TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

Room 1-111
William B. Travis Building
1701 Congress Avenue
Austin, Texas

April 25, 2019
8:00 a.m.

MEMBERS:

J.B. GOODWIN, Chair
PAUL BRADEN, Member
ASUSENA RESENDIZ Member
SHARON THOMASON, Member
LEO VASQUEZ, Member

DAVID CERVANTES, Acting Director

ON THE RECORD REPORTING
(512) 450-0342
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CONSENT AGENDA

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

LEGAL

a) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Homes of Persimmons (HTC 98170 / CMTS 2026)

b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Fountains at Chimney Rock (HTC 93048 / CMTS 1129)

COMMUNITY AFFAIRS

c) Presentation, discussion, and possible action on awards for 2019 Community Services Block Grant discretionary funds for education and employment services to Native American and Migrant Seasonal Farmworker populations

BOND FINANCE

d) Presentation, discussion, and possible action on Resolution No. 19-030 regarding the annual approval of the Department’s Investment Policy

e) Presentation, discussion, and possible action on Resolution No. 19-031 regarding the annual approval of the Department’s Interest Rate Swap Policy

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j) Presentation, discussion, and possible 12 action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement  
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k) Presentation, discussion, and possible 12 action on an order proposing an amendment to 10 TAC, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries, and directing publication for public comment in the Texas Register  

ON THE RECORD REPORTING  
(512) 450-0342
l) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §5.802, Local Operators for the Section 8 Housing Choice Voucher Program, and directing its publication for adoption in the Texas Register.

m) Presentation, discussion, and possible action on an order adopting an amendment to 10 TAC §1.15, Integrated Housing Rule, and directing its publication for adoption in the Texas Register.

n) Presentation, discussion, and possible action on an order adopting an amendment to 10 TAC §1.405, Bonding Requirements, and directing its publication for adoption in the Texas Register.

o) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits, and an order proposing new Subchapter H, Income and Rent Limits, and directing their publication for public comment in the Texas Register.

CONSENT AGENDA REPORT ITEMS
ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:
   a) TDHCA Outreach Activities, (March-April)
   b) Report on the Department’s 2nd Quarter Investment Report in accordance with the Public Funds Investment Act
   c) Report on the Department’s Interim Balance Sheet/Statement of Net Position for the period ended February 28, 2019
   d) Report on the Department’s 2nd Quarter Investment Report relating to funds held under Bond Trust Indentures
   e) Report on the closing of the Department’s 2019 Series A Residential Mortgage Revenue Bonds
   f) Report on deadlines after force majeure actions

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ITEM 5: COMPLIANCE
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b) Presentation, discussion, and possible action on initiation of proceedings to remove the eligible entity status of Galveston County Community Action Council, Inc. and terminate the 2019 Community Services Block Grant contract and future funding

ITEM 6: COMMUNITY AFFAIRS
a) Presentation, discussion, and possible action on the Program Year 2019 Department of Energy Weatherization Assistance Program State Plan and Awards

b) Presentation, discussion, and possible action on release of the draft Federal Fiscal Years 2020-2021 Community Services Block Grant State Plan for public comment

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ITEM 8: RULES
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PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH none THERE WERE POSTED AGENDA ITEMS

EXECUTIVE SESSION none
OPEN SESSION --
ADJOURN 131
MR. GOODWIN: Call to order. The April 25, 2019 Board meeting for the Texas Department of Housing and Community Affairs, and we’ll start with a roll call. Ms. Bingham, absent. Mr. Braden?

MR. BRADEN: Here.

MR. GOODWIN: Goodwin here. Ms. Asusena Reséndiz?

MS. RESÉNDIZ: Present.

MR. GOODWIN: Ms. Thomason?

MS. THOMASON: Here.

MR. GOODWIN: Mr. Vasquez?

MR. VASQUEZ: Here.

MR. GOODWIN: Okay. We do have a quorum. If you will stand and join me, David is going to led us in the Pledge of Allegiance to the U.S. and Texas Flags.

(Whereupon, the pledges were recited.)

MR. GOODWIN: So we have some agenda items to clean up, but before we do that, we will have two resolutions read into the record, first being the resolution recognizing May as the National Mobility Awareness Month.

Amy, you’re going to read that?

MS. KINCHELOE: "Whereas, May 2019 is National Mobility Awareness Month, which is dedicated to showing
the community at large how persons with disabilities can
live active, mobile lifestyles and raise awareness of the
mobility solutions available in the local community;

"Whereas a goal of the Texas Department of
Housing and Community Affairs is to ensure that all Texans
have access to safe and decent affordable housing; whereas
it is the policy of the Department to support fair housing
opportunities in the administration of its single-family
and multifamily programs, especially in regards to persons
with disabilities, accessing new home construction, home
rehabilitation, housing vouchers, and rental assistance
programs and services;

"Whereas, this year, the Department is
celebrating nine years of offering the Amy Young Barrier
Removal Program named in honor of the late advocate for
Texans with disabilities who helped shape the State-funded
program to improve the qualify of life for persons with
disabilities throughout the State of Texas;

"Whereas, the Amy Young Barrier Removal Program
provides one-time grants of up to $20,000 for persons with
disabilities, both renters and homeowners earning up to 80
percent of the area median family income who need home
modifications to increase accessibility and eliminate
hazardous conditions in their homes;

"Whereas, since 2010, the Department, through
the Amy Young Barrier Removal Program, has completed
approximately $19.5 million worth of accessibility
modifications on approximately 1,012 homes of Texans with
disabilities, such as constructing roll-in showers,
installing shower wands and lever faucets, widening
doorways, modifying kitchens and laundry rooms with
accessible cabinetry and appliances, building ramps and
improving walkways with handrails, paving and lighting to
accommodate program participants’ specific needs;

"Whereas, the Department applaud the nonprofit
organizations and local governments around the state who
have become Amy Young Barrier Removal Program
administrators and who advocate for their clients through
quality construction, pragmatic solutions and respectful
service; and

"Whereas, the Department encourages Texans to
explore the numerous TDHCA programs and resources related
to increasing and maintaining mobility during the National
Mobility Awareness Month and throughout the year;

"Now, therefore, it is hereby resolved that in
the pursuit of the goal and responsibility of increasing
mobility opportunities of Texans with disabilities, the
governing Board of Texas Department of Housing and
Community Affairs does hereby celebrate April 2019 as
National Mobility Awareness Month, and encourages all
Texas individuals and organizations, public and private, to join and work together in this observance of National Mobility Awareness Month."

MR. GOODWIN: Do I hear a motion to adopt this resolution?

MR. VASQUEZ: So moved.

MR. GOODWIN: It’s moved. A second?

MS. THOMASON: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. That is adopted. The next resolution recognizes May as Community Action Month, and, Amy, you will read that into the record?

MS. KINCHELOE: Yes.

"Whereas, Community Action agencies are nonprofit and unit of local government organizations designated under the Economic Opportunity Act of 1964 to serve to ameliorate the effects of poverty and help persons experiencing poverty to transition to self-sufficiency;

"Whereas, Community Action builds and promote
economic stability and enhances stronger communities and
the opportunity to live in dignity;

"Whereas, National Community Action has
enhanced the lives of millions by providing essential,
life-changing services and opportunities;

"Whereas, Community Action serves 99 percent of
America’s counties in rural, suburban and urban
communities and works toward the goal of ending poverty in
our lifetime;

"Whereas, Texas has a strong, vibrant network
of Community Action agencies to deliver Community Action
to Texans in need;

"Whereas, Community Action will continue to
implement innovative and cost-effective programs to
improve the lives and living conditions of the
impoverished, continue to provide support and
opportunities for the eligible households in need of
assistance, and continue to develop and carry out
effective welfare system reforms; and

"Whereas, the Texas Department of Housing and
Community Affairs and the State of Texas support the
Community Action Network in Texas and working to improve
communities and make Texas a better place to live, not
only during Community Action Month in May, but throughout
the entire year;
"Now, therefore, it is hereby resolved that the governing board of the Texas Department of Housing and Community Affairs doe hereby celebrate May 2019 as Community Action Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the hard work and dedication of Texas Community Action agencies."

MR. GOODWIN: Do I hear a motion to adopt this resolution?

MR. BRADEN: So moved.

MR. GOODWIN: It is moved. A second?

MR. VASQUEZ: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. We thank you, Amy.

We’re moving on to the consent agenda, and we have some items that Board member Vasquez has asked to taken out of the consent agenda and put onto the action agenda, and those are Items 1(c), 1(i) and 2(f).

Any other Board members or anyone in the audience want any consent items pulled from the agenda?
(No response.)

MR. GOODWIN: If not, I’ll entertain a motion to accept the and approve the consent agenda and consent report items, as amended.

MS. THOMASON: So moved.

MR. GOODWIN: It’s been moved. Is there a second?

MS. RESÉNDIZ: Second.

MR. VASQUEZ: Second.

MR. GOODWIN: So moved and seconded. All in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. We are moving -- we will take those items at the end of the action items, so we’re going to move on to Action Item No. 3, and there we have bond finance.

Teresa, you’re going to present?

MS. MORALES: Chairman Goodwin and members of the Board, Item 3 involves the issuance of Multifamily Revenue Bonds by the Department for the acquisition and rehabilitation of 150 units in Corsicana, with all of the units restricted at 60 percent of the area median family income and serving the general population.
Under the proposed financing structure, the Department will issue unrated tax-exempt bonds in the amount of $14 million. The bonds will be privately placed with Redstone and will bear interest at a fixed rate of approximately 5.2 percent with a 17-year term and a 40-year amortization.

To date, for 2019, Lago de Plata is the third transaction to be funded by the Department’s Private Activity Bond Program, bringing the total issuance to just over $40 million and serving approximately 460 households.

Staff recommends approval of Resolution No. 19-032 in the amount of $14 million and a Determination Notice for 4 percent Housing Tax Credits in the amount of $723,820.

MR. GOODWIN: Okay. Do I hear a motion to approve staff’s recommendation?

MR. BRADEN: So moved.

MR. GOODWIN: And seconded?

MS. THOMASON: Second.

MR. GOODWIN: Okay. So it’s been moved and seconded. Any discussion, any questions for Teresa?

(No response.)

MR. GOODWIN: If not, we’ll entertain a vote.

All those in favor, say aye.

(A chorus of ayes.)
MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Thank you, Teresa. Item No. 4.

MR. BANUELOS: Good morning. Rosalio Banuelos, director of Asset Management. Item No. 4 is presentation, discussion and possible action regarding a Material Amendment to the Housing Tax Credit Application for 2400 Bryan Street.

We’ve received an annual award of 9 percent Housing Tax Credits in 2018 in the amount of $1,500,000. The development was originally approved as a new-construction 14-story development located in downtown Dallas that would contain 105 affordable units, 107 market-rate units, retail, commercial space, and storage. The building was designed to incorporate six floors of structured parking and included an amenity area on the top deck of the garage. However, the proposed amendment is for the following changes: an increase in the area of the development site from 1.15 acres to 1.4899 acres; changes in the site plan and architectural design; a change in the number of stories from 14 to 15; changes to the designs of the floors and the parking garages, including a reduction in the number of parking spaces; an increase in the number of total units from 212 to 217,
adding five additional efficiency units; and changes to
the number of 60-, 50-percent, and market-rate units.

In addition to this, there is a proposed change
to the ownership structure of the managing member and the
addition of a special limited partner, which would include
a change in the role of the HUB. All of this comes along
with changes in cost and financing to the development.

Several of the proposed changes are necessary
as a result of TxDOT’s denial of a previously-anticipated
easement that would be used to provide a fire lane for the
development, but since that was not granted, the developer
had to obtain a third of an acre to build a fire lane
within the site and had to change the design of the
building.

In terms of the ownership structure, the
changes necessary to help fill the financing gap that
resulted from increased costs of approximately 14 million,
which are due to the proposed changes in the design of the
development, Davis-Bacon wage requirements as a result of
new financing, and due to the fact that the cost estimates
in the tax credit application were based on very
preliminary plans.

As a result, the owner has proposed to add the
Dallas Housing Finance Corporation as the sole member of
the managing member, and also have the Dallas Housing
Finance Corporation buy and own the land to allow for a
property tax exemption that could then allow for an
increase of that capacity.

In addition, the increase on the number of
units by five is necessary to have 50 percent of the units
as affordable, which is necessary to qualify for the tax
exemption as well. This would save the development
approximately 500,000 per year in expenses due to taxes.

The Real Estate Analysis Division has
reevaluated the deal and concluded that it remains
feasible, but there have been several changes to the
financing, and in summary, costs went up approximately
14 million.

The primary increased approximately 8 million.
The funding from the City of Dallas changed from tax
increment financing of 9.3 million to approximately 14
million, including HOME, CDBG, and other local government
loans and grant funding. The funding from the Department
remains unchanged at 1.5 million annually in tax credits.

In terms of the ownership structure, the
changes would result in removing the HUB from the managing
member’s ownership structure, which would result in the
loss of two points to the application, but this would not
have affected the award.

However, the removal of the HUB is typically
not considered prior to the issuance of 8609s, but staff
is seeking approval for that change, given that the HUB
would remain in the ownership structure, as part of the
special limited partner.

In addition, change as far as to 8609s usually
require approval from the executive director. In this
case, they were also bringing in a new partner, the Dallas
Housing Finance Corporation, and changing the role of the
existing members, which would change control, and the
change in control would not be allowed for our 8609s.

However, the applicant has indicated that the
special limited partner will be acting as the manager of
the managing member, but the documents for that have not
been finalized. So staff’s recommending approval of the
amendment request, including the changes to the financing
structure and the development changes subject to
completion of the participation review and documentation
of the control, as proposed.

MR. GOODWIN: Okay. Do you want to repeat all
that? Do I hear a motion to approve staff’s
recommendation?

MS. RESÉNDIZ: So moved.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Now, any questions?
MR. VASQUEZ: I have a couple. So just to understand, they are increasing the number of affordable units in the project?

MR. BANUELOS: They are increasing the overall number, and --

MR. VASQUEZ: The raw number, not the percentage.

MR. BANUELOS: -- they’re also adding -- so they had initially 107 market-rate units. Now, they will have 106, so yes, the number --

MR. VASQUEZ: Okay. And then with removal of the HUB, it’s really just diminishing the ownership?

MR. BANUELOS: It’s changing the role. So they got points for having the HUB as part of the managing member structure. They are removing the HUB from that structure and putting it under the special limited partner, which wouldn’t qualify for points, but the HUB would be in the structure.

MR. VASQUEZ: Okay. And then Dallas Housing Authority is taking --

MR. BANUELOS: The Dallas Housing Finance Corporation --

MR. VASQUEZ: -- a more major role?

MR. BANUELOS: -- is taking the ownership of the managing member. Yes.
MR. VASQUEZ: Okay. And they’re not coming to us, asking us for any more money?

MR. BANUELOS: Correct.

MR. VASQUEZ: Okay. Answers my questions.

MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: If not, we’ll entertain a vote.

All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Thank you, sir.

THE REPORTER: Mr. Goodwin?

MR. GOODWIN: Yes?

MS. HENDERSON: Make sure we have everyone at the podium speak up. That mike is not registering, so --

MR. GOODWIN: Okay.

MS. HENDERSON: -- if you would just --

MR. GOODWIN: For those of you that couldn’t hear that, this mike is not registering. So when you come to the podium to speak, we need for you to speak up loud and clear. We have a little conferencing going on before we take up Items 5(a) and (b).

Are we ready, Beau?

MR. ECCLES: Yes, sir.
MR. GOODWIN: Okay. Earnest? Good morning

MR. HUNT: Good morning. Earnest Hunt, director of Compliance Subrecipient Monitoring.

MR. GOODWIN: Speak up, Earnest.

MR. HUNT: You’ve got my weakness here, but I’ll do the best I can.

MR. GOODWIN: All right.

MR. HUNT: I’m reporting on Agenda Item 5(a) regarding initiation of proceedings to remove the eligible entity status of Galveston County Community Action Council and terminate the 2019 Community Services Block Grant contract and future funding.

And just for a moment, I want to turn attention to the written language in the agenda. About midway through Item 5 under "Compliance," the statement "or through a direct designation" needs to be taken out.

MR. GOODWIN: Okay. Where is that, exactly?

MR. HUNT: It’s about midway through the -- the beginning of that sentence starts with "provider," and at the end of that sentence, starts with "or," So "or through a direct designation" needs to be stricken out.

MR. GOODWIN: Okay. That’s just a verbal correction, Earnest --

MR. HUNT: Yes, sir.

MR. GOODWIN: -- to what was posted?
MR. HUNT: Yes, sir.

MR. GOODWIN: Okay.

MR. HUNT: All right. So the Department previously brought this item to the Board at the January 17 meeting earlier this year.

The Board tabled the item at that time to allow Galveston County an opportunity to fully implement the corrective action reported in the Quality Improvement Plan.

As a result of the review performed by WiseCAP, Inc. and Whitley, LLP, the Department provided a formal review announcement on February 15 of this year to the executive director and the board chair. We conducted a follow-up phone conference which included myself and the director of Community Affairs, Michael DeYoung, on February 19 of this year.

On that call, we went over the announcement letter and communicated the expectations for a successful review. The follow-up review was conducted March 25 through 28 of this year. The results of that review indicate the QIP is not fully implemented, and Galveston County remains out of compliance with the final decision letter issued in October 2018.

I want to note that improvements were found in the following areas during that review. Galveston County
has procured a consultant to train its staff on the
accounting software. Job descriptions have been created
demonstrating adequate separation of duties. An updated
accounting manual was provided.

Galveston County received work standards and
expectations training. Board member job descriptions were
provided to the Department. The bylaws have been amended
and found to be compliance by departmental staff. A human
resource handbook has been developed and provided to the
Department, and an employment attorney has been procured.

However, insufficient improvement was found in
the following areas: cost allocation testing of indirect
expenditures did not support the Cost Allocation Plan as
written. Galveston County continues to incur unprocured
lease costs due to incomplete procurement.

Monthly expenditures do not reconcile to the
general ledger. Reports indicated disparity of
expenditures of approximately 23,000 overreported in
December 2018, cumulatively, for the CSBG Program, and
approximately 104,000 underreported in the February 2019
cumulative CEAP report.

Accounting and payroll records did not
reconcile to the report and general ledger salaries when
tested. Composition of Galveston County’s board of
directors remains out of compliance with tripartite board
requirements in accordance with the CSBG Act.

Nine of 12 seats have been filled. The low income sector is underrepresented on the board due to remaining vacancy and lack of following a democratic selection process to select one of their board members. We have not received a progress update for any changes to that board status.

A board calendar has not yet been developed as recommended by the QIP. CSBG client files were found to be missing multiple required case management documents and missing income support documentation.

There are unresolved information technology issues. Galveston still does not have a formal plan to reduce paper and secure their electronic storage protocol. Discrepancies were exhibited among executive staff regarding Galveston County’s access to unrestricted funds and disallowed costs of approximately 37,000 from the previous monitoring report remain unresolved.

The Department provided a report to Galveston County’s executive director and board chair on April 5 of this year. We have not received responses to the deficiencies I’ve just described. As a reminder, this request to the Board is an early phase of the lengthy IM-116 process.

If the Board approves this request, the
Department will pursue a hearing with the State Office of Administrative Hearings, or SOHA. SOAH will issue a proposal to the Board regarding the request to terminate eligible entity status.

If the Board decides to move forward with termination, then Galveston County may seek review of the case by federal Health and Human Services. If Health and Human Services does not overturn the decision by the 90th calendar day from the Board’s decision, then all CSBG contracts will be terminated. However, throughout this process, Galveston can still draw funds and maintain their operation.

And I can address any questions.

MR. GOODWIN: So your recommendation is bringing this off of the table, so I think we first need a vote to bring this off of the table? Is that correct, Beau? Or should we have done that before Earnest spoke?

MR. VASQUEZ: They’re all reconciled.

MR. ECCLES: Okay. I think, actually, it’s on the agenda item and you don’t need to --

MR. GOODWIN: So --

MR. ECCLES: -- bring it off the table. It’s here for this meeting.

MR. GOODWIN: Okay.

MR. ECCLES: But just as a technical matter,
we’re talking about CEAP as well as CSBG, which are two
different agenda items. Are we handling them -- is -- the
presentation seemed to handle 5(a) and 5(b)
simultaneously.

MR. HUNT: Well, I’ve got notes for (b), but if
you want to do it that way, that’s perfectly fine.

MR. ECCLES: Well, no. I just wanted to make
sure that Board was aware -- if it wanted to separate out
the Energy Assistance Program, the CEAP part of it, which
is 5(a), because that’s not IM-116. That’s a different
process, and it’s also different deficiencies that they
have and different results of this vote.

MR. HUNT: Most of the deficiencies are the
same, with the exception of the board requirements for
CSBG.

MR. ECCLES: Uh-huh.

MR. HUNT: Item (b) is specific to an EARAC
condition that was not met, and so that condition followed
the same requirements as that decision letter that we
issued in October --

MR. GOODWIN: Uh-huh.

MR. HUNT: -- indicating that they needed to
implement the QIP within 90 days. So along those same
lines, we would be terminating that contract and moving
forward to identify another provider to give 24.99 percent
to get operations going to CEAP.

MR. GOODWIN: Okay. Why don’t we take these separately? Let’s do 5(a). That’s at the pleasure of the Board. So can I -- so we can start discussion, can I hear a motion to accept staff’s recommendation on 5(a)?

MS. THOMASON: So moved.

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Okay. It’s been moved and seconded. Now we’ll have questions for Earnest from any Board members?

MR. VASQUEZ: Earnest, just to clarify, in support of my neighbors to the south, when you were saying Galveston County --

MR. HUNT: Yes.

MR. VASQUEZ: -- you were referring to Galveston County Community Action Council, Inc. --

MR. HUNT: Yes, sir.

MR. VASQUEZ: -- not the --

MR. HUNT: The county. That’s correct.

MR. VASQUEZ: -- county entity, public --

MR. HUNT: I apologize for not clarifying.

MR. VASQUEZ: Okay. Just to be clear, we’re not hammering Galveston County. We’re just concerned with
the lack of action of Galveston County Community Action Council, Inc.

MR. HUNT: Yes.

MR. VASQUEZ: Okay. Thank you.

MR. GOODWIN: Earnest, one clarification that I would like to make is I -- we’ve had this come up since I’ve been on the Board with one other group, and my recollection was this process took about two years to go, and that all along the process, up until HHS making their final determination, the action -- Galveston County Community Action Council, Inc. can appeal their process. They can put things into play, and HHS can come in and say, you know, we’re not going to suspend your status. So this is a vote to get this process started, and it was several steps really over a lengthy period of time.

MR. HUNT: Yes, sir. The --

MR. GOODWIN: Yeah.

MR. HUNT: -- first step would be to schedule a SOAH hearing.

MR. GOODWIN: Yeah.

MR. HUNT: I’m not exactly where we can fit on that calendar. It may be soon. It may be much later.

MR. GOODWIN: Right.

MR. HUNT: At that point, SOAH can vote to
proceed with our recommendation, or either way, to come back to our Board with a decision.

MR. GOODWIN: Yeah.

MR. HUNT: And then once the Board makes that decision, there are 90 days that still exist for Galveston County Community Action Council, Inc. to reach out to HHS for an appeal. If HHS does not, you know, honor that appeal, then we move forward with termination.

MR. GOODWIN: Uh-huh.

MR. HUNT: It is an extended process.

MR. GOODWIN: My -- having already been through this once, it’s been my understanding that HHS almost always grants -- not -- I mean, they approve the appeal, but to grant an appeal hearing.

MR. HUNT: That is possible.

MR. GOODWIN: Okay. They’re not obligated to do it, but it’s more than likely that they will do it. Okay.

MR. ECCLES: Just as a clarification, are we talking about CEAP or are we talking about CSBG?

MR. HUNT: CSBG.

MR. GOODWIN: CSBG.

MR. ECCLES: Okay. That’s 5(b). If we’re talking about 5(a), then we’re talking about CEAP, and that process is different than what the Board’s going to
voting on. We’re talking about the change of the
75 percent of the award that’s remaining that has not been
contracted for this year, and --

MR. HUNT: My apologies.

MR. ECCLES: -- so if you could run the Board
through what they are coming up on the vote for in 5(a)?

MR. HUNT: All right. So that is a little bit
different. Same issues of noncompliance. What we are
requesting -- the Department is requesting is to reduce
Galveston County’s 2019 allocation amount by
24.99 percent, which is approximately 820,000, and award
those funds immediately as an interim award for up to
11 months, but at least until a permanent provider is
named for Brazoria, Fort Bend, Galveston, and Wharton
counties, and also to provide Galveston County with a 30-
day notice of the termination of the remaining funds from
Galveston County’s program year 2019 Low-Income Home
Energy Assistance Program/Comprehensive Energy Assistance
Program award, and to authorize staff to release an RFA to
identify permanent entities to administer the remainder of
the PY ’19 CEAP contract and possibly to be designated as
the CEAP network provider for the service area.

MR. GOODWIN: Okay. Thank you both for giving
that clarification. Thank you, Earnest.

MR. HUNT: I had a mix-up there, so --
MR. GOODWIN: Okay. Any other questions for Earnest before we -- I know we have people that want to speak to this. Do you want to speak?

MR. COMPIAN: Thank you, Chairman Goodwin.

MS. HENDERSON: Speak up, please.

MR. COMPIAN: Joe Compian --

MR. GOODWIN: You’re going to need to speak up.

MR. COMPIAN: I’m sorry. A bit hoarse this morning. Joe Compian with -- I’m the newly elected now -- chairperson, president of the board of Galveston County Community Action Council. Previously when I appeared before you, I was elevated to president because the previous president had resigned.

So first of all, I want to say I apologize. I had committed to you that I would faithfully attend your meetings. I missed last month’s meeting. My reason is that unfortunately I had a family emergency. My youngest sister is presently in cardiac ICU at Methodist Hospital, and it happened at about that time, and she’s been there the past month, and that’s why part of my hoarseness, I’ve been there with her during these evenings.

So I’m proceeding forth also. Mr. Melvin Williams, our executive director, had hoped to be here. He has permitted me to share with the Board -- he also experienced a health crisis. He’s been diagnosed with
cancer and is undergoing chemotherapy and is not present for that obvious reason.

However, I do have the assistant executive director, Mr. Robert Quintero, who will also be speaking on many of the issues that Mr. Hunt addressed, as well as Ms. Robin Henry, our director of neighborhood services. And Mr. Sivam -- I call him Sivam because I have difficulty pronouncing his last name -- but he’s our CPA and has provided us invaluable services too, to address many of these issues.

Let me say that I disagree with a lot of the items and comments that Mr. Earnest Hunt indicated. I feel that we have complied with the issues that have been presented to our organization.

Whether it’s been 100 percent, no, but I don’t think any Community Action agency in this state can say that they’re 100 percent compliant on anything, on files or anything. As a matter of fact, as a result of public information request, Baker Ripley themselves owe money to this organization.

Before, they indicated in the record that they had to pay before they could assume any duties, so that organization even has its challenges. Up until Tuesday, I sincerely believed that staff was dealing with us in good faith, and I want to explain why I say that.
I sincerely believe that. On Tuesday -- last month, we seated our new board. After God knows how long, with fights, board members not attending meetings, we finally made that transition; representatives from county governments, and we finally made that transition.

This past Tuesday, we had our second meeting. Additional members were seated, tripartite. And at that, as an agenda item, a staff member from TDHCA was to have been present to provide some board training as new board members.

That did not happen. That did not happen. And that really surprised me, because this Board has not taken any action to terminate our contractual arrangement, our funding arrangement. And we are still in the process of developing staff, developing our board members, the new ones especially.

And that, for me, was a bad-faith action by staff. I fully expected that they’d be there. You do not know the disappointment of the new board members when we’re told that the representative from TDHCA was not going to be available for the board training.

And I -- but it also speaks to the previous time that we were here, when staff had already reached out to Baker Ripley and had caused the difficulties in terms of recruiting board members, which I had to -- as a
reminder to you who were here -- I had to go out and
reestablish those relationships and recruit board members
as a result of that particular, I felt, bad-faith action
on the part of staff.

And I’m sorry to say that, because I’ve enjoyed
very much over the -- Mr. DeYoung and Mr. Hunt and others
that I’ve come in contact with. As the newly elected
board president, let me say that there was no one else
willing to run for the position by the way, so it was by
acclamation that I assumed that.

The -- we have met our responsibilities in
terms of establishing a tripartite board. We have
followed the rules. We have representatives of public
officials -- in fact, two county judges, one mayor, and
the other pending from another mayor jurisdiction --
mayoral position.

And we have initiated in two of the counties --
the rules indicate -- I think you have a democratically
elected method for low-income representatives, which could
be a direct election where people sign in or,
alternatively, you go to organizations which historically
represent low-income individuals, low-income communities,
and you have them select a member to serve on the board.

So in the four-county area, we have in fact an
election for two -- okay. I’m sorry.
MR. GOODWIN: Two swaths of time you’ve been there.

MR. COMPIAN: I’m sorry, Mr. Goodwin. I apologize. It’s so important.

And then the public and then the low income was two groups and then two elections which occurred — terminated on Tuesday. There were no other — there were one candidate for each of those positions.

So we pursued all these, and staff will go into information of the board. So I guess at the end of this day, you have a decision, whether you initiate this process. I hope that you don’t.

We are a work in progress, period. Complete new staff. And let me say, every request — and a lot of it is telephone, but when you sit in a cold hospital ICU room and you suddenly discover that there’s things in your phone that you didn’t even know existed, which my brother-in-law put on there to record phone calls, I have phone calls here from your staff saying it’s not in their best interest to terminate our relationship.

And there’s other information here as well, too. So I’ve operated in good faith, and today, I have to say -- regretfully say I don’t think staff has done that, that same thing.

I ask that you let us proceed. In August,
you’re going to have another audit. Let us meet these standards, those that remain, by the way, those that remain. And by the way, we’ll show you that we’ve complied. And then let’s go on, because honestly, I’ll be the first to tell you, we give up.

I have no, no -- there’s no hesitancy in saying that if we’re not meeting and doing the job to service the citizens and the residents of the four counties which we represent.

MR. GOODWIN: Okay.

MR. COMPIAN: Thank you for your time.

MR. GOODWIN: Any questions? Joe? So is -- I have a question for you. Is Melvin --

MR. COMPIAN: Yes, sir.

MR. GOODWIN: -- in the kind of shape where he is leaving his position with you, and if he is, have you found a replacement --

MR. COMPIAN: Well --

MR. GOODWIN: -- for the agency?

MR. COMPIAN: -- unfortunately, there was after fighting, as well, too.

MR. GOODWIN: After what?

MR. COMPIAN: After fighting with the previous board members, I had asked that an assistant executive director/HR person be brought on. Melvin opted to do
that, and he brought on -- we have here, Mr. Robert Quintero.

He’s the son of a former council -- long-term council person in Galveston, a lawyer by training, and specialty in nonprofit management and grant fund development, so he’s here to address also the Board on that side.

But that’s not -- but Melvin unfortunately -- the chemo has made it difficult for him to get around.

MR. GOODWIN: Is he planning to continue with the agency?

MR. COMPIAN: That is something --

MR. GOODWIN: You’re assuming or hoping --

MR. COMPIAN: Yeah.

MR. GOODWIN: -- that he recovers?

MR. COMPIAN: We’re hoping that he recovers, naturally, but between my own family crisis, I really haven’t had that conversation with him at this point.

MR. GOODWIN: Okay.

MR. COMPIAN: I want him to deal with his health issues first.

MR. GOODWIN: Okay.

MR. COMPIAN: Okay. Thank you, sir.

MR. GOODWIN: Thank you.

MR. COMPIAN: Any other questions?
(No response.)

MR. QUINTERO: Thank you for -- Chairman --

MR. GOODWIN: Three minutes.

MR. QUINTERO: -- Goodwin. I’m sorry?

MR. GOODWIN: Three minutes.

MR. QUINTERO: I’ll try to get it all in.

MR. GOODWIN: Uh-huh.

MR. QUINTERO: Our staff, I’m going to bring them up as well, please.

MR. GOODWIN: They need to be on the front row, if they would, if they’re going to speak.

MR. QUINTERO: I’d like to address some of the things that Mr. Hunt said, and --

MR. GOODWIN: Please --

MR. QUINTERO: -- there --

MR. GOODWIN: -- give us your name --

MR. QUINTERO: Oh, I’m sorry. Robert Quintero.

That’s Q-U --

MR. GOODWIN: -- and your title.

MR. QUINTERO: -- I-N-T-E-R-O. I -- Mr. Hunt has brought a few, you know, causes for action on here, and we’re going to talk about the allocation of the building space in which we RFP’d out.

I don’t know if y’all were able to pass out the books that I have presented to y’all this morning, but
they are the RFPs that we produced and we had them published.

Now, we didn’t get answers on all of them. Some of the RFPs did not come in. Mr. Hunt says that we’re paying for some space that we don’t know where it is. We had the building superintendent in which we rent from our home office in Galveston -- there’s some 500 feet that he says that we don’t -- that we’re paying for.

And even the building superintendent is unaware of where that 500 feet are. We’re actually trying to -- we would love to have it and utilize it, but we don’t have it. We just don’t have it. And I don’t know where he gets that information from.

We didn’t see Mr. Hunt measure the building. We didn’t see him pull out a tape measure and walk it off or anything like that, or have one of those rolling measuring tapes that figure out the square footage.

Now, on other things that he had mentioned, the board calendar --

MR. ECCLES: Actually, just as an administrative matter, let me break in here and say we received, just before the meeting, several binders -- or binders of information for the Board to review. We’ve done a cursory review of them, and if the -- if you would agree to -- there is a pay stub toward the back of that...
material.

    If you would agree that the personally
identifiable information on that may be redacted, then
that will be presented.

    MR. QUINTERO: That was an error of staff --
okay -- because we do not do that as far as
confidentiality. So we -- yes.

    MR. ECCLES: So that would be what you’re
asking to --

    MR. QUINTERO: Yes.

    MR. ECCLES: -- put into the record? Okay.

    MR. QUINTERO: Correct. And that will -- if we
could redact that, that would be wonderful.

    MR. ECCLES: Very good.

    MR. QUINTERO: Okay. So anyway, the square
footage is in error. Also, he mentioned the board
calendar. Well, the board calendar has been developed;
it’s in there. We’ve talked about IT and IT security,
which he brought up.

    The security plan is in there. We’ve taken
care of that hurdle. We -- he talked about the paper
reduction. Well, we now have a paper reduction policy in
there. I want to -- every hurdle, everything that they’ve
brought up to us, we’ve managed to get past it.

    We have a policy in place for everything.
We’re doing everything that they’ve requested. We keep on jumping through the hoops, but it seems like the goalpost keeps moving a little further and further away.

(Buzzer sounds.)

MR. QUINTERO: I’m going to close up in just a second.

MR. GOODWIN: Okay.

MR. QUINTERO: I -- it just -- whatever the case may be, are we a perfect agency? No, but I don’t think anybody is. But we are a work in progress, and we get better every day. We’re not as bad as we were yesterday, we’re better today, and we’re going to even be better tomorrow.

But we ask that -- for your -- we pray that -- we ask -- have favor with you, and I will turn it over to Mr. Sivam, because I can’t say his last name either.

MS. HENDERSON: Can you all make sure you sign in at the podium, so we can get the correct --

MR. GOODWIN: Yeah.

MR. QUINTERO: Oh, I’m sorry.

MS. HENDERSON: -- spelling of your last names, please?

MR. MAHASIVAM: I am Sivam Mahasivam. I am the CFO/comptroller for GCCAC.

MR. GOODWIN: You’re going to need to speak up.
MR. MAHASIVAM: Okay.

MR. GOODWIN: All right?

MR. MAHASIVAM: Yeah. My first name is Sivam, my last name, Mahasivam, and I am the comptroller/CFO for GCCAC. I work part-time for them, because I have a public accounting practice on my own, so we normally do audits and tax, and then -- so I devote my time within my practice and serving them.

So I joined them in October last year, 2018, and since then, I have been helping them to -- on implementing a lot of new processes and systems and training the staff and trying to get the financials and all that.

So I will strictly speak to the financial items that the staff mentioned, and also trying to give you some background. I know these deficiencies, in order for GCCAC -- going on for a couple of years, it actually started in 2016 audit, external audit.

So they found deficiency, and then that was pretty much repeated in 2017 audit, and then similar findings were found by the TDHCA monitoring reviews. But throughout all these years, maybe 18 to 24 months, corrections were not done primarily because -- not because they -- I believe not because they don’t -- they didn’t want to do it -- because they didn’t have enough expertise.
to do the corrections.

And so that’s one of the questions Head Start also had been asking: You had all this time, and why you didn’t correct all these? Is because Melvin -- Mr. Williams didn’t have a person. So he had a comptroller previously, but he didn’t know how bad the gravity of the problems or bad does those problems -- so he has been struggling, and finally -- and I couldn’t come on board full-time because I have my own practice.

So we -- you know, I agreed to go -- come part-time. So pretty much it started in October, and so from ground-zero, from October. So then as I joined, we have this QIP requirement. So then we have many things to do at the same time.

We had to fix the past financials. Every month you don’t do, that come late, so we had to catch up on that one, and ongoing new designs of the processes and all that. So -- and also, it was a little difficult from our perspective also, because the timelines keep changing, so you’re trying to meet -- especially if you’re under the gun so, you know, you won’t think properly.

So you try to fix it, and then time moves on and then we fix it later. But by the way, by -- when they were here in March, we have substantially, not 100 percent, but substantially we complied all the major
requirements, which is fiscally required for the agency.

(Buzzer sounds.)

MR. MAHASIVAM: So I have to -- so I don’t -- having that I only give a couple of -- on page 4 of the Item 5(a), there are several improvement is needed. So we are also confused as to their materiality, because we too have a cost allocation plan which is based on the template provided by TDHCA staff. And then we have a very data-driven allocation plan. So we are not too sure what’s the expectation, and how, you know -- there may be staff -- it is a new process.

And we also need, ourselves, some feedback to make changes. Because even during the process, we made changes from the QIP, because we found that that is not the best way to do it. So we continuously improve.

But I don’t think why they are saying that the cost allocation plan isn’t -- we don’t have any specifics as to why it is deficient.

And also the big item, 104,000, in February of 2019, this is also confusing to us. We provided reconciling item for the 104,000, and we don’t -- we didn’t get why it is not acceptable. For example, the difference is true in the sense like, for example, you have a bank balance in your books and you have a balance from the bank.
If it is different, we provide a reconciling differences. But they continue to insist that the difference is not acceptable, so the reconciliation is not acceptable. So they can continue to say there’s a difference between bank balance and book balance, not telling why a reconciliation is unacceptable.

The primary reason, that this 91,000 was reported in prior contract that was entered in the report we generated. so that needed to be backed out. And so we provided emails and explained how that should be done, but for our -- according to us, it should be 104,000 minus 91,000.

So it’s around 13,000. 13,000 is the difference, which has actually happened prior to October. So we need time to go and look and research before we charge to federal funds, because we don’t want to charge something until we are finally certain that it is accurately chargeable.

So the difference is in both grant -- the deal difference is more than what was reported to TDHCA. So we are more conservative to make sure that, if you are requesting any reimbursement, that is properly supportable.

So until we research and identify the old ones, we will not report them to TDHCA. So -- but -- so the
overall -- we believe -- as our system is concerned, we are more than 90 percent sure that all the major issues have been taken care of.

(Buzzer sounds.)

MR. MAHASIVAM: I myself is an auditor, so I know what is internal controls, what is material weakness, and everything else, because I do similar audits, even single audits. So I use that knowledge to make sure that we cover our bases. Thank you.

MR. GOODWIN: Thank you. Any questions?

(No response.)

MR. GOODWIN: Another speaker? Do you have a question?

MR. VASQUEZ: Well, not for the speakers, but I don’t know if it’s for Earnest or for Beau. Just -- so we can -- the Board members can understand -- and I appreciate everyone coming here and giving us all the details and reasons and background.

We get it, you’re working on it. But my question on the process here -- are we giving them 30 days’ notice that we are reducing the funds and terminating the remainder of the award in 30 days, or does that happen -- we start that process and then they appeal to SOAH, and not until the SOAH hearing is complete does it get implemented, or does it get implemented before the
SOAH hearing?

MR. ECCLES: Well, and I’ll ask the program people to augment me on this just to make sure that I’m getting it right.

After the January meeting, I believe we came back in February to make sure that 25 percent of the award --

MR. VASQUEZ: Right.

MR. ECCLES: -- was provided to GCCAC in order to make sure that there was no interruption of service. That contract, however, does not end in 30 days. That contract is the entire length. It’s just that it’s 25 percent of the contract amount.

So 30 days from now, that 25 percent isn’t going to change. That’s just to allow us to go onto the next step. And there was talk of Baker Ripley, where actually that’s not part of what’s going on today. It doesn’t automatically go to Baker Ripley, the remainder 75 percent of that award.

It’s -- the next step, and what this Board would be voting on, would be to give 30 days of reduction of funds and termination, but it would be only authorizing the release of an RFA to identify permanent entities to administer the CEAP funds in the service area.

And I think Michael’s up here to perhaps
describe things in a little more detail.

MR. VASQUEZ: Right.

MR. CERVANTES: Mr. Chairman, may I?

MR. GOODWIN: Yes.

MR. CERVANTES: Yeah. And, Michael, if you would -- I mean, just to clarify, because I think, as we were working our way through the presentation, distinction between 5(a) and 5(b) --

MR. ECCLES: Yeah.

MR. CERVANTES: -- and CEAP versus CSBG here. So I want to make sure the Board is clear on the IM-116 provisions on the 5(b), and the provisions that are taking shape with 5(a).

And it’s my general understanding that, as Beau basically stated, the 75 percent component of the CEAP is the one that’s in discussion this morning in terms of nonrenewal, and then proceeding with a potential RFP for services in the region.

Is that -- am I pretty much on target with that?

MR. DEYOUNG: Yeah. Let me try and --

MR. VASQUEZ: And, Michael, I’m sorry.

MR. DEYOUNG: Sure.

MR. VASQUEZ: Just --

MR. DEYOUNG: That’s fine.
MR. VASQUEZ: -- for you all to understand what I’m getting at is that even if we take action now to continue with staff’s recommendations -- because despite all the efforts being made, the history is there that if they don’t fix it we have all these long lead time things that we have to keep the wheels in motion, but the Community Action Council has an opportunity at the SOAH hearing to lay out all these reasons and fixes that you all have, and that can stop the process. And if the SOAH judge agrees to that, well, then, they’re good, they can keep going. Right? But in the meantime, we as a Board need to keep these wheels in motion, because there’s all these different hoops that we need to jump through, if we’re going to terminate the contract and award it to someone else.

Is that -- that’s my point, that even if we vote to continue --

MR. DEYOU NG: Yeah.

MR. VASQUEZ: -- with staff’s recommendation today, that doesn’t mean it’s all over for this group that is presenting that they’re getting everything in order.

MR. DEYOU NG: Correct. So I’m going to speak specifically to just CEAP, and we’ll take up 116 and CSBG later on.

We came to the Board in February with an item
that said we would like to provide 25 percent, 24.99 percent, of the award to Galveston County in an effort not to impact client services.

So the concern was that they had a 2017 contract that was getting close to the end of its lifetime, and if they fully expended and we didn’t have a sufficient amount of funds to continue services for the residents of Galveston, Wharton, Fort Bend and Brazoria County, we would be impacting clients in an adverse way.

So we brought the action to have that award made. That contract got executed, and it was executed with a December 31 end date, December 31, 2019. This action is the termination of that contract.

They have access to it until we go through this process, but we have 75 percent of the award for those four counties still unobligated at this time, and that’s what we’re trying to identify, a permanent provider, so that services would not be interrupted to the clients of those four counties.

One of the issues that confronts us is the timing of the calendar, and utility assistance does not flow fast during the winter and spring months, but very soon, we’re about to get hit with a wall, as every Community Action agency in the state of Texas is.

Clients start coming in in June and July, when
their bills really start to go up, and that’s when this program starts to spend a lot of money each and every month.

So this process would move us forward, and this would give us the notification -- the authority to go to the SOAH office, notifying them of our intent to have a hearing concerning Galveston County Community Action.

MR. GOODWIN: That answer your question?

MR. VASQUEZ: Yes.

MR. GOODWIN: Okay. Any other questions? MR. BRADEN: Just for clarity -- so we’re only talking about the 25 percent. That’s really what they have now, the 25 percent contract, and the 75 percent they don’t have. Is that correct?

MR. DEYOUNG: Correct. And the -- and that’s something I overlooked, I should have said. They have not accessed that 25 percent. They still have about a half-million dollars of 2017 money that they have not drawn down for utility assistance.

So even though there’s that contract sitting out there, they have not drawn anything on that contract.

MR. GOODWIN: Okay. Brooke, did you want to say something?

MR. VASQUEZ: She certainly looks like that.
MS. BOSTON: Sorry. Just to clarify, Mr. Braden, your question was, is this only about the 25 percent? And the answer is no. The SOAH referral will be for both parts. It will be to terminate the 25 percent and discontinue the onward relationship on the 75 percent also, both relating to Galveston.

MR. BRADEN: So what’s the current status of the 75 percent?

MS. BOSTON: It’s kind of just sitting there --

MR. BRADEN: It’s like in abeyance?

MS. BOSTON: -- but because these are network subrecipients, the expectation is that it will go to GCCAC unless some other action transpires. So it’s effectively -- the first 25 percent, and Megan, correct me if I say this wrong -- the first 25 percent is the termination of an actual contract. The 75 percent is more the discontinuation of the relationship in which they’re our network provider.

MR. BRADEN: Okay.

MS. BOSTON: Does that sound about right?

Thank you. So both actions would proceed with SOAH.

MR. BRADEN: Okay.

MS. BOSTON: Yes.

MR. GOODWIN: And by the way, Brooke, in the future, can they reapply for that contract? Is that a
contract that goes out -- if we took this action and this
money was not available in 2019, but all of these things
that they continue to work on, they’ve gotten them in
shape, would they be eligible to apply to be the provider
in 2020 or no?

    MS. BOSTON: When we released the request for
applicants, they could apply. Once you guys select a
replacement provider, though, that person is a continual
provider, unless something like this happens.

    MR. GOODWIN: Okay.

    MS. BOSTON: So there wouldn’t be an annual
opportunity, but they are entitled to apply to the RFA.
Yes.

    MR. GOODWIN: Okay.

    MS. BOSTON: Yeah.

    MR. GOODWIN: Okay. Any other questions? Any
other speaker?

    MR. CAMPION: She -- actually, she got here
just now.

    MR. GOODWIN: Oh, okay.

    MS. HENRY: Hello. I’m Robin Ellis Henry,
program director for Galveston County Community Action
Council.

    MR. GOODWIN: Robin, I need for you to sign in
and speak up.
MS. HENRY: Good morning again.

MR. GOODWIN: Good morning.

MS. HENRY: Thank you, Chairman Goodwin and all the board members for giving us the opportunity to speak this morning. I would like to say that I came on board less than a year ago. It was a daunting task, one I was willing to take, and I’ve had turnover in staff, new staff that are catching on, quite bright, willing to work.

With the challenges, I’ve tasked staff and support and we’ve created new ways to process cases. The errors that are noted as far as reimbursement for income that was missing, I uploaded those documents, as well as submitted emails, and they’re in the Board booklet that we gave you all.

Also, training for staff has been minimal from TDHCA. However, I have been given an invitation to come May 30 through May 31 to Baker Ripley for training by TDHCA for income guidelines. That has been a historical finding, one that has been reduced in the time that I’ve been here, and I do believe that where there is progress there will continue to be progress, given time and the tools.

I ask, I plea, we pray that we’re given the opportunity to continue to make progress, and we will continue to reach out for technical assistance and
guidance, and comply in all ways that we can. Thank you.

MR. GOODWIN: Thank you. Anybody else want to speak? Are you going to speak?

MR. CAMPION: Yes.

MR. GOODWIN: You have to come up. This time, I’m going to hold you to the three minutes.

MR. CAMPION: So Chairman Goodwin, thank you.

I just want to address --

MR. GOODWIN: You have to reannounce who you are.

MR. CAMPION: Oh, now -- I’m sorry. Joe Campion.

MR. GOODWIN: Okay.

MR. CAMPION: I’ll sign in again.

MR. GOODWIN: Okay.

MR. CAMPION: I want to just address briefly this hope that you’re extending to us an organization: You can reapply, you can -- there’s a process that’s involved. Once again --

MR. GOODWIN: I didn’t mean to imply hope, if that’s what you took from this.

MR. CAMPION: Well, that --

MR. GOODWIN: The point of information --

question that I had --
MR. CAMPION: -- that --

MR. GOODWIN: -- make sure I understood when I got to ready to vote --

MR. CAMPION: -- so --

MR. GOODWIN: -- that I understood what the situation.

MR. CAMPION: I, once again, have a taped conversation here with Mr. Michael DeYoung that specifically says that there is no agency, no agency that has ever recovered from this process. That’s why we’re here.

MR. GOODWIN: Okay.

MR. CAMPION: That’s his statement, and that’s -- so once again, I urge this group -- let’s go on, let’s continue.

We have responded to these issues, and the Board book is there. And we will continue to provide the servicing. You have comments from over 400 individuals opposed to this that we submitted as well too, and that’s what I could gather in two days.

MR. GOODWIN: Okay. Thank you, sir.

Earnest, did you want to respond to anything that’s been said?

MR. HUNT: Earnest, director of Compliance Subrecipient Monitoring. So a couple of points have been
made.

MR. GOODWIN: Speak up, Earnest.

MR. HUNT: Oh. A couple of points have been made. As you all know, we did receive a binder this morning. So it’s not something that we’ve been -- we’ve had the opportunity to review in depth. As far as the allocations -- so I guess the question is, to what extent would the Board consider the QIP fully implemented?

So indirect costs are being allocated. What we had problems with -- there are some items that are still being allocated 50-50. And so when we request support for that determination, there’s no real determination.

There are some items -- regarding the square footage, no, we don’t actually take a tape measure and measure the building. We rely on the records of the subrecipient.

We received records indicating a certain amount of square footage. It was Galveston County -- or GCCAC’s staff that provided information to us that that square footage was incorrect.

So we’re getting conflicting information from staff that contradicts the documentation that’s been provided to us. So from our perspective, we don’t yet have clear determination of what square footage should be used.
Regarding the plan, the plan that was provided to us indicates that insurance would be allocated based on the square footage that we just mentioned. However, our testing indicated that it’s being allocated based on actual hours dedicated to each program, which isn’t ineligible, but it doesn’t jibe with the plan.

So these are inconsistencies, and again, it’s up to the Board’s determination what we should consider fully implemented.

And I mentioned travel, items such as accounting fees, and paper delivery, things that I think -- that I believe in Mr. Mahasivam’s determination wouldn’t be material under a financial statement audit -- again, we’re not performing a financial statement audit. This isn’t a single audit. We’re monitoring against the requirements of Uniform Grant Management Standards, and one of the cornerstones of those requirements are consistent treatment. So where we see inconsistencies during just a regular normal monitoring view, these are the things that we bring up.

So similarly, for this update to the Board, we’re bringing it to your attention.

MR. GOODWIN: Okay.

MR. HUNT: Regarding the board make-up, so at the time that we visited, there were nine members that had
been elected to the board, or that represented the board. One of those members was a low -- representing the low-income sector. That member was not democratically selected, nor had they been -- did they -- were they selected by a low-income organization in the area, and so we couldn’t count that toward the tripartite requirement. If there have been changes to that, which we have left the door open for updates, we have not been notified of that.

And I can speak conversationally about the training. It’s my -- I don’t supervise the training and technical assistance. It’s my understanding that our staff wanted to train a complete board, at the very least, a complete tripartite board, and so there is some scheduling inconsistencies there.

But aside from that, I don’t know if you have any specific questions about what’s been represented.

MR. GOODWIN: Okay. Any additional questions before we -- Paul?

MR. BRADEN: Mr. Chairman.

So, Earnest, you asked about, you know, what we would consider fully implemented in the QIP, and of course, I can only speak for myself, but my focus, when we look at this is, you know, the risk to the Department to have to repay HHS funds and whether people in the service
area are getting service.

So those would be the two things that I would focus on in terms of looking at what has been a lack of improvement, and considering what is put in our Board material, it seems to imply that your conclusion is that there -- those two risks are, you know, still there, and I would think the -- maybe the accounting areas would be something that would be immediately a concern to me in terms of a lack of, you know, allocation, and the discrepancy with the $104,000.

Those things are -- seem to be red flags to me.

But generally, I mean, I’d like to hear views on that type of thing.

MR. HUNT: So a couple things. So we had a -- we have disallowed costs from a prior report, and those costs are contingent upon a reallocation of those previously unallocated expenditures. And so we’ve allowed Galveston County -- again, GCCAC -- to reallocate those expenses so that we can determine if there’s a material variance.

A portion of those, I believe just the salaries for the scope that we tested for that particular review, were reallocated -- provided to us. But that is not the request we made in the report, nor the request that we made verbally. We’re looking at the totality of that
contract period.

So at the very least, we still have 37,000 from that prior report that remains in question or disallowed, until we can receive that support. Regarding our review of case files, that resulted in some inconsistencies.

During a normal monitoring review, we have a little under 5,000 in question. So of course, Galveston County would be presented the opportunity to respond to that and to address those costs in question, but we haven’t bridged that determination as of yet.

Regarding the discrepancies in the reporting to the Department -- so my conversation with Mr. Mahasivam indicated that he is trying to make adjustments to reconcile the prior periods, and I guess for me that’s a bigger concern, because prior periods represent closed contracts.

So we -- so if expenses were underreported in the current period, I do have some concerns that expenses may have been overreported in the prior period. I don’t have support for that, but that’s where the concerns would lead.

MR. GOODWIN: Uh-huh.

MR. HUNT: If so, you know, again, this is not financial statement accounting; it’s on a closed contract. Our only recourse for overreporting expenditures are
disallowed costs that have to be repaid back to the Department.

And I kind of alluded to the fact that we’ve had some discrepancy, whether or not Galveston County has access to unrestricted funds to address those. We’ve received conflicting information. We’re unable to determine from the financials if unrestricted funds are available, but that answers a big part of whether or not there is a liability for the Department to our funding sources as to whether or not that liability can be addressed by the subrecipient.

MR. GOODWIN: Does that answer your question?

MR. BRADEN: Yes.

MR. GOODWIN: Okay. Any additional questions?

Any additional questions? Okay.

MR. MAHASIVAM: I would like to respond --

MR. GOODWIN: Okay.

MR. MAHASIVAM: -- to some of those comments.

I’m trying -- I’m Sivam Mahasivam. I’m the CFO for GCCAC.

The cost allocation plan, what he mentioned, 50-50, because the new data-driven -- and we have a table provided to the staff to look up, you know, what line item, what percentages to use, and then -- and they didn’t follow the instruction.

And one example -- that was actually the one
they selected: So Williams traveled to Austin in January. That’s around $200. Was -- instead of 42.58, it was split as 50-50. So that was the difference he was talking about.

That is nothing wrong with that plan, but the staff didn’t pick up the right percentages in this big table. The extra spreadsheet was given to them, and they looked at it, and we walked through with them on how that one works.

So -- and also he mentioned about the space being allocated on staff hours. That is actually correct because -- and they approved -- the example he -- we are talking about is in the plan. It was provided to them, that space being -- that’s the example we gave in the allocation plan, that is how the space be allocated based on the staff hours.

Because space are allocated in a two-step process. First, we identify whether it is something that we directly allocate. So once it’s directly allocated, then comes to what has to be indirectly allocated, for example, admin.

So admin space is the one that -- admin space cannot be allocated to a program based on the square footage anymore, because we occupy -- we don’t work for the program. So it has to be allocated based on the
actual hours we put on each program.

So that is -- that’s the correct methodology. That was approved, that is in the plan. So I don’t know why they are confusing that. And also we are not trying to go back. We know that closed contract is closed contract that cannot go back and open up that.

So the 104,000 is wrong. And also, as I mentioned, 91,000 was already reported. However, it still appears in the report from the system. So therefore, when you’re trying to reconcile to the current process, we need to back out what was reported already in the previous contract, so -- and then you can reconcile back to the current report.

So we have 104-, 91_ was already reported. So we are not asking anything, we are not going to re-report that one. So it’s the -- only 13,000 is to be reconciled. So that is actually current year, but the contract is still open.

But maybe we -- some of them we have already find out that, because they have backdated the expenditures, so it has gone in the previous month after it’s been reported. But we just want to make sure that, you know, they are actually -- that’s the reason or there’s an incorrect actual.

And also on the third 7,000, they are talking
about the prior -- the audit they -- we haven’t paid back.

(Buzzer sounds.)

MR. MAHASIVAM: It has two components. One is related to salaries. The other one is related to space and other expenses, and mainly about the space, because they are requesting repayment because they didn’t follow the formalities for contracting the space, which runs into years back, and it just came up only from the last review.

As to the salaries, there is a small portion, whatever -- I cannot remember, but around 13-, $14,000, and that is only for the period they looked at it. But we agreed with them, and then we go back and look at the entire period, and then we recalculated.

It comes to around $6,000 difference for the entire -- we are talking about millions of salary, and we are off by 6,000, which if this is the easiest to pay, we will pay that one.

And so that -- those are the two main things I -- and as to the availability of funds, they -- the availability of funds is a moving number. GCCAC has nonfederal funds. Based on the last tier audit report, we had $330,000 nonfederal funds. There’s unrestricted nonfederal funds.

That’s the one that’s being used to finance the operation, because all the time, we have zero from TDHCA,
because we expense first, we expend the money first and then request for reimbursement.

So those are the money funding -- it’s like working capital being funded. And. well, we might even have around 60 days’ worth of receivables from TDHCA. So there’s not really much confusion. Maybe Mr. Williams may have told that we don’t have, because maybe he doesn’t want to pay.

So -- but we do have unrestricted funds.

MR. GOODWIN: Okay.

MR. MAHASIVAM: Thank you.

MR. CERVANTES: Excuse me. Can I ask a question?

MR. GOODWIN: Yes.

MR. CERVANTES: What -- just curious. The nature of the unrestricted funds, what’s the -- what’s generating the unrestricted funds that you’re using as this working capital at this time?

MR. MAHASIVAM: Unrestricted funds, they have unrestricted funds coming from prior years, probably four, five years prior, through donations. We -- I don’t really know the source, but they have -- but they exhausted around half a million in 2017. Because of the hurricane, they have to spend, because not paid for by any of the agencies.
MR. CERVANTES: Uh-huh.

MR. MAHASIVAM: And so pretty much -- but I don’t really know the source, because it has been coming from -- I have -- I went through several audit reports, prior audit reports --

MR. CERVANTES: Uh-huh.

MR. MAHASIVAM: -- and still they keep -- but it’s getting reviewed. But in 2018, 2017, they got 20,000 donations, emergency funds from some foundation, but that, I believe, has been spent. But this is coming from long time ago. They had a big number, but now, we have only around 300,000.

MR. CERVANTES: So in the event that the current questioned cost turned out to be disallowed costs, just for clarification, that would be the source that you would be utilizing --

MR. MAHASIVAM: Yes.

MR. CERVANTES: -- and that would reduce your working capital in turn for the reduction --

MR. MAHASIVAM: Yeah, yeah.

MR. CERVANTES: -- of that cash that would come back to the Department. Right?

MR. MAHASIVAM: Yeah. If it -- because we are fighting -- because we believe these are not truly disallowed costs --
MR. CERVANTES: Uh-huh.

MR. MAHASIVAM: -- because some of them -- even the payroll-related disallowed costs, that is a calculation mistake that’s in their report, because they have only calculated salaries only for the actual hours worked. They disregarded vacation and sick leave, because the federal law -- three years for everybody has to pay not only the hours worked for the vacation pay also, because we don’t pay out of our own fund; that has to come from the federal fund. So that is the main reason it was different.

MR. CERVANTES: Uh-huh.

MR. MAHASIVAM: And then also as to the procurement costs, one other argument was -- I know that they didn’t follow formalities for preparing the contracts, basically getting the quotes and the RFPS and all that. But the programs did benefit out of that, and it was actually below market, because we are getting a lot of in-kind out of that, because if you go out of the market, the rent is going to go up.

MR. CERVANTES: Uh-huh.

MR. MAHASIVAM: So now we’ve got a lot of in-kind out of that, because it’s a below-market rate we have. But we understand that it is -- we are not in compliance with the formalities of the program. But it is
not truly a disallowed cost, because the program did
benefit 100 percent.

But if you find anything, we will pay it. I
agree with him that I will pay the 6,000, and -- if they
decide that’s what they are going to go. I gave them the
calculation for 10 months, and if that’s all right and if
it reduces the working capital, there are a couple of
things we might be able to do -- is we were trying to
protect the working capital as much as we can.

MR. CERVANTES: Uh-huh.

MR. MAHASIVAM: And one thing we can do is --
TDHCA allows advance. We can always request an advance,
which we never requested. So we can always deliver -- the
accounting is difficult, but -- difficulty, but we can
request so that can supplement our working capital.

So we have -- I know that there are so many
agencies, they operate -- even CSBG Program, absolutely no
working capital.

MR. CERVANTES: Right.

MR. MAHASIVAM: They are all much larger than
our agency, but I think we should be able to manage --

MR. CERVANTES: Okay.

MR. MAHASIVAM: -- for the working capital.

Okay?

MR. GOODWIN: Additional questions? Any other
MR. QUINTERO: Robert Quintero.

As Mr. Hunt mentioned in his -- when he opened, all of the things that we’ve already met, no further action was required. There was a lot of them on that list. There was a lot of that QIP that we’ve completed. And as you look in your books that we handed out, we’ve met all those requirements.

I am a man of faith. I prayed this morning that -- for God’s grace and favor. I’m going to pray that you all give us that favor. Mr. Compian mentioned that we have an audit coming up in August, and in August, once that’s done, I ask that you think about giving us until then and you read that audit report.

Let us show the improvements that we made. We’re a work in progress. Not one of us have been here one year, not one of us, and look how far we’ve come in that one year. This ship was going down way before we came around. Look how far we’ve come in this short amount of time.

Once again, we’re not perfect, but not one agency is. But look how far we’ve come. We’re better today than we were yesterday, and we’ll be even better tomorrow. Just give us that opportunity.

MR. GOODWIN: Okay. Any other questions?
(No response.)

MR. GOODWIN: If not, we have a motion in front of the Board to approve staff’s recommendation as it relates to Item 5(a), and we have a second.

And, Beau, you have a clarification?

MR. ECCLES: Well, actually, just a point. It was mentioned by Mr. Compian that there a number of -- somewhere around 3- to 400. We received this morning from GCCAC several hundred slips of paper: "Register your opinion," name filled out, a check box, against staff recommendation on Agenda Item 5(a) and (b).

Many are dated and signed. Some are not, but we will sort out which ones have been identified. But if none of them are here, I just wanted to clarify. But at least there have been opinion apparently registered from several -- from a few hundred folks.

MR. GOODWIN: Okay.

MR. ECCLES: And just putting that on the record.

MR. GOODWIN: Okay. Any other questions or comments?

MR. VASQUEZ: Again, just to ultimately clarify here that GCCAC has the opportunity to come into compliance at any time up until the end of the termination proceedings.
MR. GOODWIN: Brooke, are you going to answer that?

MS. BOSTON: Brooke Boston. That’s correct.

MR. VASQUEZ: So if we -- staff deems it that they’ve done enough to come into compliance, they can keep going, and this termination process stops.

MS. BOSTON: That’s correct.

MR. VASQUEZ: If SOAH -- the SOAH administrative law judge says, hey, they’ve provided all kinds of evidence that they’re in compliance, the termination process stops?

MS. BOSTON: That’s correct. Now, I --

MR. VASQUEZ: But if we don’t vote to continue with the recommendations here of the staff to proceed with termination process, then we’ve lost all of our momentum and --

MS. BOSTON: That’s correct. Yes. Now, to address Mr. Compian’s earlier comment that it hasn’t happened before, that’s correct.

We have not had a CSBG or a CEAP client or organization who has had the funds removed and chose to come back and try and back in the program, but it’s not because the opportunity didn’t exist.

MR. GOODWIN: Okay.

MR. VASQUEZ: Good.
MR. GOODWIN: Okay.

MS. BOSTON: Yes.

MR. GOODWIN: Any other comments or questions?

MR. BRADEN: Mr. Chair?

MR. GOODWIN: Mr. Braden?

MR. BRADEN: So in January, I was one of the advocates to give your agency more time, because I didn’t want you to spend efforts sort of dealing with that SOAH process while you were trying to fix your agency, and clearly, you’ve made progress, but I do have confidence in our staff, and you have not satisfied our staff’s analysis that you’ve made enough progress, and their opinion is, you know, you are at risk in terms of repaying funds, and you know, it could negatively impact people in your area.

So unlike in the past where I was sort of advocating for giving you more time and not letting this process go forward, in light of the comments that Leo just made, that this is a process, and it will take a while, I’m in support of staff’s position as well, and I plan to vote in favor.

MR. GOODWIN: Okay. Any other comments from Board members?

MR. COMPIAN: May I be permitted?

MR. GOODWIN: Sure.

MR. COMPIAN: Joe Compian. To you know, those
of you that are old enough to remember Paul Harvey: "And now here’s the rest of the story." When I first came aboard this board, they were tagged with a reimbursement amount of $130,000.

Now, under the Texas Administrative Code, as I recall this referenced in the letter that was sent out, there was a demand made that you could appeal it, you know, or pay it, but the Code also says that you can also enter into repayment arrangements.

Now, no one ever indicated -- and Mr. Williams said we should enter into repayment arrangements. Mr. DeYoung attended a meeting -- and I go back to this bad faith, as I start thinking this over -- and, in our public meeting, stood up and said, why haven’t you paid the $130,000?

And Mr. Williams just was in shock. And I wasn’t the president at that point, but the previous president, you know, God, we have to send -- so we sent the 130,000. And so this issue of risk I think is minimal.

We have the access to the capital. The question is, now, this time, under my watch, we’re going to follow all the rules. We’re going -- if there’s monies that are owed, then we’re permitted to enter into a repayment arrangement as well.
But it’s our request, so this time we’ve gotten wiser, and as that was appropriately mentioned here, it’s all new staff, it’s all new staff --

MR. GOODWIN: Okay.

MR. COMPIAN: -- and we’re doing this, and at this action that is contemplated on staff recommendation is, I firmly believe, based upon the statements made to me by staff, forget about it, you guys are toast. That’s what I -- and I have that on tape, if you’d care for me to put it to -- all right?

And one of --

MR. GOODWIN: We’ve heard that, please. Is there something new that you want to add to --

MR. COMPIAN: Oh, and one other thing. I’ve followed faithfully the recommendations of staff, including directions by Mr. DeYoung, saying, you need to get rid of certain people. And once again, it’s on this. You -- and one of the items that he was completely -- said, well, director of neighborhood services.

I can’t fire anybody. I’m just a board -- at that point, a first vice president. But I did bring -- have some serious discussion with Mr. Williams, and ultimately, that transition occurred. And there was a meeting with Mr. DeYoung and Mr. Williams and myself.

But then Mr. DeYoung, in conversations, is also
saying, Melvin Williams is not the person that needs to be your executive director. You need to do something like that.

(Buzzer sounds.)

MR. GOODWIN: Okay.

MR. COMPIAN: And I refuse to do that, those things.

MR. GOODWIN: Thank you.

MR. COMPIAN: So thank you.

MR. GOODWIN: Okay. Any other discussion? If not, I’m going to call for the vote. All those in favor of staff’s recommendation for Item 5(a), signify by saying, aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. We’ll move on to 5(b). Earnest, I think you’ve presented most of this, but you might just give us an update, since that lasted as long as it did.

MR. HUNT: Yeah. I apologize. I kind of mixed that up.

MR. GOODWIN: That’s all right.

MR. HUNT: But Item 5(b) is specific to a Community Service Block Grant Program contract for 2019,
and we kind of went in depth about the SOAH process. This vote by the Board initiates this IM-116 process. The next step would be to go to SOAH. We can’t really determine how it would take us to get that set.

SOAH would make a recommendation to the Board. The Board would have another opportunity to go with SOAH’s recommendation. At that point, if the vote is still to terminate their eligible entity status, then they have 90 days to appeal with the HHS.

So staff’s recommendation is to initiate proceedings for IM-116.

MR. GOODWIN: Okay. Do I hear a motion to approve staff’s recommendation?

MS. THOMASON: So moved.

MR. VASQUEZ: So moved.

MR. GOODWIN: Second?

MR. VASQUEZ: Second.

MR. GOODWIN: Okay. Discussion? Anybody want to speak to it?

MR. COMPIAN: I would like to --

MR. GOODWIN: Okay.

MR. COMPIAN: -- attempt it. Once again, I guess it is all a done action. Vote in favor of this recommendation, I’m asking, once again, is not appropriate under these circumstances, especially under these
circumstances which in fact prior to any action by this Board, they’re already soliciting another entity to come in, and that’s -- the process of the Board selection was interrupted, as well, too.

So each step that we’ve tried to take has occurred, and when I talk about information --

(Mr. Compian begins playing audio on his phone.)

MR. GOODWIN: Why don’t you turn that off --

MR. VASQUEZ: I was going to say --

MR. GOODWIN: All right. We’re going to get legal counsel’s advice as to the presentability of this.

MR. COMPIAN: I’m just --

MR. GOODWIN: Hold on, hold on just a second.

So he had to step out of the room. So we’re going take a 10-minute restroom break and then reconvene in 10 minutes. So anybody that needs to go use the facilities may do so.

(A short recess was taken.)

MR. GOODWIN: We’re going to reconvene from our recess; our short 10-minute break is now over.

Mr. Compian, you were up here and you were playing a tape, which this Board has a set of rules for how information comes in front of this Board.

Playing a tape at the microphone does not meet
with those rules, so you’re welcome to speak to any aspect of 5(b) that you would like to speak to, and we’re going to hold you this time to three minutes.

MR. COMPIAN: Yes, sir. Once again, Joe Compian. I’m not going to say much more, but I hope my voice is going out.

MR. GOODWIN: Okay.

MR. COMPIAN: But once again, I urge that this Board deny or do not accept the staff’s recommendations, and that’s all I say --

MR. GOODWIN: Okay. Thank you.

MR. COMPIAN: -- on that side.

MR. GOODWIN: Any other questions?

MS. RESÉNDIZ: Mr. Chair, may I just make a comment?

So, Melvin and Joe -- or no, I’m sorry -- Robert and Joe -- one, I just want to thank y’all so much for working for a nonprofit. I led two major nonprofits, and I understand what it’s like to reshape them.

And I’m truly conflicted as to what’s being brought, but I’m also under the realization that, yes -- I have to admit I was disappointed to know that you were recording staff without their consent, and as an attorney, that you let him play that.

So I’m trying to find a way to come to terms
with everything, just because I’m very empathetic to your situation, but I also understand that there has to be guidelines, not only on our part, but the guidelines that are set by this nonprofit.

Whatever your financials say, you have a fiduciary responsibility, you have a responsibility of loyalty, and you have a responsibility of, you know, the duty of care, and that’s a legal -- you know, that becomes a legal issue all the way around. But I do wish y’all luck, and hopefully, we can all, you know, help one another out in the future.


MR. QUINTERO: Okay. We will be -- just to let y’all know, we will be appealing the situation, both (a) and (b), and just to reiterate what Mr. Compian had said about the playing field just not being fair and things were predetermined prior to me even being started, my very first board meeting for GCCAC, Mr. DeYoung came to visit me in my house, and we’re talking.

And I said, we’re going to do everything to get this ship right. He says, well, in December, Mr. Hunt’s going to be coming to Galveston, and he has his gun loaded, and it only has one bullet in it, and it has GCCAC’s name on it.

I thought that was just hyperbole at first.
Two months later, he told me the same thing. He repeated it to Ms. Robin at -- Robin Ellis, and I -- that just told me that this was already predetermined in their eyes, that they were going to try to do this to us.

That wasn’t a fair playing field. The QIP hadn’t come out yet, and that -- and after the QIP came out, I said, this is their -- they didn’t even have an open mind about this. They didn’t play fair with us. This was not fair to us.

MR. GOODWIN: Okay. We’ve heard that. Any other questions?

(No response.)

MR. GOODWIN: If not, I’m going to call for the vote. All those in favor of staff’s recommendation for 5(b), signify by saying aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. 5(b). We’re moving on to Item No. 6.

Michael?

MR. DEYOUNG: Michael DeYoung, Community Affairs Division director. Let me get my papers straight. I apologize.

Item 6. The next three items are all plans for
the Community Affairs Division. We have annual plans.

Item 6(a) is the possible action on program year 2019, Department of Energy Weatherization Assistance State Plan and Awards.

The DOE Weatherization Program is about $6-1/2 million annually. It goes into the weatherization of low-income homes. We have 20 providers around the state. We’re required annually to file a plan. This state plan was approved for release for public comment back at the February Board meeting.

We had a 21-day comment period, and we did receive comments. There were technical corrections made, and the plan was corrected. And during that time period, we also had what’s called a Weatherization Assistance Program Policy Advisory Council.

This is a group of individuals who are named to look at the plan and to provide recommendations on the plan. It could be technical recommendations. But ultimately they looked at the plan and they asked that we go ahead and move forward with the plan.

The final DOE WAP plan is being presented for approval, and it has a list of the awards included in that Board item that you see in front of you. I will give you the note that three of those subrecipients that went to EARAC were conditioned, and they are Fort Worth, Nueces.
County, and Hill Country Community Action Agency.

Staff is seeking recommendation to submit the plan to DOE. The program year would begin on July 1 of this year and extend to June 30 of next year.

MR. GOODWIN: Okay. Do I hear a motion to approve staff’s recommendation?

MS. THOMASON: So moved.

MR. GOODWIN: Second?

MR. BRADEN: Second.

MR. GOODWIN: Moved and seconded. Any questions?

(No response.)

MR. GOODWIN: Hearing none, all those in favor, say aye?

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. 6(b).

MR. DEYOUNG: 6(b). Item 6(b) is release of the draft 2020-2021 CSBG, Community Services Block Grant State Plan. The U.S. Department of Health and Human Services requires that the Department submit a state plan every two years in order to receive its allotment of CSBG funds.

The Department has prepared a draft plan for --
I want going to say 2021, but it’s year 2020-2021, and we are requesting in that plan that we have an increase of 50,000 to our discretionary funding for intensive eligible entity assessments.

One of the things we’ve done -- well, let me back up. I guess at the last Board meeting, I went how we -- 90 percent of the CSBG funds goes to eligible entities, and we have 5 percent for our state administration and 5 percent for discretionary.

Each year, we come to you with a recommendation for how we spend those 5 percent, 5 percent of discretionary funds. You know, in a little while, you’ll have action results from last year’s discretionary awards. But this year, we want to increase one component of that specifically, which is the intensive assessments.

When we go into troubled community action agencies and we do these assessments, we bring in an outside group called the Partnership, Community Action Partnership, and they help us get a third perspective on an organization, so it’s not just TDHCA or the subrecipient.

We did it most recently with Galveston as well. They hire consultants. They bring in, through the Partnership, these consultants. They do an assessment and kind of give us an action plan to move forward. So we
want to increase that just a little bit this year, so we feel like we may have some additional engagements.

Prior to going to the Board, we released this draft plan to our CSBG network, which is 40 subrecipient agencies throughout the state of Texas. They cover all 254 counties, and it also went to their state association, TACAA, this Texas Association of Community Action Agencies.

They’ve provided some input already, and we’ve reflected that in this plan. Now, once the draft plan is approved, it will announce the public comment period and the public hearing information in the Texas Register, and then we’ll have a comment period between May 10 and June 10, and there will be four public hearings, two of which will be held at night, two during the day.

And this year, we’re going to Austin, Fort Worth, Odessa, and Houston. If HHS issues different guidance after you approve this draft plan, we want consideration to be able to make those conforming changes and nonsubstantive changes to the plan and, if necessary, change the public hearing dates if we get federal guidance that impacts us.

We anticipate coming back to you all in July with the final plan. That would be submitted to HHS, and then ultimately the programs would start on January 1, and
they run January 1 to December 31.

    MR. GOODWIN: Okay. Do I hear a motion to accept staff’s recommendation for Item 6(b)?

    MR. VASQUEZ: So moved.

    MR. GOODWIN: Moved. Second?

    MR. BRADEN: Second.

    MR. GOODWIN: Okay. It’s been moved and seconded. Any discussion?

    (No response.)

    MR. GOODWIN: Hearing none, all those in favor, say aye.

    (A chorus of ayes.)

    MR. GOODWIN: Opposed?

    (No response.)

    MR. GOODWIN: Okay. Six. Moving on to 6(c).

    MR. DEYOUNG: Okay. Item 6(c) is the release of the draft federal fiscal year 2019 Low Income Home Energy Assistance Program State Plan, LIHEAP. U.S. Department of Health and Human Services requires a plan as well.

    We’ve prepared that state plan for 2020. This is only a one-year plan; you see this annually. The primary purpose of LIHEAP is the utility assistance program. You hear us refer to as CEAP, Comprehensive Energy Assistance Program.
About 75 percent of the funds go to that. Another 15 percent go to a Weatherization Assistance Program that runs in conjunction with the DOE plan that you just approved. This draft plan was released to the subrecipient network, again, to garner some feedback before we actually would go out for the public comment period.

We’re asking again if there’s any late guidance from the federal government about the plan, which they have been known to do occasionally; it does not happen every year. We ask for some allowance so that we could make any changes to make it conform to that guidance.

Once the draft plan is approved, we’ll announce it again in the public -- in the Texas Register. We’ll collect public comment the same time period, May 10 through June 10. The same four public hearings will occur.

So we’ll open up one public hearing, take comment on the CSBG. We’ll open up the -- another public hearing and take comment on LIHEAP as well. And then upon completion of the public hearing, we modify the plan and put it in its final form, and we’ll bring it back to you again in July for final approval.

This program runs in conjunction with the CSBG on a January 1 to December 31 contract date. With that --
MR. GOODWIN: Do I hear a motion to approve staff’s recommendation for Item 6(c)?

MS. THOMASON: So moved.

MR. GOODWIN: It’s been moved. Second?

MR. BRADEN: Second.

MR. VASQUEZ: Second.

MR. GOODWIN: Moved and seconded. Any discussion?

(No response.)

MR. GOODWIN: Hearing none, all those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. 6(c) is passed. We move on to Item 7(b). Andrew?

MR. SINNOTT: Good morning, Chairman Goodwin --

MR. GOODWIN: Good morning.

MR. SINNOTT: -- members of the Board.

Item 7(b) is presentation, discussion and possible action regarding refinancing for Legend Oaks with TCAP Repayment Funds set-aside for workouts. This is -- while it’s a direct loan recommendation or recommendation for direct loan award, it’s kind of a unique direct loan award recommendation, so I wanted to just give you all
some background on how this deal got to today’s recommendation.

So despite staff ultimately recommending funds for this deal under the Department’s authority to use a certain amount of TCAP repayment funds for workout scenarios, this application for direct loan funds initially was received under the 2018-1 Multifamily Direct Loan NOFA.

However, what the applicant was proposing, which was refinancing of permanent debt where rehab was not the primary activity, in addition to all the waivers that would have been necessary, that together precluded the application from being considered the 2018-1 NOFA.

Furthermore, by virtue of this property having an existing State Housing Trust Fund loan, this property can potentially access funds reserved for workouts by Board action taken on November 13, 2012, in which the Board action request gave the executive director or authorized designee the authority to "effectuate the use of program income from TCAP to acquire, redevelop and/or refinance previously funded rental developments that have lost or are at risk of losing their affordability requirements."

So now that we’ve established how this deal got to this recommendation, today’s unique recommendation,
I’ll discuss the history and the current status of this property. So Legend Oaks is a 48-unit property serving an elderly population in Llano, Texas.

The applicant borrower, Llano DMA Housing, received an allocation of 9 percent credits and an award of $350,000 in State Housing Trust Fund in 2001. Both the HTC LURA and the State HTF LURA restricted 36 of the 48 households through 2042.

Along with the tax credit equity and the State HTF loan, they also had first lien permanent debt from Fannie Mae, which matured on September 1, 2018. Since that time and through May 31, 2019 -- so just about another month or so -- Llano DMA Housing is in a forbearance period on that Fannie Mae loan.

The applicant has indicated that they are requesting funds from the Department to help pay off the Fannie Mae loan as a last resort, since the property cannot support conventional or agency debt at the current interest rates of 4 to 6 percent, due to the high operating expenses, namely the increased water rates by the City of Llano that went into effect in 2017.

According to the property condition assessment initially provided, the property has been well maintained, with only about $8,000 worth of rehab, mainly window and framing repair required. This led the applicant to only
request 480,000, most of which was to go toward repaying the Fannie Mae loan.

However, after staff told the applicant that regardless of the source of direct loan funds, either from the 2018-1 NOFA or from the Department’s workout authority, the property would have to be rehabbed to bring the property up to 2010 ADA standards, meeting accessibility requirements in our rule, the applicant had the PCA provider perform an accessibility compliance review.

The accessibility compliance review revealed that 112,000 worth of work would have to be completed in order to bring the property up to 2010 ADA standards.

So the proposal before the Board today is as follows: a $636,857 repayable loan with a 35-year and 10-year term, zero percent interest rate, with TCAP repayment funds from the Department’s workout pot of funds that would go toward three things.

One, paying off the balance and fees associated with the Fannie Mae loan, which is approximately 475,000; construction and construction contingency, which is approximately 123,000; and a partial payoff of the State HTF loan, with the other partial payoff coming from the applicant with their own funds.

As I mentioned earlier, 36 of the 48 are
currently and will continue to be restricted by the
Housing Tax Credit and State HTF LURAs. Additionally, as
a result of the TCAP repayment funds’ LURA that will be
placed on the property, 40 of the 48 restricted -- 40 of
the 48 units will be restricted to households at or below
80 percent AMI, resulting in four of the current market
rate units being restricted to low-income households.

The term of the TCAP LURA will be 30 years,
resulting in seven additional years of affordability, so
that will bring it out to 2049, instead of 2042. If not
for these funds, the affordability requirements in the
Housing Tax Credit LURA and the State HTF LURA are at risk
of being extinguished as a result of foreclosure.

Finally, while this does not impact the
specific property, should the Board approve this award,
staff will replenish the workout pot of funds that we’re
tyling down for this award with 636,857 of unobligated TCAP
repayment funds, maintaining the Department’s ability to
provide financing to similar properties that are at risk
of foreclosure.

In addition to the workout authority granted
under the November 2012 Board action, today’s
recommendation is grounded in two state rules. First, 10
TAC 13.3(d) of the Multifamily Direct Loan Rule, states
that "Multifamily Direct Loan funds may be used to assist
distressed developments previously funded by the Department when approved by a specific action of the Board."

And 10 TAC 11.302(h) and the underwriting rules allow staff to characterize workout developments that do not adhere to the underwriting guidelines, which this deal does not, as the best available option or acceptable available option, as long as the option analyzed and recommended is more likely to achieve a better financial outcome for the property and the Department of the status quo.

Staff has found that what is being presented to you today is an acceptable available option.

MR. GOODWIN: Okay. Thank you, Andrew.

MR. SINNOTT: Thank you.

MR. GOODWIN: Do I hear a motion to approve staff’s recommendation for Item 7(b)?

MS. THOMASON: So moved.

MR. GOODWIN: Moved. Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: So it’s been moved and seconded.

Any questions for Andrew?

MR. VASQUEZ: I have a couple --

MR. GOODWIN: Okay.

MR. VASQUEZ: -- quick questions. So under
this new -- if we go through with this loan, their cash flow situation is going to be positive or not?

MR. SINNOTT: It will be positive through year 10. That’s why we’ve got that short term on this loan, so that we can reassess in 10 years how the property is doing, if its cash flow has improved, and make another determination as to whether to refinance or do something else at that time, or potentially, the applicant borrower could sell the property before then, to where we would get paid off.

MR. VASQUEZ: And just because there’s one page in here where I see net operating income at negative 5,700.

MR. SINNOTT: It’s probably after year --

MR. VASQUEZ: Well, stabilized first-year pro forma.

MR. SINNOTT: I’ll take a look. So I’m looking at the long-term pro forma. I’m not sure --

MR. VASQUEZ: Yeah, that was just --

MR. SINNOTT: -- stabilized first --

MR. VASQUEZ: -- first year. Page 5 of seven.

MR. SINNOTT: Yeah. So I’ve got -- applicant has represented 37,449 in NOI. TDHCA shows 43,195 in NOI.

I’m sorry. Where are you seeing the negative --

MR. VASQUEZ: The last -- oh, that’s the
variance. I’m sorry.

MR. SINNOTT: Okay.

MR. VASQUEZ: It’s the variance. Okay. It’s
the variance. It wasn’t the --

MR. SINNOTT: Yeah.

MR. VASQUEZ: It’s --

MR. SINNOTT: Yeah. It’s -- that’s the variance.

MR. VASQUEZ: I retract my question.

MR. SINNOTT: Yeah. It’s -- and if you go to
the long-term pro forma, page 7 of seven under the
underwriting report, you’ll see that they’ve got positive
cash flow through year 10, and then after that, year 15
through 35, it goes negative.

MR. VASQUEZ: Okay. And then just confirming,
it is a 10-year balloon?

MR. SINNOTT: Exactly, yeah, which is going
toward paying a balloon on the Fannie Mae loan right now.
The Fannie Mae loan, I think it was either 15-year or
18-year term, with a 30-year AM, or something like that.
That’s what the 470,000 or so is going towards.

MR. VASQUEZ: So theoretically, we’re actually
going to get repaid on this?

MR. SINNOTT: Hopefully, yeah.

MR. VASQUEZ: Okay. All right.
MR. GOODWIN: Any other questions?

(No response.)

MR. GOODWIN: Did you want to speak to this?

FEMALE VOICE: No.

MR. GOODWIN: Okay.

(No response.)

MR. GOODWIN: Hearing none, all those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. 6(b) is approved. Moving on, Andrew, to 6(c).

MR. SINNOTT: Sure.

MR. VASQUEZ: 7(c).

MR. SINNOTT: 7(c).

MR. GOODWIN: Oh, 7(c). I’m sorry.

MR. SINNOTT: No worries. 7(c) is "presentation, discussion, and possible action on the First Amendment to the 2019-1 Multifamily Direct Loan Notice of Funding Availability."

So in December, the Board approved the 2019-1 Multifamily Direct Loan NOFA with approximately 34-1/2 million in HOME TCAP repayment funds, NSP-1 program income, and National Housing Trust Fund available under
the CHODO Supportive Housing soft repayment preservation
and general set-asides.

Of that amount, $2,304,698 in HOME and
5-1/2 million in TCAP repayment funds for a total of -- I
think I left out the NSP --

MR. GOODWIN: Yeah.

MR. SINNOTT: -- 2.3 in HOME, 5-1/2 million
TCAP, and 4.5 million in NSP-1, for a total of
12.3 million, was made available under the general set-
side.

To date, we’ve received 27 applications under
the general set-aside, requesting almost $70 million, with
the other three set-asides undersubscribed. In order to
help meet the demand in the general set-aside, we are
proposing to take the following steps in the first
amendment to the 2019-1 NOFA.

First, on the HOME side, reprogram
approximately 6.1 million in unrequested HOME funds from
the CHODO set-aside to the general set-aside, and then
program approximately $6 million in deobligated HOME funds
to the general set-aside.

Secondly, with regard to TCAP repayment funds,
reprogram $2 million in unrequested TCAP repayment funds
from the preservation set-aside to the general set-aside,
and then program 3.66 million in TCAP repayment funds
received January through March to the general set-aside. These actions will result in approximately 12.1 million additional HOME funds for 14 -- approximately 14.4 million total HOME funds available in the general set-aside, and 5.66 million additional TCAP repayment funds, for 11.16 million total TCAP repayment funds available in the general set-aside.

The NSP-1 PI available in the general set-aside will remain at 4.5 million. So among HOME TCAP repayment funds and NSP-1 program income, total funds available under the general set-aside will be approximately $30.1 million after approval of this amendment.

While the 30 million that will be available in the general set-aside with the approval of this NOFA amendment may not be enough to meet demand of all 2019 9-percent layered applicants, we anticipate being able to make several more awards under the general set-aside with the additional funds.

Staff plans on notifying impacted 2019 9-percent layered direct loan applicants of the oversubscription within the general set-aside in accordance with 10 TAC 13.5(f) shortly, so that they may revise their financing prior to award.

Two other changes to the NOFA in this first amendment: The application submission deadline will
change from 5:00 p.m. Austin local time on November 29, 2019, to 5:00 p.m. Austin local time on November 26, 2019, since the Department will be closed on November 29, which is the day after Thanksgiving.

And the certificate of reservation requirement for 4 percent Housing Tax Credit layered direct loan applications in 6(f) of the 2019-1 NOFA, will change to align with the requirements of 10 TAC 11.201(2)(b)(i), which talks about a longer time period for -- to submit the certificate of preservation.

Staff will continue to monitor the demand for direct loan funds and may bring additional amendments to the NOFA at future Board meetings.

MR. GOODWIN: Okay. Do I hear a motion to approve Item 7(c), as presented by staff?

MS. THOMASON: Motion to approve.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: It’s been moved and seconded. Any questions?

(No response.)

MR. GOODWIN: Hearing none, I will call for the vote. All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?
MR. GOODWIN: Okay. 7(c) is passed. Move to Item 7(d).

Marni?

MS. HOLLOWAY: Good morning, Chairman Goodwin --

MR. GOODWIN: Good morning.

MS. HOLLOWAY: -- members of the Board. I’m Marni Holloway. I’m the director of the Multifamily Finance Division. Am I loud enough?

MR. GOODWIN: You’re loud enough for me.

MS. HOLLOWAY: Okay. No one has ever accused me of being quiet. This item, 7(d) is "presentation, discussion, and possible action on timely filed appeals under the Department’s Multifamily Program Rules." This item is for Application No. 19223, Bamboo Estates Apartment.

This is a 9-percent application in the current round. A scoring notice was provided to the applicant, which identified points staff had determined the application did not qualify to receive under the QAP. The applicant has appealed that scoring notice, and the acting director has denied that appeal.

This application proposes the new construction of 79 units for a general population in Progreso. The
development would consist of single-family homes and
duplex units.

Staff determined that the application does not
qualify for 18 financial feasibility points because it did
not include the required pro forma signed by the lender.
It also did not qualify for one point under funding
request amount, because their application requested more
than the amount that was available in the subregion -- and
the applicant is not appealing that item -- and also are
not able to use six pre-application participation points
because as a result of losing the 18, there’s more than
four-point difference from what was reflected at pre-app
to the full application.

As you are aware, applicants provide both Excel
and PDF versions of the application. This is something
that we discussed in the past. In the past, we have in
some cases accepted parts of the Excel workbooks that were
not included in the PDF as meeting criteria for an
administrative deficiency.

That’s in very specific circumstances that
we’ve been able to do that. The pro forma included in the
Excel version of this application or -- does meet the
threshold part of our rules that require a pro forma. So
we require a pro forma in one place, and in another place,
we use it for scoring.
However, the QAP specifically states that to qualify for points the pro forma must be signed by the construction or permanent lender. The applicant should have printed the pro forma from Excel, had the appropriate lender sign it, and PDF’d the resulting document for inclusion in the full application.

This is what all the other applications have done. A signed pro forma was not submitted in this application. A lender letter in the application references a pro forma, but it is simply a reference and does not provide the required information that’s available on a pro forma document.

It is most significant that the signed pro forma that was submitted with the appeal is not the Excel pro forma submitted with the application. The signed pro forma provided on appeal is different from the one that was in the materials that were received by the deadline, which leads to a question of whether it existed at application or was created as part of the appeal documentation.

We have in the past taken the position that if an applicant is able to prove to us that documentation existed prior to application, then we may be able to accept it as curing a deficiency, but it has -- we -- they have to show us that.
The rule regarding documentation to substantiate items in an application is clear that all materials must have been clearly established at the time of submission.

In this case, the pro forma provided at appeal does not match the pro forma provided at application, leading to a conclusion that the documentation was not established, the deficiency cannot be cured, and the points cannot be awarded.

Staff recommends denial of the appeal. I’d be happy to take any questions.

MR. GOODWIN: First, we’ll have a motion to accept staff’s recommendation.

MR. BRADEN: So moved.

MR. VASQUEZ: Second.

MS. RESÉNDIZ: Second. It’s been moved and seconded. Any questions for Marni?

(No response.)

MR. GOODWIN: Sounds like to me, Marni, this is a clear case of something was missing.

MS. HOLLOWAY: Yes. The signed pro forma was missing. It was -- they sent a pro forma with the appeal --

MR. GOODWIN: Uh-huh.

MS. HOLLOWAY: -- that did not match what was
in the application. When we pointed this out -- so to I
guess -- the further appeal, there are letters claiming
that the lender changed it and signed it, and it was a
clerical error that that one was not included in the
application.

MR. GOODWIN: Okay. Thank you.

MS. HOLLOWAY: Uh-huh.

MR. GOODWIN: Please let me remind you to sign
in, state your name and who you represent, and you will be
held to three minutes.

MR. PHILIP: Chairman Goodwin, members of the
Board and Mr. Cervantes, thanks for the opportunity.

Marni stated accurately the facts, so we won’t repeat a
lot of them. For --

MR. GOODWIN: I need you to speak up and state
your name.

MR. PHILIP: My name is Sunny Philip. I
represent the nonprofit from South Texas which is a
community-based nonprofit proposing this development in
Region 11. And we have some explanation as to what has
transpired.

This application is prepared by the nonprofit
in-house, and we had prepared the Excel version and
submitted that Excel version to the lender and the equity
provider. The lender, Harper Capital, out of New York,
signed the pro forma and the -- that letter on February 28, 2019, and we have provided copies of that through the application.

As a supplement to the appeal, we have provided a letter from the lender, which is also in the package, as to what has transpired. The equity provider also signed the pro forma with the March 1 date. There is some difference there.

Let me explain as to what the difference was. We are using 221(b) for HUD-insured debt, and that one has a debtor risk payment and a mortgage insurance premium. The Excel portion we submitted and submitted to the lender has two line items. That’s service and mortgage insurance premium. It is stated.

They have reviewed it and said that HUD financing in $100 increments, or they are rounded off to that, and they calculated the mortgage insurance premium, which is supposed to reduce each year as the principal goes down. So they made that correction. That’s the only correction. So in a year, it is less than $100 or something. Okay? And that’s the only change.

And again Marni acknowledged that TDHCA confirmed that we met with the threshold requirements, and we do. And it is true that the signed pro forma was missing from the application, but the Excel was, and we
have provided documentation that there existed a letter from the -- that the lender had also signed a pro forma also.

And also if you really look at the state statutes and also the QAP, the pro forma and the lender, that comes under the financial feasibility. That means that we need to project as to how many units towards the income minus expenses what is the amount available as the net cash flow?

From there, we will reduce the debts of these payments. There is no changes made to the income or the debt or the expenses, so we have concluded. So -- (Buzzer sounds.)

MR. GOODWIN: Okay.

MR. PHILIP: -- based on the practice of the Department, we are providing proof to you that there existed a pro forma signed by the lender, and we simply ask this: the Board favorably say that this item should have been or can be resolved by an administrative deficiency.

We ask the Board to remand it back to the executive director so that that minor, immaterial item can be resolved for a deficiency.

MR. GOODWIN: Okay. Anybody else going to speak?
MR. GONZALES: My name is Jose Gonzales.

Chairman Goodwin, members of the Board, I just wanted to speak to the issue that Marni raised about the numbers being different in the different pro formas. The letter dated February 28 from Harper Capital identifies a payment amount of -- excuse me -- or an amortization amount of $206,718.

What they did when they sent in the pro forma, the one that they actually signed, because Harper is a meticulous FHA lender, is that they acknowledge that the mortgage insurance premium portion, as Mr. Philip mentioned, is based on the principal balance and reduces on an annual basis.

So they start out their pro forma to 206,718, and then the second year, they start at 206,638, and they provided an amortization schedule, which is in your packet, that shows that that payment is reducing. The debt amount, the mortgage amount, does not change in any of the documentation that they provided.

It simply that they really burrowed down into demonstrating and stating what an accurate payment was. The TDHCA form by itself typically will just take the MIP in the first year and spread it across the 15-year time frame. Thank you.

MR. GOODWIN: Okay.
MS. JACKSON: Good morning, Mr. Chair and fellow Board members. My name is Antoinette Jackson. I’m known by everyone as Tony. I just want to again point out that, as you said, Chairman Goodwin, this is a clear-cut matter, and we have provided the documentation to show that it is.

We do believe that this is an administrative deficiency and not a material deficiency that caused this termination. In the email chain that we did provide to TDHCA, the lender very clearly states in his email that was dated on February 28, which is before the application deadline, that we reduced the loan amount on the sources and uses from 3.518637 to 3.518600 because HUD only allows multiples of 100.

As such, it does look like a different pro forma. The client prepares the pro forma, and they submit it to the lender for the lender to review and to sign off on and provide their letter. However, when they -- the -- my client had already submitted their Excel, was waiting for the signed to come back, and the lender changed it to meet the HUD guidelines.

When they submitted their application, they simply inadvertently failed to put that pro forma inside, but the lender has acknowledged that they made that change. It is not a new pro forma. They simply had to
fix the pro forma to meet their guidelines because we’re seeking a HUD loan, and then they later, on a letter on April 12, 2019, further explained that this was something that they changed and they laid out the facts.

Again, we have admitted that we inadvertently missed putting it in the application, but the pro forma has not changed in terms of there being a significant difference. It was simply a change that the lender made because they had to meet their HUD guidelines.

And so it is our position that this could be fixed through an administrative deficiency, and it’s not termination.

MR. GOODWIN: Okay.

MS. JACKSON: Thank you.

MR. GOODWIN: Any other comments? Any questions from any Board members?

MR. BRADEN: So I guess I have a question of staff. I don’t know if it’s Marni or David.

So do you agree with their characterization of the differences between the two pro formas?

MS. HOLLOWAY: They are not big changes. You know, it’s not big swings, the changes. The concern for us is if there was a change -- there was a change from, you know, what was submitted to us in the application to what was submitted to us in appeal.
MR. BRADEN: Would you think those changes are material?

MS. HOLLOWAY: If we have received the signed pro forma in the application that differed from the Excel document, we would have treated that as a deficiency and requested clarification. Because we didn’t have the signed pro forma that is specifically required by rule, we couldn’t go that route.

MR. BRADEN: So again, I don’t know if it’s Marni, David or both. So -- or is it the opinion of staff that an administrative deficiency is not a course of action that this could be -- go through?

MS. HOLLOWAY: Huh-uh, because it was something that was completely missing from the application.

MR. VASQUEZ: And --

MS. HOLLOWAY: What they provided to us has us questioning whether or not it actually existed prior to --

MR. BRADEN: But how is it that we’re questioning if they did submit something and it’s not materially different than what the signed one --

MS. HOLLOWAY: Because -- it’s just because it’s different at all.

MR. BRADEN: But they’d explained why it’s different. Right? I mean --

MS. HOLLOWAY: They have explained why it’s
different. We have a -- we have letters, you know, and we have this signed pro forma that was dated February 28 that differs from the application that was submitted to us.

MR. BRADEN: Okay. Obviously I’m not the accountant. There are several accountants. As the Board, to me, it doesn’t sound like a material difference, and you know, if we’re saying we’re not going to go forward at all because they didn’t sign something although they submitted it in an unsigned version -- was I the one that made a motion to approve this?

MR. GOODWIN: Yes.

MR. BRADEN: I retract my motion.

MR. GOODWIN: Okay. Can I retract you from the second?

MR. VASQUEZ: I didn’t --

MR. GOODWIN: Let’s get the retraction. Who -- I don’t remember who seconded it. Did you?

MS. RESÉNDIZ: I did.

MR. GOODWIN: Will you retract your second?

MS. RESÉNDIZ: I retract my second.

MR. GOODWIN: Okay.

MS. HOLLOWAY: And --

MR. GOODWIN: David, you had a comment you wanted to make?

MR. CERVANTES: Yeah. Just -- Paul, just to
add to your thought, I guess, part of the consideration was also the nature of the site and being in the feasibility component of the entire application process.

So in addition to weighing, you know, the materiality aspect perhaps, I think there was self-admission of it not being in the original application packet and then the nature of it being, you know, up at the top of the level in terms of feasibility and its available in the packet -- I guess was the other thing was playing into it, you know; the level of -- whether this was an administrative deficiency or not --

MR. VASQUEZ: Again, let me also clarify. The -- it was not signed? It was included but not signed, or just not included at all?

MS. HOLLOWAY: Not included at all. It was in the Excel version of the application, but it was not the PDF version of the application.

MR. VASQUEZ: Okay. But the Excel version --

MS. HOLLOWAY: Did not match the PDF that was ultimately submitted to us on appeal.

MR. VASQUEZ: -- but the Excel version was initially originally submitted, albeit unsigned?

MS. HOLLOWAY: Yes, yes. So applications come in to us as Excel workbooks. So just a regular, live --

MR. VASQUEZ: Uh-huh.
MS. HOLLOWAY: -- Excel workbook, and then that workbook is PDF’d and documents are -- the supporting documents are inserted into it.

MR. VASQUEZ: Okay. When did the Harper Capital letter get submitted? Is that in the original package?

MS. HOLLOWAY: No. There was a Harper letter in the original package as a lender letter.

MR. VASQUEZ: And did it reference the --

MS. HOLLOWAY: It --

MR. VASQUEZ: -- the figures in the spreadsheet?

MS. HOLLOWAY: It doesn’t -- the lender letter does not get to that level of detail. It does reference a pro forma. It says, "We have received and reviewed Borrower’s 15-year rental housing operated pro forma for the above-captioned project." The --

MR. VASQUEZ: The --

MS. HOLLOWAY: -- pro forma.

MR. VASQUEZ: -- section above that, all the loan-to-cost ratio, effective gross annual income, total expenses, those numbers don’t come from the pro forma?

MS. HOLLOWAY: They come from the pro forma. They are not on the lender’s letter.

MR. VASQUEZ: But see right above the text that
you --

MS. HOLLOWAY: Oh, I see.

MR. VASQUEZ: -- were just reading --

MS. HOLLOWAY: Yeah. Okay.

MR. VASQUEZ: -- the top of that page.

MS. HOLLOWAY: Yes. All of that information.

MR. VASQUEZ: All that information comes from the pro forma?

MS. HOLLOWAY: Yes, it does. So going back to this, and this one of those hypertechnical --

MR. VASQUEZ: Oh, no, I agree --

MS. HOLLOWAY: -- things --

MR. VASQUEZ: -- that technically they didn’t meet it, but --

MS. HOLLOWAY: -- about -- it wasn’t in the application, and then when they submitted it to us on appeal, it did not match what was in the application that we had received.

MR. VASQUEZ: But the materiality of that not match and the explanation for it is --

MS. HOLLOWAY: So I --

MR. VASQUEZ: -- logical, and again, I understand you’re --

MS. HOLLOWAY: -- am not looking at the materiality of --
MR. VASQUEZ: Yeah. You’re looking at --
MS. HOLLOWAY: -- the difference in the numbers.

MR. VASQUEZ: -- absolutely the --
MS. HOLLOWAY: I’m looking at -- it’s different.

MR. VASQUEZ: Yeah, yeah. And again, I’m not faulting you and the staff for denying this per the rules that are set. It just -- perhaps the Board has --
MS. HOLLOWAY: This is the --
MR. VASQUEZ: -- the discretion to say, is it material or not?
MS. HOLLOWAY: And that’s why Board --
MR. VASQUEZ: Yeah.
MS. HOLLOWAY: -- appeals --
MR. VASQUEZ: Yeah, absolutely.
MS. HOLLOWAY: -- absolutely.
MR. GOODWIN: Sharon had a question.
MS. THOMASON: It wasn’t so much a question as an answer maybe to Paul’s initial question, but I’m not concerned about materiality. I’m more concerned about the rules and the way things are submitted and that was my comment.
MR. GOODWIN: Okay. Any other questions.
Marni, did you want to say something else?
MS. JACKSON: I think it did get answered. I just wanted to make the comment that the lender letter does refer to the pro forma. It simply was inadvertently not placed in, but it does lay out their lender letter per the requirements, and they could not do that without the pro forma, but they also did reference the pro forma.

So again, this was simply inadvertently not placed in, but it was in -- this lender letter was in the application --

MR. GOODWIN: Okay.

MS. JACKSON: -- at application submission, and the submission was made prior to the application and before we got the letter back.

MR. GOODWIN: Okay. So we have a motion -- or a recommendation from staff to deny this appeal, and we have no motion at this stage of the game, so I’m going to entertain a motion from a Board member as to how you’d like to handle this.

MR. VASQUEZ: Mr. Chairman, I’d like to make a motion to uphold the appeal of the applicant and allow the scoring to be applied as if they had complied with the proper application rules.

MR. GOODWIN: Okay. Your motion is to uphold their appeal, approve their appeal, and to grant them the points, should we --
MR. VASQUEZ: Well, as --

MR. GOODWIN: -- do that, or should we grant a -- this could be handled through an administrative deficiency? Any suggestion there as to --

MR. VASQUEZ: Yeah, what’s the proper way to --

MR. GOODWIN: -- a Board action?

MR. ECCLES: It would be granting the appeal and finding that this matter can be cured through the administrative deficiency process.

MR. GOODWIN: Okay.

MR. VASQUEZ: That’s what my motion is.

MR. GOODWIN: Is that what your motion is?

MR. VASQUEZ: This --

MS. HOLLOWAY: Which would in effect give them no points.

MR. GOODWIN: Yeah.

MS. HOLLOWAY: So they’re appealing a scoring notice that’s, you know, in effect it --

MR. VASQUEZ: Well, I think it’s appealing if this signed pro forma was attached.

MR. BRADEN: But they’re only appealing -- right -- not they’re appealing the one point that --

MS. HOLLOWAY: No, they are not.

MR. BRADEN: Okay. So this would not be giving that one point?
MS. HOLLOWAY: It wouldn’t.

MR. GOODWIN: Yeah. This would be the 18 points --

MR. VASQUEZ: Plus --

MR. GOODWIN: -- and the six points.

MR. VASQUEZ: -- the six.

MR. GOODWIN: Yeah.

MS. HOLLOWAY: And the six points.

MR. GOODWIN: Okay.

MR. BRADEN: Right.

MR. VASQUEZ: Because we charge them for charging us --

MR. GOODWIN: Yeah.

MR. VASQUEZ: -- for charging them.

MR. GOODWIN: So we have a motion. Do we have a second?

MR. BRADEN: Second.

MR. GOODWIN: Now, any further discussion?

(No response.)

MR. GOODWIN: If not, we’ll entertain a vote.

All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

MS. THOMASON: Opposed.

MR. GOODWIN: Okay.
MS. HOLLOWAY: Thank you.

MR. GOODWIN: Opposed. There’s one opposed.

MR. VASQUEZ: Thank you all.

MR. GOODWIN: So now we are moving to Item 8.

Brooke?

MR. VASQUEZ: Is there a 7(e)?

MR. GOODWIN: 7(e) and 7(f) have been pulled.

Yeah.

MR. VASQUEZ: They told me.

MR. GOODWIN: We announced that earlier.

MR. VASQUEZ: It will say right here that something that’s pulled from the agenda.

MR. GOODWIN: Brooke?

MS. BOSTON: Good morning. I’m Brooke Boston, our director of programs.

Board members, I’m presenting Item 8, which the proposed rulemaking for Chapter 10, Texas Administrative Code, Section 1.24. Currently, that section is entitled, "Protected Health Information," but with this action, we are proposing that the rule be revised and also renamed, "Information Security and Privacy Requirements."

This rule was last updated in June 2014. So it was in need of being updated. TDHCA collects and/or generates a variety of personal information that is subject to the protection of almost a dozen state and...
federal statutes and regulations; therefore, protecting the security and privacy and personal information is a priority of the Department.

The basis for the rule is to ensure compliance with those state and federal laws and therefore warranted expanding our rule beyond only protected health information to include other non-health protected information.

We also took this opportunity to provide more detailed duties and responsibilities of our contractors who handle that protected information and how we will formalize that. This rule will apply to any person or entity that meets our definition of contractor under this rule, which includes a third party, including but not limited to outside auditors and legal counsel, funding agencies, vendors or subrecipients, including any of their representatives that may gain access to protected information.

In this case, the definition of subrecipient is more expansive than in some of our programs and actually expands out into our Tax Credit Program as well. This rule is establishing a new requirement for all contractors. Any contractors with the Department with Department contracts that are active on the day that this rule becomes effective will have 180 calendar days from...
when it becomes effective to enter into a Department-developed -- what we call an ISPA, or Information Security and Privacy Agreement.

Contractors that execute new Department contracts or renewals on or after this rule becomes effective will enter into an ISPA before they’re allowed to execute their contract for program funds. To minimize the burden that we were worried could occur for the administrators -- we have a lot of administrators and subrecipients who participate in multiple programs and activities -- they’ll only have to enter it once, and we’ll keep track of that, so they won’t have to reenter for multiple programs or over multiple years.

The rule proposed provides for what that ISPA agreement will have to include. Some of the requirements include such things as security measures for devices that connect to Department networks, maintaining an inventory of all IT assets, implementing and maintaining a risk management program, ensuring information is recoverable, adhering to monitor techniques for detecting or putting in and investigating security incidents, conducting criminal background checks on employees with access to the Department’s information, and maintaining and following an IT security policy that’s been approved by the Department.

A few last items of note: The rule also lays
out how an event of a breach must be handled and provides for how issues related to the Texas Public Information Act must be addressed as it relates to the data the contractor has.

Lastly, the rule provides the ability for the Department to conduct periodic IT general control audits, internet security scans, internal network vulnerability assessments, and contract monitoring audits at reasonable times and with reasonable notice.

After approval of the draft today, it will be released for public comment from May 10 to June 10, and it will still come back to the Board again for final adoption. I do have our director -- this rule was primarily written by our deputy counsel, who works on all of these issues and laws, and our IT director.

So they’re here if there are specific questions.

MR. GOODWIN: Okay.

MS. BOSTON: Yes.

MR. GOODWIN: Do I hear a motion to approve staff’s recommendation for Item 8?

MR. VASQUEZ: So moved.

MR. GOODWIN: So moved. Second?

MR. BRADEN: Second.

MR. GOODWIN: It’s been moved and seconded.
Any questions or discussion?

(No response.)

MR. GOODWIN: Hearing none, take a vote. All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Now, we’ll take up Item 1(c).

MR. DEYOUNG: Good morning again. Michael DeYoung, Community Affairs Division director.

Item 1(c) is the possible action on awards for the 2019 CSBG discretionary funds for education and employment services to Native American and migrant seasonal farmworkers.

Going back to what I had just previously said, in a prior for CSBG, we save 5 percent for discretionary purposes. We have a couple different things that we do with those funds. This is one of the good fund programs that we have.

We have three awards before you. They are to two different populations. First is migrant seasonal farmworkers. We have two entities, one in the El Paso area, Opportunity Center for the Homeless, for -- and they’re doing employment and education projects, and as
well as we have Family Services Association of San Antonio
for employment and education projects serving migrant
seasonal farmworkers in San Antonio.

Usually, when I talked to you about the
programs in the Community Affairs Division, they’re
limited to the county. So you have an entity, say,
Galveston County. They have four counties. That’s all
they do.

And this is one of the few areas where these
folks can actually expand outside of their area. Even
though they’re located in San Antonio and in El Paso,
they’ll serve a slightly larger area, and they’ll reach
anywhere where they feel like they can benefit migrant
seasonal farmworkers with those programs.

And then the last one of the three awards is to
the Adult and Youth Development Association, and they’re
doing an employment and education project serving Native
Americans, and they are based in the El Paso area, and
again, they will exceed the El Paso County area with their
services.

Each of these contracts is for $100,000, and it
was applied for through an RFA that you approved last year
when we took that Board item, I believe at the end of
July. They’ll receive a 12-month contract, and the 12-
month contract, we hope, will begin on May 1 and go
through April 30, 2020, and they will provide services throughout that one-year period.

MR. GOODWIN: Good. Do I hear a motion to approve staff’s recommendation for Item 1(c)?

MR. VASQUEZ: Move to approve.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. BRADEN: Second.

MR. GOODWIN: All in -- any discussion, questions?

MR. VASQUEZ: And again, it’s great that -- you know, the organization that TDHCA is reaching out to all these other areas, so that’s fantastic.

MR. GOODWIN: Uh-huh.

MR. DEYOUNG: Yeah. These awards are a very -- they not a huge dollar, but they’re very important populations that we serve, and historically we’ve then flowed -- and you know, what might be two years in Native -- or two awards in Native American.

This year, it’s two awards to migrant seasonal farmworkers, but it’s a --

MR. GOODWIN: Good.

MR. DEYOUNG: -- good thing.

MR. GOODWIN: Okay.

MR. VASQUEZ: Yeah. Thanks.
MR. DEYOUNG: Thank you.

MR. VASQUEZ: Shall we vote?

MR. GOODWIN: All those in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. Item 1(i).

MS. HOLLOWAY: Item 1(i) is "presentation, discussion, and possible action regarding an update to the State of Texas 2008 Action Plan Substantial Amendment for the Neighborhood Stabilization Program."

The Department received more than $101 million as an initial allocation of Neighborhood Stabilization Program funds from HUD, after submission of a Substantial Amendment to the State of Texas 2008 Action Plan.

The Substantial Amendment was intended to address the potential applicants that may use NSP funds. The Department has been contacted by potential applicants that would like to use NSP program income. So this is income we’re receiving from that initial award.

But the HOME regulatory requirements that we originally adopted for rental developments are not able to be easily combined with other fund sources, such as historic tax credits or HUD COC leasing. This proposed change would allow certain actions that are required by
the HOME regulations to be undertaken by the owner to be
undertaken by what would be a master tenant.

So we have the owner of the property. We have
a master tenant, and that master tenant has taken on some
of these owners’ responsibilities dealing with the actual
residential tenants. So what this Substantial Amendment
does is basically carve out the parts of the HOME
regulations that cause this issue, so that we are able to
move forward with a couple of transactions.

This may lead to us having a tripartite
contract with the master tenant and the owner of the
property in addition to the LURA agreement. As described
in your Board book, the update to the Substantial
Amendment will be posted on the Department’s website from
April 29 to May 13, 2019 in order to gather public
comment.

If there is no comment that leads to a change
to the Substantial Amendment, it will be submitted to HUD
and the changes will be implemented on HUD’s acceptance.
If there are any changes, then we would be coming back to
you in order to discuss those changes.

MR. GOODWIN: Okay. And your recommendation is
to move this forward?

MS. HOLLOWAY: Yes. Our recommendation --

MR. GOODWIN: Okay.
MS. HOLLOWAY: -- yes.

MR. GOODWIN: Okay.

MS. HOLLOWAY: And this is a report item, so it can --

MR. GOODWIN: Okay. Do I hear a motion to approve this report item?

MS. THOMASON: So moved.

MR. GOODWIN: Second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: Any discussion?

(No response.)

MR. GOODWIN: Hearing none, all those in favor, say aye?

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. And our last action item I have is Item 2(f).

MS. HOLLOWAY: This is a report on deadlines after the -- after a force majeure action. The Department has granted force majeure relief to several developments impacted by unforeseen events described in that force majeure rule.

In this action, the owner returns their original allocation of tax credits, and the Department
immediately issues a new carryover agreement under the current tax credit allocation year.

Because a new allocation is made from a new allocation year, the placed-in-service deadline for the new credits is de facto the federal deadline for placement in service for that new allocation year.

Board action requests in the past may have language in them that describe a shorter placed-in-service deadline. This generally -- generally, that timeline is something that the owner described in their request to us for force majeure: I’d like -- I need force majeure relief. I think I can be done in six months, that kind of thing.

Our current force majeure rule does not address a discrepancy between the federal placed-in-service deadline and an earlier deadline, or any penalty for exceeding that earlier deadline.

It’s not the intent of the Department to create an unenforceable deadline that is shorter than the federal deadline without authority under our rules. To the extent that any prior force majeure approves for the -- or described in the earlier deadline for placement in service than the federally-permissible deadline, staff wants to relay to you that, in the event those deadlines are not met, the development will still be considered to meet
requirements, so long as they meet that federal deadline.

Future rules for guiding force majeure may
include a penalty for exceeding their proposed shorter
deadline that -- and that we of course would put in the
rule and take back for comment.

MR. GOODWIN: Okay.

MS. HOLLOWAY: I’d be happy to take any
questions.

MR. GOODWIN: Do I hear a motion to approve
staff’s report?

MS. RESÉNDIZ: A motion to approve.

MR. GOODWIN: Second?

MR. BRADEN: Second.

MR. GOODWIN: Moved and seconded. Any
discussion or questions?

(No response.)

MR. GOODWIN: Hearing none, all those in favor,
say aye?

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Okay. I think that completes our
action item agenda, and we’re at a spot where we take
public comments on matters other than items of which were
posted in this agenda item that may set an agenda for the
future.

Anybody have a comment?

(No response.)

MR. GOODWIN: This is us being transparent and open. Any Board members have anything they would like to say before I call for a motion to adjourn?

(No response.)

MR. GOODWIN: No? I’ll entertain a motion to adjourn.

MR. BRADEN: So moved.

MR. GOODWIN: Moved and seconded. All in favor, say aye.

(A chorus of ayes.)

MR. GOODWIN: We are adjourned. See you next month.

(Whereupon, at 10:48 a.m., the meeting of the Governing Board of the TDHCA was adjourned.)
CERTIFICATE

MEETING OF:  TDHCA Board
LOCATION:  Austin, Texas
DATE:  April 25, 2019

I do hereby certify that the foregoing pages, numbers 1 through 132, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Department of Housing and Community Affairs.

DATE:  May 1, 2019

(Transcriber)
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