones, Chief of Staff for the Honorable Jose Menendez, State Representative for Texas House District 124;

"And whereas, Mr. Jones was a longtime legislative staff member who was deeply involved in many aspects of affordable housing and programs serving veterans and the homeless, and a person who provided who provided keen oversight of the Department;

"And whereas, Mr. Jones work tirelessly to help improve the quality of state government programs which serve low-income Texans;

"And whereas, Mr. Jones's many years of service, both to our nation, as a veteran in the United States Army, and to the State of Texas through his work in the Texas Legislature, have left a positive and indelible mark to the great benefit of countless Americans and Texas;

"Now, therefore, it is hereby resolved that the

Governing Board of the Texas Department of Housing and Community Affairs adopts this memorial resolution expressing its gratitude for Don Jones's many contributions to the Department and the State of Texas and directs that it be certified by the secretary of the Department and delivered to his family, and further resolved that this Governing Board extends its sincerest condolences to the family of Mr. Jones and to Representative Menendez for their loss."

MR. OXER: Good. Thanks, Michael. I think we'd call for a formal vote on it. Without a comment, do I hear a motion to consider?

MS. BINGHAM ESCAREÑO: Move to so resolve.

MR. OXER: Okay. Motion by Ms. Bingham to approve the resolution read by Michael. Second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none, of course.

Dwight, we sure do appreciate you coming by and pass our best on to Jose and give him our best. Tell him we'll be there when he needs us to.

MR. LYTTLE: Mr. Chairman, excuse me. I just wanted to mention to Dwight that we're going to be getting the resolution printed out on special paper and framed, and I'll make sure that we get that hand-delivered to your office, copies for both Representative Menendez and for Don's family.

MR. OXER: Okay. Well, let's get on to our formal workings here now. On the consent agenda, I'd like to pull item 1(g) and 1(n). I understand we have comment that's been requested on those. It's easier for us to pull those and consider those individually and receive comment on it. Are there any other items that members of the Board would like to pull on the consent agenda?

DR. MUÑOZ: I just have one question.

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: Cameron, on the item related to migrant laborers, just one question, were there any substantive -- there wasn't a redline version of the previous copy, were there any substantive changes to that?

MR. IRVINE: None of which I'm aware, sir.

DR. MUÑOZ: That's all.

MR. IRVINE: Brooke, did you have a comment on that?

MS. BOSTON: I was going to answer no.

MR. OXER: In that case, motion to consider the consent agenda.

MS. BINGHAM ESCAREÑO: Mr. Chair, I move to approve the consent agenda, with the exception of items (g) and (n) that will be taken separately.

MR. OXER: Motion by Ms. Bingham.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. I will accept comment. There appears to be no other public comment.

MS. DEANE: Mr. Chair, I just wanted to make one comment, not to pull anything off or make any changes, but I just want to make sure that everyone is aware of 1(c) which is the new public comment procedures. Those are being adopted, so they will be in effect at the next meeting, and while they still require that items that you want to provide to the Board be given to staff in advance of the meeting so we can include it in the Board book, it still also has provisions that if there is something that you couldn't provide to us ahead of time, you can bring it to the meeting. It's at the discretion of the Board as to whether they'll accept it.

The new part is that if you're going to do that, you must provide those documents to staff prior to the meeting so staff can organize those documents and make the chair aware of what is going to be offered from the floor. And so what we have set up is if you will provide your documents to whoever happens to be sitting right there in this box, right here, just bring your items up there before the meeting starts and hand them tot he individual, whoever that might be, that's sitting in this box, and that individual will organize those documents and bring them to the attention of the chair. I didn't want anyone to be caught flat-footed at the meeting next time.

MR. OXER: But the point is you cannot bring those when you come to speak, you can't say we have some things to distribute, they have to be here early so we have some time for consideration on those. Is that clear, Barbara?

MS. DEANE: Yes. Thank you.

MR. OXER: A motion by Mr. Bingham, second by Mr. Gann to accept the consent agenda with the exception of 1(g) and 1(n). All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none.

Let's take item 1(g) first. Michael.

MR. DeYOUNG: Michael DeYoung, Community Affairs Division director.

Item 1(g) is the GSBG Discretionary grant. I'll do some historical review for you. The State of Texas receives about $30 million a year for Community Services

Block Grant. Of that amount, about 5 percent is set aside for state discretionary uses. Almost a year and two months ago we met with the Strategic Planning Committee to discuss what do we do with that 5 percent, what's our strategic vision over the next few years, and at the time we focused on a strategy of setting aside in two-year increments to pick a focus.

This is the second year of the focus on homelessness, so you'll see in this item on the third page of the agenda, it begins on the third page and rolls over to the fourth page, the different categories that we propose to set aside funds for out of
CSBG Discretionary: Native-American populations and Migrant and Seasonal Farmworkers of $200,000; intensive community action agency support, this is to go agencies that are in need of additional management assistance; homeless initiatives which was the focus for the two-year period of about $500,000.

We also do some Section 8 support for local operators. We are, as you can remember, the public housing authority for many small communities that have a small number of vouchers, and we perform a series of administrative duties for them, and we need to bolster the Section 8 program with a few dollars. That dollar figure has gone down as we've realized some cost savings through employee attrition, some decisions by HUD, and so that figure continues to decline and we're seeing that figure continue to decline over the last few months.

We also have an initiative at the federal level called ROMA. It's a system of management and evaluation of community action agencies that is going to take a year or two years to get all the agencies across the State of Teas up to speed on. We set aside about $300,000 for that. It is very complex, it takes a lot of training. Each agency has to have someone certified in a management evaluation process that evaluates your results, what's called a community needs assessment which looks out over a five-year period what the needs of the community are and analyzes how those dollars are spent and where the focus is for that community action agency.

And then we also have some smaller funds for disaster recovery and the Texas Interagency Council on the Homeless which is a committee that is formed by the governor and TDHCA is primarily responsible for leading the cause all across the state, in combination with about ten or eleven other state agencies, but we've taken the lead, we've been assigned the lead role in helping to collaborate on programs that all the agencies administer that impact persons experiencing homelessness.

So you have before you the proposal for the discretionary dollars for this next year, and I believe we have two individuals who would like to comment on this item.

DR. MUÑOZ: Michael, I have a question before you leave. I'm just curious, there isn't a lot of detail on this ROMA initiative, but fortunately, it's the second largest line item allocation, only second to very explicitly homeless initiatives. What's the justification for that $300,000 allocation? How did you determine that figure?

MR. DeYOUNG: The $300,000?

DR. MUÑOZ: Sure.

MR. DeYOUNG: There's a few staff people, we have one currently certified ROMA trainer and we're trying to get two more certified ROMA trainers, so we have staff costs. Also, over the last three or four years, the federal agency that administers the CSBG grant, Health and Human Services, has allowed the training costs for our staff to be charged to CSBG Discretionary. As the CSBG Discretionary dollars had gone during the sequestration period, we've had to shift more costs over for one trainer. Now that we're going to two and three trainers, because we have 43 agencies that need to be proficient at this system, we are going to see an increase in staff costs, we're also going to see an increase in travel costs for those staff because we're going to be going to those community action agencies.

The training program, this is not a one-day training. We have to get one person at 43 different agencies through what is essentially a two-week training course for them to become proficient at it, and then we monitor their results at the local level. So they put together a community needs assessment, they file a CAP plan, community action plan for the year. It sets targets for their performance, we're analyzing those targets monthly, and then if we see a dip in performance, we're going to have to go out, along with additional partner trainers from the Texas Association of Community Action Agencies in order to draft a quality improvement plan so they can meet their targets, meet their goals, and fulfill the needs of their community needs assessment.

Is the $300,000 figure exact? We don't know. We don't know how many of these trainings that we'll have to do. We anticipate at least a quarter of our agencies will probably need a visit at one point in time during the year. Those could be a week long to do an analysis on how are they collecting data, how are they reporting data, are they using the ROMA model correctly. So it's a statistical estimate. We hope it won't be that high, but I think we've padded the figure so that if we have to do an extensive amount of training that we'll be able to address all the needs.

MR. OXER: So it's likely not to be any higher than that.

MR. DeYOUNG: I do not envision it going above $300,000. It could end up at $200,000, it's quite possible. We are working with TACAA, the Texas Association of Community Action Agencies, headed by Stella Rodriguez, and TDHCA and we are all pushing to get as many certified trainers so that we can have a network of trainers so that it does not rely just on TDHCA to go out. We'd like to see a trainer in the western part of the state, we have one in East Texas, we have one in the Dallas-Fort Worth area, TDHCA has the Austin area covered, we're looking to get one in the Lower Valley. We're trying to get a network so that the costs do come down over time and that we can rapidly respond to any needs.

DR. MUÑOZ: I appreciate that, that's very helpful. You know, in the totality of the budgets managed by the agency, $1.6 million is significant but not the largest figure that the agency deals with, but when you're some of these organizations, $200,000, $50,000, some of these non-profits, community action agencies, these are significant amounts. So if it isn't $300,000, I hope we figure out a way to fold back the balance into one of these other line item areas.

MR. DeYOUNG: Yes, and I think we crafted the item to be somewhat flexible in that if we have a significant source of funds that goes unused that we would come back to the Board for direction on where do we move from here. One of the things that did change, the dollar figure for Migrant and Seasonal Farmworkers and Native American Populations did not change. We did add $50,000 to the Disaster Relief Fund. That's a fund that's been relied on heavily over the last two or three years as drought conditions have persisted and during the Bastrop fires and other fires around the state, so we've added $50,000 there. In reality we haven't expended that much always, and so those dollars have become available, so we'll be flexible.

MR. OXER: So it's a fair statement, though, I would guess that there's very little money in TDHCA that languishes unused.

MR. DeYOUNG: Correct.

MR. OXER: Okay. So the purpose of the resolution is to consider that to approve that focus.

MR. DeYOUNG: Approve that continued focus on homelessness for the remainder of the year, and then we'll begin talking about what do we do over the next two years, but staff has maintained for Migrant Seasonal Farmworkers and Native Americans the level of $200,000, and I think that's fairly static at this point that we continue. That's always been a population that we've made sure that has CSBG Discretionary. And I will bring up, as some of the speakers may say, we're one of the few states that does this, that sets aside funds for Migrant and Seasonal Farm workers and Native American Populations from CSBG grant, and we intend to do so.

MR. OXER: All right. Motion to consider?

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz to move staff recommendation. Is there a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. Public comment? Anybody want to say anything?

MS. McDONALD: Good morning. I"m Kathy McDonald from the Urban Intertribal Center. I'm the employment and training director, and I'm here to speak on behalf to the American Indian community in the Dallas-Fort Worth area that is a subrecipient of the CSBG Discretionary grant.

We are so grateful that we're still in the budget. I'm here to speak to say please keep us in the budget. I've been with the center for 18 years and my focus there has been trying to work on the challenges for self-sufficiency in the areas of poverty, unemployment and lack of education. Right now a quarter of the American Indian population lives in poverty. The census reported that 27 percent of American Indian families are living in poverty and in some areas it's as high as 40 percent, which would be the more rural tribal areas. Our unemployment rates with the American Indian population range from 14.4 percent, as high as 35 percent. Again, those reflect the more rural.

And regarding education, an American Indian population with regards to high school diploma or GED is at 71 percent verus 81 percent of the general population. A bachelor's degree for American Indian population they come in at 11.5 percent, and the general population is a t 24.4 percent. So there are great disparities in these three areas, so we need the continued support.

And Texas ranks number five in the whole United States of number of American Indians living here. We follow California, Oklahoma, Arizona and New Mexico, so we're fifth, and sometimes we're fourth but lately we've been fifth. Out of that population, 120 different tribes are represented here in the State of Texas. The Dallas-Fort Worth area has 43,000 American Indians that declared Indian alone on the census in 2010. That covers the eleven counties that we serve, so the $100,000 that we got last year goes a long way, and we really need it, it's vital to the work that we do with the American Indian community.

We are a one-stop shop, we have employment training and we have medical, dental and mental health, and on our shoestring budget we do some really great things, so I want to invite you all out if you're ever in Dallas. I will give you a tour of our center and let you see the good things we're doing, and please consider us for your 2015 budget as well.

So thank you for your time and your consideration, and I have cards if anybody wants a business card. Thank you.

MR. OXER: Great. Thanks for your comments. Is there any more?

MR. MARTIN: Good morning. I'm Ken Martin from the Texas Homeless Network. I wanted to thank you, first of all, for the two grants we received in the last year's CSBG competition, that we received two $300,000 grants in the homeless initiatives and the local homeless initiatives project.

And I'm here to report to you that we're on track to accomplish what we said that we would do in those two grants, and we believe that -- in the interest of time, I want to apologize, first of all, I had some beautiful printouts, I did not understand the rule that everybody needs a copy of that, so I'll make sure that the staff has a copy of this. We did meet with the staff yesterday and went over this with them also. We believe that we're on a roll and that if we are able to continue with the funding through the next year, we'll be able to further prepare all of the continuums of care in Texas to receive ESG funding and then disburse it as they see fit in their own community.

I feel kind of like that mechanic who calls you and says: You know, I told you this, and that's true, I need to fix it, but when we opened it up, I found all these other problems.

MR. OXER: As long as it's not your surgeon saying that.

(General laughter.)

MR. MARTIN: And it's not so much it's problems, but this is a new direction for many of the continuums of care, and we're finding that there are a host of issues that would make it more difficult for them to distribute ESG funding. We believe with an additional year of funding we will be able to fully prepare all of the continuums of care, the twelve continuums of care around the state to fully do that. And the original intent of the funding was to build capacity for more projects to go the U.S. Department of Housing and Urban Development for funding.

Since HUD said no new projects for the next year, the Department wisely, I think, switched the focus of the funding to get the continuums ready for the ESG, however, we are anticipating that at some point down the road we will have funding for new projects from the federal government, and we would still like to go build capacity for those new projects among non-profit agencies. So that's kind of what we see for the future for both of these grants. We'll be able to expand exponentially, I believe, the amount of capacity that people have.

And one final thing is I do applaud the staff's recommendation on the TICH. I think that body does need some staff support and I really appreciate the staff's forethought in that.

Any questions?

MR. OXER: Any questions of Mr. Martin?

(No response.)

MR. OXER: Thanks, Mr. Martin.

Okay. We have a motion by Ms. Bingham, second by Mr. Gann.

You've got to be brave, step up if you've got something to say.

MS. RODRIGUEZ: Sorry about that for the

hesitation. Stella Rodriguez with the Texas Association of Community Action Agencies.

I wasn't planning to comment but since this was taken off the consent agenda, I just wanted to reiterate what Michael DeYoung spoke about with the ROMA initiative. That is a directive from the U.S. Department of Health and Human Services encouraging the state associations and the state CSBG offices to partner together to get all the agencies up to speed. You know, it's not just getting them up to speed, but their staff turnover, and so it's a constant training effort. And so we're pleased to be partnering with the state with its initiative.

Again, it is a directive from HHS and we see a one-year rollout to get everyone and then we actually anticipate seeing what's called ROMA Next Generation that the feds are working on as well. So in support of that initiative. Thank you.

MR. OXER: Any questions?

(No response.)

MR. OXER: And everybody, when you come up to speak, don't forget to sign in. Just one more little reminder, front row on our left up here from the inside to the outside are the seats for those who wish to speak on any particular item that's being covered.

All right. We have a motion by Dr. Muñoz, second by Mr. Gann to accept staff recommendation on 1(g). There's been public comment. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none.

Okay. Item 1(n), Marni.

MS. HOLLOWAY: Good morning, Chairman Oxer and members of the Board. I'm Marni Holloway, I am the director of the Neighborhood Stabilization Program.

Item 1(n) seeks to create a structure and contracting authority to provide continued support for land bank programs. Land banking is a unique activity to NSP and the tool has been used in a number of different ways by entities across the state. Four of the entities we're working with are using land bank funds basically to finance land for their own future development, so they have received zero interest deferred payable loans in order to capture and hold land that they will use over the next I think we're at five years now on most of the contracts.

MR. OXER: Is there a limit to those contracts, Marni?

MS. HOLLOWAY: I'm sorry?

MR. OXER: Is there a limit to the term on those contracts?

MS. HOLLOWAY: All of our land bank contracts are expiring in 2019. There is some new guidance from HUD that may allow us to extend that period, but as is typical of NSP, it's a little tidbit of information but not necessarily what to do with it, so we're still waiting for the full closeout notice.

MR. OXER: On that guidance.

MS. HOLLOWAY: Yes, absolutely.

Two other organizations that we're working with, the Texas State Affordable Housing Corporation and the City of Port Arthur, are actually operating land bank programs. They have purchased portfolios of property that they're making available to local partners, to other organizations in their communities for those local partners' redevelopment activities. So rather than buying land that they're going to build on themselves, they've bought land that they're making available to others.

Operating a program has costs that don't happen when you're just holding land for future development. They're working with local partners on application processes, development plans, qualifying homebuyers, so they have these continuing expenses. The item before you delineates those two categories.

For organizations that are holding land for their own use, they really don't have any expenses and they won't have until they get ready to sell the house. There may be mowing, something like that, but they're fairly small. Rather than creating a very complicated structure for those entities, we are proposing to treat them as the developers they truly are for this second phase of the land bank project. They will be using their own funds or some other source of funds to build on that land. We're proposing basically just a twist on our program structure that treats them as developers for that portion so that they can recover all of their costs at that homebuyer sale. That's how it works for that group.

For the City of Port Arthur and the Texas State Affordable Housing Corporation, they won't have that opportunity. They aren't developing those properties, they're just making those properties available to other entities. So that the proposal before you seeks to create a structure that will allow us to continue to support their operations through administrative and activity delivery funds that will cover all of those check boxes and things that we need to got through on a regular basis, but also their mowing and insurance and those kinds of costs moving forward.

We haven't set a budget here. That is because there are still some things that we need to work through with both organizations until we get to the final number. Both organizations have land bank plans, both of those land bank plans need some work and they need to have some solid dates set to them so we all know what our milestones are moving forward. Also, for both organizations we need to do some work on exactly what their administrative needs are moving forward, and this will actually be an annual process. So what this item seeks is your approval of that plan in order to support those types of land bank entities.

Questions?

MR. OXER: Any questions from the Board? I have a question. On the ones that land bank with the intent to provide that property to offer for projects that we would ultimately support, ultimately, how is that property transferred, and are the legal costs associated with maintaining the title and that sort of thing and the later transfer of the title to the new owner, or unless it's leased, even the leasing, those sorts of things, is that part of the cost of maintaining a property in the land bank?

MS. HOLLOWAY: So we have already covered the costs through the land bank for the initial acquisition of the property, and costs that are tied to a homebuyer transaction later would come from that homebuyer transaction. We've let it a little loose here, in part because if we, TDHCA, through our NSP program are financing the construction on that property through that local partner -- because we've already started doing that -- we actually have two pots of funds into that property and are covering funds with NSP dollars but with a different kind of NSP dollar. Did I just make it worse?

MR. OXER: No. Actually, so what you're saying is that you've covered the cost of the acquisition of the property, you've covered the cost of the cap ex on the maintenance of the operation of the land bank, and this is an effort to cover the op ex on it.

MS. HOLLOWAY: Basically.

MR. OXER: Good. A motion we consider?

DR. MUÑOZ: So moved.

MR. OXER: Motion by Dr. Muñoz on staff recommendation. Is there a second?

MS. BINGHAM ESCAREÑO: Second.

MR. McWATTERS: Second.

MR. OXER: We'll let Professor McWatters have that one. We have public comment.

MR. DANENFELZER: Good morning, Mr. Chairman and Board members. I'm David Danenfelzer, manager of Multifamily Development at the Texas State Affordable Housing Corporation. I've been asked to speak on behalf of Mr. David Long, our president, on this agenda item 1(n) regarding the Neighborhood Stabilization Program. I apologize, allergies have been bugging me for weeks.

MR. OXER: I don't know if there's anybody in this room that doesn't have that.

MR. DANENFELZER: Most people in Austin and Texas at this point.

TSAHC has been a land bank partner with TDHCA's NSP program since its inception. We are a subrecipient of over $6.25 million in NSP land banking funds which we have used to acquire over 250 properties statewide. As described in the Board book writeup, we are defined as a land bank program entity, that is, we hold properties, covering ongoing holding costs and upkeep, while our local partners or developers perform rehab and construction activities on those sites. When redevelopment is completed, homes are offered for sale to low and moderate income households.

Through August 16, 2013, TSAHC was reimbursed under its existing contract with TDHCA for ongoing expenses and administration of the properties acquired under the contract. The proposal staff has put before you appears to change how we will be reimbursed moving forward. In reviewing the agenda item as presented, TSAHC does not clearly understand staff's proposal for ongoing reimbursement of land bank activities and administrative costs.

It is our goal to ensure that all of our land bank properties are completed and made available for affordable housing. We want to continue working with TDHCA staff to complete redevelopment within the time frame of the NSP program. This is only possible if sufficient funding is available for us to fulfill the necessary land bank activities. We appreciate any further explanation assurances from staff can provide regarding the proposed changes.

That's the full amount that I was asked to read into the record. As just a point of context, I did have a brief minute to speak with Marni before the meeting. I do think we have still a lot of questions at hand as to how this will work moving forward, not simply the source of funds but how the funds will be reimbursed. As one note, I'll note we have not been reimbursed for our activities since August 16 of 2013, so we have a significant amount of accounts receivable outstanding, and we don't really have a process of submitting draws at this time, and we spend about $6,000 a month to maintain the properties we've purchased, so it is building quite rapidly for us.

But other than that, if there's any questions, I'll be happy to answer them.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: I have a quick question, Marni. So they're carrying these costs, they've acquired properties, TSAHC, for example, they've acquired properties and they're in the process of doing this, the grants or the financing that TDHCA would offer to help cover that cost as they go.

MS. HOLLOWAY: Yes, sir.

MR. OXER: The costs that accumulate for the property, when the property is transferred, is that recovered in the transaction?

MS. HOLLOWAY: For those maintenance costs, mowing, insurance, that kind of thing, no, they are not recovered. Those funds are basically granted to the Texas State Affordable Housing Corporation or the City of Port Arthur. There is a potential to recover the actual acquisition cost of a property. In general, what we're seeing is, as land bank properties are sold, is that we're not receiving program income from those, it's the entire value of the lot. That $11,000, $15,000, in general is the range, is going to homebuyers as down payment assistance.

MR. OXER: So we're essentially deeding over the lot to them.

MS. HOLLOWAY: And we are receiving a deferred forgivable lien back and securing the affordability on the property that way. The program income that we're generating right now, and we've received about $4 million thus far, is coming from loan payments, those on multifamily and single family activities. It's also coming from loan payoffs from purchase and rehabilitation or new construction activities where we have more funds in the deal and someone is bringing in a third party lender.

MR. OXER: So the sub costs we have into each one of the properties then becomes an investment that the state is making to preserve the neighborhood, stabilize the neighborhood.

MS. HOLLOWAY: Yes.

MR. OXER: This is the mechanics of how we're stabilizing the neighborhood.

Any other questions from the Board? Any other public comment?

(No response.)

MR. OXER: Motion by Dr. Muñoz and second by Professor McWatters to approve staff recommendation. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Thanks, Marni.

Report items, that's covered in the consent agenda. 2(a), Sandy.

MS. DONOHO: Good morning, Chairman Oxer, Board members. For the record, I'm Sandy Donoho, director of Internal Audit.

Item 2(a) is: Presentation, discussion and possible of the 2013 audit results from the State Auditor's Office.

As you know, the Department's governing statutes require an annual audit of the Department's books and accounts, an annual audit of the Housing Trust Fund, and an audit of the financial statements of the Housing Finance Division and the supplement bond schedules, which is required by the bond indenture. This year, as in the past couple of years, the State Auditor's Office performed these audits for us under contract with the Department. Verma Elliott, the audit manager, and Amadou N'gáide, managing senior auditor, are here from the State Auditor's Office to give you a brief overview of this work.

MS. ELLIOTT: Good morning, Chair, members. I'm Verma Elliott. I was the audit manager for this engagement.

The State Auditor's Office is required by auditing standards to communicate with those charged with governance, and this constitutes that communication. In addition to this communication, we also emailed the Board on December 30 a detailed communication required by standards that identifies the details that we were supposed to communicate with you regarding the engagement.

With me is Amadou N'gáide, and he will discuss in detail briefly the results of the audit.

MR. N'GÁIDE: Good morning, Chairman, members.

MR. OXER: Good morning. Happy new year to both of you.

MS. ELLIOTT: Happy new year.

MR. N'GÁIDE: Happy new year.

My name is Amadou N'Gáide, and I was the project manager of the team that audited the financial statements of the Department for fiscal year 2013, and in our report, dated December 20, 2013, we concluded that the Department's basic financial statements and the Revenue Bond Program Enterprise Fund financial statements were materially correct and fairly presented in accordance with accounting principles generally accepted in the United States.

We also concluded that the Department's computation of the unencumbered fund balances of its Housing Finance Division complied with the requirements of the Texas Government Code. We also reviewed the federal data schedule prepared by management and concluded that the federal data schedule was fairly presented in relation to the basic financial statements in fiscal year 2012.

We also performed agreed upon procedures to verify, to compare the electronically submitted data to the U.S. Department of Housing and Urban Development Real Estate Assessment Center, compared that information to hard copy documents, and we concluded that electronically submitted information matched the hard copy documents.

We also issued a report on internal controls over financial reporting and on compliance and other matters, as required by auditing standards. In that report we identified that the Department had not updated an operating system on a server or installed patches to help ensure the security of the information on that server. This was an issue that was communicated to management in fiscal year 2011 and fiscal year 2012. Recently, after the completion of the project, I was contacted by management and I was informed that the operating system on that server has been updated and the patches have been installed. Since this happened after the audit, we have not performed any procedures to verify the accuracy of that information.

As Sandy indicated, we've been performing this audit for the past three years. I just would like to say that we appreciate management's cooperation during the course of these audits and we've developed a very good working relationship. I just wanted you to know that, and we did not have disagreements during the course of these audits.

And this concludes my presentation, and I'll be glad to answer any questions that you may have.

MR. OXER: Thanks, Amadou. Questions from the Board? Any questions for our resident CPA?

(General talking and laughter.)

MR. OXER: Thanks, Amadou.

We have to formally adopt these results? Then we'll have a motion to consider.

MS. BINGHAM ESCAREÑO: I'll move to approve.

MR. OXER: Okay. Motion by Ms. Bingham to approve staff recommendation on item 2(a).

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. Is there any other comment? Sandy, do you have anything else to add?

MS. DONOHO: Not on this item, no.

MR. OXER: Good. All right. Motion by Ms. Bingham, second by Mr. Gann. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous. Thanks. 2(b).

MS. DONOHO: This is the report from the Audit Committee. We had an Audit Committee meeting this morning. We talked about a couple of things. The first was our audit charter and the Board resolutions for Internal Audit. These are required by the Institute for Internal Auditors International Standards for the Professional Practice of Internal Auditing -- that's a mouthful -- and the U.S. Government Accountability Office's Government Auditing Standards. We're required to follow these standards for every audit. There's also a state statute that requires that.

The standards require annual approval of the Internal Audit Charter and the Board resolutions regarding Internal Audit. The charter and the Board resolutions are the same as last year. They were approved by the Audit Committee this morning, and you just approved them on the consent agenda, but I wanted to explain to you what they were about.

We talked about the status of our Audit Work Plan. We have six audits on the plan this year -- it may feel like six years but it's six audits -- as well as a contingency audit. We've completed one of these audits, we have two underway, and there are three that we haven't yet started. We've also completed our annual quality self-assessment required by audit standards, as well as our annual review and update of the charter and the Board resolutions just discussed.

We've have two staffing shortages that we expect will continue through the summer, with the impending and most welcome arrival of a baby auditor. The bad news is that could affect our plan, but we're committed to working as hard as we can to get that plan done. We will keep you apprised for progress, we may need to modify the plan slightly, maybe in May, but I want to see how far we can get before that happens.

MR. OXER: In course correction, or mid-course correction.

MS. DONOHO: Yes, unavoidable mid-course correction.

MR. OXER: Unavoidable. Things are changing.

MS. DONOHO: Right. We talked about recent Internal Audit reports. There was an audit that we did of loan processing which was a carryover from last year, and an internal audit of the ethics program. We also talked about the quality assurance and improvement program self-assessment which is required by the standards. The objective of that is to evaluate our independence and our compliance with the definition of internal audit, the standards and the code of ethics. We feel like we're in compliance.

We talked about the two external audits that we have had either completed or underway this year. One is the SAO audits of our annual financial statements that you just heard about. The other one is KPMG just finished their work on our portion of the statewide audit of federal funds. This year they looked at the Low Income Housing Energy Assistance Program, or LIHEAP. The report on that will be issued in March and we'll talk about that in May.

We talked about the five prior audit issues that we have; four have been implemented and one is still pending. And also, the fraud hotline, we had 24 fraud complaints so far this year; 17 of them were not under the Department's jurisdiction. Of the seven that were, two were investigated and closed, three were referred to the State Auditor's Office, and we have two that are pending.

Are there any questions on the Audit Committee meeting?

MR. OXER: Any questions of the Board? Ms. Bingham, as chair of the Audit Committee, have you got any other comments?

MS. BINGHAM ESCAREÑO: No. It was a very smooth Audit Committee meeting. I think we handled all items; there were no major concerns.

MR. OXER: Good. Okay. This is a report only?

MS. DONOHO: Yes. Thank you.

MR. OXER: All right. Thanks, Sandy.

Cameron.

MR. DORSEY: Good morning.

MR. OXER: Indeed. Happy new year.

MR. DORSEY: Yes. And hopefully I won't have to utter the words "good afternoon."

(General laughter.)

MR. DORSEY: Item 3(a) kind of includes two components, but really, I think they kind of go together. Oh, sorry. Cameron Dorsey, director of Multifamily Finance.

This item involves the possible ratification of an award that we made right at the end of the year with discretion that the executive director was provided through Board action in some prior meetings. Given the timing right at the end of the year and the need to allocate credits by December 31 in order for it to be validly allocated and not have to carry over into next year, we asked the Board for that discretion and it was granted.

I'm going to kind of go back to last meeting and kind of walk you guys through this step by step. At the last Board meeting, the Board took action on an item with regard to a tax credit development, a 2012 tax credit deal called Magnolia -- hold on -- Memorial Apartments. I'm getting all the names mixed up here. Memorial Apartments was a 2012 deal that was allocated about $885,000 in credit and they were up against a deadline. The Board took action that basically resulted in them having to meet that deadline by close of business on December 27, and in the event that they were unable to, that credit was effectively automatically rescinded and it went back to our statewide pool of tax credits to allocate during the 2013 calendar year.

So the $885,000 was combined with about $86,000 that we had left over from all the prior actions with respect the 2013 9 percent cycle, to result in about $969,000 in credit. It was a pretty hefty amount of credit to carry forward into 2014. We generally do the best we can to allocate all of the credit available in the year that we have it available.

In this particular instance, and as discussed at the prior Board meeting, the next application on the waiting list on the 2013 waiting list had requested about $1.4 million, it was for 120 units. The name of this transaction is Bella Terra Apartments. It's located in Brownsville, or would be located in Brownsville, and it is a high opportunity area, new construction development, and specifically they were requesting $1,420,889. You can imagine that $969- as a substitute for the original request of $1.4 million left a pretty tremendous gap in financing if they were to carry on 120 units.

At the same time, we wanted to ensure that we preserved the Board's ability to choose the path that was ultimately taken with respect to the allocation of those credits, and there are two primary options. One is that if you chose not to ratify and approve the amendment today, what would happen to those $969,000 in credit is that they would be carried forward into the 2014 cycle, and so we would have that money available to 2014 applications that are received prior to February 28 and we would ultimately, hopefully, be able to allocate that credit by the end of July, just as we will do with our 2014 tax credit ceiling.

The alternative option is to approve this ratification and to approve the amendment that I'm about to lay out, and that would allow this development to move forward in an amended from and it possibly allows those units to get on the ground faster. One important thing to note is the prior development was located in Region 11 as well, so we're putting the funding back into that same region.

The amendment that has been requested is to reduce the number of units from 120 units to 80 units. It's a pretty big deal. Typically this is the type of amendment that would cause a lot of stress from staff's perspective because typically that would suggest that the original allocation had some type of flaw in it and that the original application wasn't viable. In this particular instance, I don't think that's the case. The limiting factor is that at the end of the day, on December 31, we didn't have $1.4 million in credit to allocate, we only had $969,000, so 80 units from 120 units.

From a credit efficiency standpoint, I think we're still in a pretty good position. We would be moving from $11,841 in credit per unit to just a 2.3 percent increase in a per-unit basis, which makes a lot of sense. You know, there are some fixed costs in any transaction, so you lose a little bit of efficiency as you reduce the unit size at a minimum. In addition, we end up with about 29 percent of the developer fee deferred, so it's not as if they're requesting to go down to a number of units that makes them completely whole on their developer fee the day they convert to permanent. So from a credit efficiency standpoint, I think staff felt real comfortable with the move from 120 units to 80 units.

We've allowed some changes in the two prior years for that last residual transaction, not this great in magnitude, though. In 2012, our last allocation of the year was the Residences at Solms Village. In that particular instance, we were just about $14,000 in credits shy, so they were able to deal with it almost solely through an increase in deferred developer fee. The reality is at the end of the day, at the closing table, we also had to deal with some issues on the HOME funding, being in a second lien position with the first lien lender, probably largely a result of not having been able to allocate the full amount of credit, but relatively minor in magnitude in terms of the actual change in the deal.

In 2011, our last kind of residual deal at the end of the day was Allegre Point, it's a deal in Austin that I drive by on my way to my parents' house right off of 35, and a really beautiful transaction. And they requested $2 million. Ultimately we were able to allocate $1.47 million, so we were over $500,000 shy on that one. That was a different time. In 2011 we kind of experienced a pretty big increase in credit prices from the beginning of the year to the end of the year, and so they were able to fill the gap through a couple of different ways.

One is they requested $2 million in HOME funds that they hadn't originally requested. In addition to that, they were able to get 10 cents higher pricing on their tax credits, which was a pretty tremendous increase. And they went with a different lender and a different loan structure that allowed them to have an interest rate that was 2 percent lower. I think the market was changing as well, so it probably would have been lower anyway. But they made these changes to fill the gap.

That's not really the environment we're in this year, so you know, this transaction was able to -- I think we're pretty much in the same position we were at the beginning of the year with respect to their financing. If anything, their interest rates have increased, not decreased, et cetera. So there are limited options, and I think that this amendment request, what they've structured, probably is the most viable option to carry out this transaction as a 2013 deal and possibly get units on the ground faster.

In a normal circumstance, well, the return of credit at the end of the year and how that's dealt with is informed by a Treasury regulation, and basically, what it tells us is that in order to be eligible for national year in the year subsequent to the year you allocate credits, you must allocate at least 99 percent of the credit you allocate. The remaining 1 percent is the de minimis exception. But then they have this other thing, because

$969,000 is clearly more than 1 percent, it's about 1.5 percent of our ceiling, so the information I've given you alone would suggest if you didn't approve this, then we would lose out on national pool next year.

However, there's this rule in the Treasury regulation called the Three-Month Rule, and basically, any credit that is returned after September 30, the state can decide whether or not to accept that as returned in that calendar and use it in that calendar year, or can accept it as effectively returned on January 1 of the subsequent year, so as not to burden the state with trying to really quickly have to allocate it to get up to that 99 percent and then qualify for national pool the next year.

In this case, we're dealing with a situation where we have a choice: we can accept it as returned, allocate the credit to this deal, and keep moving forward with it -- like I said, we executed that carryover just before the end of the year -- and keep moving forward with this deal, or accept that credit, the $885,000 that was returned from Memorial Apartments, we could accept that as returned January 1 and use it in 2014. So anyway, the rules and everything allow us these two distinct options.

At the time that the Board item was drafted, staff had a neutral stance on the amendment, we hadn't completed the underwriting and what-have-you. We have now completed the full underwriting of the transaction. The proposed amended transaction is financially viable. We also did a preliminary review of the original transaction just to make sure it would have been viable if the full credit amount had been available to it. That is also the case. The amended transaction would maintain the same score, so it wouldn't affect their position in line or kind of those issues with, all right, well, they wouldn't have been the next transaction on the waiting list type of thing.

So I think it's pretty clean if the Board wanted to approve this amendment, and I don't think that there's really a slippery slope issue involved in this particular instance. As I've said, you know, we allowed some minor changes to transactions in the two prior years, prior to that we allowed even greater changes to get that last residual credit allocated, and it is dealing with just that last bit and it's really do we want to allocate it or do we want to carry it forward and use it next year.

MR. OXER: Okay. Are there any questions of the Board? Dr. Muñoz.

DR. MUÑOZ: Cameron, hearing your summary, it claims that you would verify that these changes wouldn't materially affect their ranking on the waiting list.

MR. DORSEY: That's true.

DR. MUÑOZ: So it said you'll verify this assertion and present it at the time of the Board meeting.

MR. DORSEY: That's correct, and yes, it would not affect the score.

DR. MUÑOZ: It did not.

MR. DORSEY: It did not.

MR. OXER: This is that presentation.

MR. DORSEY: Yes.

MR. OXER: So essentially, what we're looking at is in the amendment, rather than coming back to you and requesting an amendment where they changed the deal because they had some economic stress, we asked them to change it because we only had so many credits.

MR. DORSEY: Well, we didn't ask them to change it. What we did was we said we haven't fully underwritten the deal, and so there were still some possibilities on the table for the deal to be financially viable with $969,000. Arguably, it would have been a stretch. What we did was we allocated the credit via a carryover agreement and commitment. We executed the carryover on December 31. They submitted the amendment in early January in order to resize the transaction.

We knew that there was a high likelihood that this was how it was going to have to go, but we certainly wanted to preserve -- if we hadn't signed that carryover agreement, you guys wouldn't have an option right now. What we really wanted to do was preserve that option, particularly because we had talked about this possibility at the previous meeting and I think it weighed on your decision to not approve what the applicant for Memorial Apartments was requesting at that previous meeting.

MR. OXER: So essentially what we're saying was we had a certain amount, we'll preserve our options, but here's what we've got left, come and get it if you can make it work; if you can't, we'll keep the option to use it in 2014.

MR. DORSEY: Exactly.

MR. OXER: Okay. Good. Any questions of the Board?

(No response.)

MR. OXER: Motion to consider this item?

MR. GANN: Mr. Chairman, I appreciate the presentation, and keep the presentation like it was and approve the ratification and the amendment.

MR. OXER: Okay. Motion by Mr. Gann essentially to approve staff recommendation on this.

MR. DORSEY: Well, staff was neutral on the amendment.

MR. GANN: The presentation is what it is.

MR. OXER: The presentation and approve the amendment.

MR. GANN: Ratification and the amendment.

MR. OXER: Basically to keep going where you were headed. Right?

MR. GANN: Right.

MR. OXER: All right. Motion by Mr. Gann.

MR. McWATTERS: Second.

MR. OXER: There is a second by Professor McWatters. There appears to be no public comment. Motion by Mr. Gann, second by Professor McWatters. All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none, and it is unanimous.

You've got number 2(b).

MR. DORSEY: I'm going to let Jean do that one.

MR. OXER: 3(b), sorry about that.

MS. LATSHA: Good morning.

MR. OXER: Good morning.

MS. LATSHA: I'm sorry. Jean Latsha, Housing Tax Credit Program manager.

This is something that we haven't done in the past at this level, so after the rules are approved, in between the time that the rules are approved and applicants turn in their applications, Cameron and I field hundreds and hundreds of questions at the application workshops, emails, phone calls, about how to apply the rules to the scoring items that applicants are looking at. And in all years past, we have published frequently asked questions on the website based on all of that correspondence.

This year we want to just want to take that one step further and make sure that the Board basically agrees with the guidance that we have issued through those frequently asked questions. Otherwise, I think the real reason for this is we could get to a point further down the cycle where someone has appealed a scoring item or something to that effect, we would point to guidance that we gave through a frequently asked question to defend our own position, only to find out that you didn't agree with the guidance that we gave.

That being said, I can go through some of these questions, or I can go through all of them, or just some that you might have questions about. Some of them are pretty administrative, just how do I request a waiver. Some of them are pretty straightforward, just some applicants were confused about the language but the language itself was pretty straightforward. And some of them caused us a little bit of brain damage, but we were able to reach a consensus on how that language would be interpreted.

A lot of them involve questions about the rural opportunity index, and I imagine we'll probably see some issues on that in the cycle, regardless. There were some interesting questions about the opportunity index and community revitalization points and how those point items interact with each other as they relate to provisions for the boost and the tiebreaker and possibly relocated at-risk deals. And there was some clarification on local political subdivision funding, but again, I think that was pretty straightforward in the rule, just a little bit confusing to some of the applicants that might be in ETJs and things like that.

Like I said, I can just take questions from the Board, or go through any of the specific questions.

MR. OXER: Okay. Are there any questions of the Board? What was the most contentious issue that you had, the one that generated the most commenting?

MS. LATSHA: You know, I would say the rural opportunity index. This is a scoring item where not only was it a little bit confusing to some applicants to figure out how they would even be eligible for points in the first place because it's kind of this two-pronged test, but it also involves being in proximity to certain services such as a health care facility, daycare centers and things like that, and these are terms that aren't really defined, things like senior center, full-service grocery store.

So we tried to give some guidance on how staff would interpret whether or not an applicant was going to be eligible for those points if they were located to, let's say, a daycare center that served infants and toddlers but didn't take pre-kindergarten kids, or if they were in proximity to a convenience store that, as we liked to say in the application workshops, had hot dogs and bananas but nothing else, is that a full-service grocery store, things like this. So we tried to answer those questions.

I imagine, like I said, that I would be surprised if we still didn't see this come up, but I feel like giving a little bit more guidance to the applicants at this stage in the game at least will limit the number of appeals we might see in the future on this type of item. I would say that was the most contentious.

MR. OXER: So it was more a matter of educating them to what the intent was on each one of these, answering those questions, and encouraging or creating a history of how it would be interpreted.

MS. LATSHA: Yes, sir.

MS. BINGHAM ESCAREÑO: Mr. Chair.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: I really like that you put effort into the frequently asked questions, and like when you read through them, the ETJ stuff and the grocery store stuff and the daycare stuff, there on common themes that we hear, and I appreciate your realism that this won't answer everybody's questions or solve all the problems, but I think it's a good document, I think it's a good working document. My recommendation would be, I would say I'm prepared to take action here and make a motion, and then if there are any comments after that about specific ones, but overall, I don't know about the rest of the Board members, but I am comfortable that that it's a well thought out document.

MR. OXER: Hold that thought for a second. I can tell we've got an audio effort. Are we good?

(Pause while audio issues were solved.)

MR. OXER: As a comment on overseeing a program like this, it's not unlike any other management transitional change in a political process, the more spade work you do up front, the less painful it is afterward to move the rocks. So I'm completely on your side in terms of the more outreach we do, the less likely it is that somebody can contend that the interpretation had changed.

MR. IRVINE: And I will say that this is the result, in each of these answers, of a process where a roomful of us got together and we hashed these things out, sometimes hours on end, sometimes back and forth drafts. We would gleefully take opposing positions, we would try to speak for kind of fringe approaches, and ultimately, what we coalesced around was unanimity that this was the common sense approach that was consistent with our statutory constraints, our rules and the policy intent behind those statutes and rules.

MR. OXER: Common sense in government, what a concept. Right?

(General laughter.)

MR. OXER: Okay. Are there any other questions of the Board?

(No response.)

MR. OXER: In that case, Ms. Bingham, I'd invite you to offer us a motion.

MS. BINGHAM ESCAREÑO: I move to accept the staff's presentation of the frequently asked questions for the 2014 9 percent.

MR. OXER: So the resolution is that we are agreeing that the information you're putting forth, we agree with them conceptually. Is that correct, Jean?

MS. LATSHA: Yes, sir.

MR. OXER: All right. Motion by Ms. Bingham.

Do we hear a second?

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters. There appears to be no public comment. Motion by Ms. Bingham, second by Professor McWatters on item 3(b). All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

MS. LATSHA: Thank you.

MR. OXER: Thanks, Jean. Very good job. I echo Ms. Bingham's sentiments. It's a very good job taking what can be a very contentious item and detailed item and trying to keep it smooth and predictable as much as possible.

Okay, Cameron.

MR. DORSEY: All right. This item is related to the possible adoption of a process to allow 9 percent tax credit applicants applying in 2014 to apply for HOME money, despite the fact that we may not have that money available to us yet and it may not be available in a NOFA.

We did something very similar last year, it was actually, I think, in December of 2012 for the 2013 cycle that we took action to do this. We carried that out in the 2013 tax credit cycle. It's certainly not the most streamlined way to allocate HOME money, however, I think there's a good underlying policy to move forward with this type of process.

The issue, the core issue that we're dealing with and the reason that kind of necessitates this type of process is that over time we've gotten more and more out of sync with the 9 percent program and when we receive our HOME money from HUD. In years past, five or six years ago, we could see a grant agreement from HUD as early as March or April, and last year I think we got that grant agreement from HUD at the end of July, and so it makes it really difficult, obviously, when you don't get money until you're at the point of allocating tax credits to then make that money available in a NOFA to those same applicants and have evaluated that it's financially viable and all this kind of other stuff. So this process is to help kind of bring those, basically compensate for that lack of alignment that's developed over time.

The process would apply only to 9 percent tax credit applicants that also would like to seek HOME funds. The way we have it drafted now in the recommendation is that it only be made available to applications for development in high opportunity areas or areas that would score on the opportunity index.

MR. OXER: Hold on a second, Cameron.

(Pause while audio issues were solved.)

MR. DORSEY: So in effect, what this does is it provides an avenue for folks to structure applications that may not otherwise be financially viable. In some cases those may be rural applications, they may be applications in areas that would score on the opportunity index but that aren't in participating jurisdictions where HOME money isn't available and they may need that HOME money to fill a gap in financing.

The award maximum we've proposed is $1 million. The policy outlined in your Board materials makes it evident that there is some level of risk associated with applying for these funds, given that we don't have them yet. For example, HUD could, for whatever reason, not make that amount of money available to us, they may not make it available it to us when we expect them to make it available to us, and they may not make it available to us at all, although I don't necessarily expect that, and so there is some level of risk associated with applying for it.

At the same time, I think it helps us out a lot in one really important regard, and that is we get the process moving to get funds allocated before we have them and that helps us meet our HUD commitment deadline earlier and puts us at less risk of missing that deadline when it comes up, which is basically that we have to commit HUD funds within two years of receiving those funds. And by commitment, HUD's current definition and interpretation is basically they need to be really close to closing in order for those in order to commit those funds, and so it's not when the Board approves the award, it's further down the road. So this gives us a bit of a head start, it gives us a running start at that deadline, puts us in a better position to meet it and not lose HOME money to the federal government.

So anyhow, staff would recommend that the Board adopt this type of policy and make available this process for the 2014 9 percent tax credit applicants that would also like to seek HOME funds.

MR. OXER: Thanks, Cameron. Any questions of the Board? I have a question. How do you anticipate the amount that's expected from HUD?

MR. DORSEY: Sure. I think at this point we expect a small increase over last year, but it's not going to be dramatic. At the height of our kind of HOME allocation, we were at $42 million, that was three or four years ago, and last year we had $24-some odd million, and I think we won't be significantly higher than that, certainly won't make up that kind of dramatic gap. I've given estimates based on our $24 million allocation from last year, and that is that we would expect to be able to make about $9.3 million available in the general set-aside. I inverted these numbers in one spot in here. $9.3- in the general set-aside and I believe $3.6 million in the CHDO set-aside which is for community housing development organizations, it's non-profits with certain other characteristics.

MR. OXER: All right. So let's take the last of the marginal projects. I'll pick a set-aside group, the general set-aside there's $9 million, and there are a dozen projects that file for this, put a million dollars apiece in each one of them as the maximum, and they all qualify but there's not enough money. You get down to the layering on that and they qualify in terms of the tax credit round, but then they don't manage to be successful or economically viable unless they have those funds. Does that take them out and it rotates the list up?

MR. DORSEY: It could result in that type of scenario. We've been lucky because that is a present concern in every tax credit cycle where we're also making HOME money available, whether we have a NOFA out or not. Since I've been involved with the HOME program in 2008, I have not seen that occur. We've ultimately been able to make sure that we've had enough HOME money to allocate to everyone that also requested 9 percent credits and was in the money for a 9 percent award. We have not had the experience where we were able to get down to someone that was in the money on 9 percent but too low on HOME funds which caused any concern. So I'm not exactly sure how we would deal with that, so we would have to deal with that when we got there.

MR. OXER: Well, it's not unlike when we had to deal with year before last, 2012. You had eight variables, or seven variables and eight distinctions you had to make, and we had to come up with a decision at the very end and figure out a way to allocate.

MR. DORSEY: Sure. It would be something that was recognized during underwriting and so likely it would be dealt with through some kind of condition that they identify some alternative source of financing, probably by tax credit commitment or something like that, to fill the gap, given that they aren't going to get HOME funds if, in fact, it's not viable without those HOME funds. There are instances in which a transaction might be viable without the HOME funds they requested, albeit tenuously, it can put a lot of strain on a deal, but it could result in circumstance where they just have to increase deferred developer fee and otherwise the transaction remains solid.

MR. OXER: I mean, I'm entirely in favor -- the things I do in my day job, I'm entirely in favor of being able to get stuff started for the long tail planning that's required so you're not trying to cram all of this down into one short little period. To me, it makes sense to try to do this. That said, what do we do if it doesn't work, and the probability based on your data projecting forward about the likelihood that it won't work. I like the concept of the latitude for the staff being to be able to make that work, as long as you come back and we have an opportunity to make decisions.

MR. DORSEY: Right. And if I saw that coming up, if I saw that ahead of time, I would probably bring it before we got there and say, All right, here's some options about how we deals with this. The question is just can I predict that happening, and that's the tough part.

MR. OXER: Right. If it was easy, anybody could do it. That's why we've got you.

Okay. Item 3(c), can I have a motion to consider?

DR. MUÑOZ: So moved.

MR. OXER: Okay. Motion by Dr. Muñoz to move staff recommendation. Is there a second?

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Second by Ms. Bingham. And we have comment.

MR. HOOVER: My name is Dennis Hoover, and I represent the Rural Rental Housing Association of Texas which has over 25,000 USDA financed units out there, mainly in small towns. Probably the typical USDA rural development property is 32 units and 25 or 30 years old, and some of them have some rental assistance, Section 8 or rental subsidy, I'd probably say half of them don't or maybe 40 percent of them don't.

And USDA is sort of a legacy program, they don't have much money, they don't have many people. We depend heavily upon tax credits and our HOME financing to rehab these units out there in small towns that are desperately needed. Some of those towns will have a new 9 percent tax credit deal built in them but a lot of them won't, and even 25 years old and badly needing a rehab, these USDA units are sometimes some of the only, and typically the best, apartments in town, so they're badly needed.

This year is kind of a double whammy for us. The tax credit percentage rate going down from 9 percent o the monthly floating rate, currently about 7.6, and then there's no HOME money to be had for rehabs this year, I think due to a decision made, I suppose, internally because of HUD is putting pressure on the state to come up with a rehab building code of some sort. So I understand that we will not have the possibility of HOME funds for rehab this year, and I think the guys like myself, the developers, the owners, looking the pre-app list, there's just as many pre-apps and maybe one or two more than there was last year.

But I think what we've done, if we don't have soft financing there, if we don't have HOME financing that we typically get a zero or one percent for 30 or 40 years, you obviously have to go out and depend on market rate financing, something at 5-3/4 or 6 percent, and that cuts the deal in half. These things need at least a $40,000 per unit rehab. The deals that we can do this year are probably $20,000 per unit rehab. You move at the bigger, better places with rental assistance, typically in places with higher rents where you can do a bigger rent increase to pay for that market rate financing. And so we'll use all of our allocation of tax credits, I think there's three times the amount of money applied for than what is available.

But I'm just here to say we badly need that HOME financing. There's a lot of deals that won't be done just because there's not soft financing available like there was in years past. And so here's the whole range of properties that could be helped, if there's no soft financing, you have to do the bigger and better deals, and if there's no HOME financing, you keep passing up the deals that need it to get to the bigger and better, richer. I'm doing three deals in Williamson County this year because the rents are higher.

And so that's all to say we need that HOME financing. It looks like it's not going to be possible this year, no fault of our own, but just want to keep that in front of you.

MR. OXER: Thanks, Dennis. Any questions from the Board? So take it your assessment is we need to keep pushing these programs with what's available.

MR. HOOVER: To push them what?

MR. OXER: We keep making these available as much as we can.

MR. HOOVER: Yes. I know everybody wants the HOME, we need it worse than those guys do.

(General laughter.)

MR. OXER: I think everybody in here says that when they come up. Thanks for coming.

MR. HOOVER: Thank you.

MR. OXER: All right. No other public comment. A motion by Dr. Muñoz and second by Ms. Bingham to accept staff recommendation, move staff recommendation on item 3(c). All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Okay, Tom.

MR. GOURIS: I'm grateful to say good morning. Tom Gouris, deputy executive director for Asset Analysis and Management.

Item 4 amounts to a status update on one of the remaining HOME Multifamily monitoring issues we've brought to you before. One of the opportunities that we're pursuing is a substitution of units on an alternative property. As you may recall, we first considered reconstruction of the existing site which is a site that we control, but we shelved that idea because of the time issues and cost issues.

While we previously received Board approval for the use of revenue generated from loans originally made with the TCAP funds to resolve these Multifamily HOME issues, and there are no restrictions blocking the use of this source to acquire a multifamily property, HUD has not yet approved the use of these funds in the satisfaction of the HOME requirement.

That's the update. I would suggest that any specifics of the legal strategy and/or negotiations with regards to third parties on potential real estate transactions be reserved for an executive session, if that's needed.

MR. OXER: Good. Any questions of Tom?

(No response.)

MR. OXER: Okay. That's a report item, and thanks for being here. Happy new year, by the way.

MR. GOURIS: Happy new year. Thanks.

MR. OXER: Okay. Everybody sit still for a second. We're going into an executive session and we have several things to consider. We are hoping to have that done and be back before lunch and get finished up here.

The Governing Board of the Texas Department of Housing and Community Affairs will go into closed session at this time, pursuant to the Texas Open Meeting Act, to discuss pending litigation with its attorney under Section 551.071 of the Act, to receive legal advice from its attorney under Section 551.071 of the Act, to discuss certain personnel matters under Section 551.074 of the Act, to discuss certain real estate matters under Section 551.072 of the Act, and to discuss certain issues related to fraud, waste or abuse under Section 2306.039(c) of the Texas Government Code.

The closed session will be held in the anteroom chamber behind us. The date is January 23 and the time is

11:31. We're anticipating that this will be a reasonably short executive session, just for updates. We anticipate being back fairly quickly, and we're not going to break for lunch until we get back. So with that, we'll be back.

(Whereupon, at 11:31 a.m., the meeting was recessed, to reconvene this same day, Thursday, January 23, 2014, following conclusion of the executive session.)

MR. OXER: Okay. Good afternoon, again, everybody. I see it's 12:16, we're back in session. We received advice from our counsel and made no decision, and no further action was taken.

So with that, this is the point where we offer an opportunity for those here to make comments for items for the agenda going forward. Would anybody care to make any comments?

(No response.)

MR. OXER: That's the right answer. That being said, does anybody on the staff have a comment? Any member of the Board have a comment?

(No response.)

MR. OXER: Okay. Then I'll say as chairman, thanks for being here, happy new year, glad everybody is back in the saddle and ready to go again. I'll entertain a motion to adjourn, please.

MS. BINGHAM ESCAREÑO: So moved.

MR. GANN: Second.

MR. OXER: Motion by Ms. Bingham, second by Mr. Gann to adjourn. No public comment required. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. Thanks, folks. See you in February.

(Whereupon, at 12:16 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: January 23, 2014

I do hereby certify that the foregoing pages, numbers 1 through 70, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

01/29/2014
(Transcriber) (Date)

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