

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

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

Thursday,  
February 19, 2015  
9:10 a.m.

MEMBERS:

J. PAUL OXER, Chair  
JUAN MUÑOZ, Vice Chair  
LESLIE BINGHAM ESCAREÑO, Member  
TOM GANN, Member  
J.B. GOODWIN, Member

STAFF:

TIMOTHY K. IRVINE, Executive Director

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	14
EXECUTIVE	
a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for December 18, 2014	
b) presentation, discussion and possible action to delegate to Chair authority to perform the performance evaluation of the Executive Director	
LEGAL	
c) Presentation, Discussion and Possible Action regarding the Adoption of Agreed Final Orders concerning Villa Victoria	
d) Presentation, Discussion and Possible Action on the Adoption of Agreed Final Orders concerning Tigoni Villas and Plainview Vista	
e) Presentation, Discussion and Possible Action regarding the Adoption of Agreed Final Orders concerning Southmore Park	
f) Presentation, Discussion and Possible Action on the Adoption of Agreed Final Orders concerning Port Cities Rescue Mission Ministry	
RULES	
g) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Subsection H, Section 8 Housing Choice Voucher Program concerning the Project Access Initiative and directing its publication in the Texas Register	
h) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 10, Subchapter F, '10.607(d)(2) concerning Reporting Requirements, '10.622(d) concerning Special Rules regarding Rents and Rent	

Limit Violations and '10.623 concerning Monitoring Procedures for Housing Tax Credit properties after the compliance period, and directing its publication in the Texas Register

ASSET MANAGEMENT

- I) Presentation, Discussion, and Possible Action on ownership transfers and material LURA requirements

COMMUNITY AFFAIRS

- j) Presentation, Discussion, and Possible Action regarding Program Year 2015 Community Services Block Grant, Program Year 2015 low income household energy assistance program, and PY 2014 and 2015 Department of Energy Weatherization Assistance Program (DOE-WAP) awards for Cameron and Willacy County, currently served by Cameron and Willacy Counties Community Projects, Inc.

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- k) Presentation, discussion and possible action on award of Program Year 2014 Community Services Block Grant administrative and discretionary funds

- l) Presentation, discussion and possible action on the Use of Program Year 2015 Community Services Block Grant (CSBG) Discretionary Funds

- m) Presentation, discussion and possible action to Authorize the Use of Funds Contributed to the Texas Interagency Council for the Homeless

- n) Presentation, discussion and possible action Authorizing Staff to Identify a Provider, through release and subsequent award of a Request for Applications (RFA) or through a direct designation, to administer the Comprehensive Energy Assistance Program (CEAP) and the Weatherization Assistance Program (WAP) in Cameron and Willacy Counties

811 PROGRAM

- o) Presentation, discussion and possible action to award a contract to the

Southwest Housing Compliance Corporation  
pursuant to Texas Government Code  
'669.003

MULTIFAMILY FINANCE

- p) Presentation, Discussion, and Possible Action regarding an award of CHDO operating expense grant funds for Housing Initiative Corporation
- q) Presentation, Discussion, and Possible Action extensions of 2011 awarded HOME program multifamily contracts which have not yet received their closed final development inspection letter
- r) Presentation, Discussion, and Possible Action on determination notices for Housing Tax Credits with other issuers

REPORT ITEMS

The Board accepts the following reports:

1. Status Report on the Section 811 PRA Program
2. TDHCA Outreach Activities, Jan. 2015
3. Report on the Departments 1st Quarter Investment Report in accordance with the Public Funds Investment Act (PFIA)
4. Report on the Department's 1st Quarter Investment Report relating to funds held under Bond Trust Indentures
5. Implementation of 2CFR Part 200 (the Omni Circular or Super Circular) relating to Single Audits
6. Report on the Department's Fair Housing Activities

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ACTION ITEMS

ITEM 2: BOARD

Presentation, Discussion and Possible Action on the election of Governing Board Officers for the upcoming biennium pursuant to Texas Government Code '2306.030

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ITEM 3:	BOND FINANCE:	
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P R O C E E D I N G S

1  
2 MR. OXER: Good morning, everyone. I would  
3 like to welcome you to the February 19 meeting of the  
4 Texas Department of Housing and Community Affairs  
5 Governing Board. And we will begin as we always do, with  
6 roll call. So Ms. Bingham.

7 MS. BINGHAM ESCAREÑO: Here.

8 MR. OXER: Mr. Tolbert is not here -- Mr.  
9 Chisum is not here today.

10 Let=s see. Mr. Gann.

11 MR. GANN: Here.

12 MR. OXER: Mr. Goodwin?

13 MR. GOODWIN: Here.

14 MR. OXER: Dr. Muñoz.

15 DR. MUÑOZ: Present.

16 MR. OXER: And I am here. All right. We've  
17 got a quorum. We are in business. So, Tim, lead us in  
18 the flags.

19 (Whereupon, the Pledge of Allegiance to the  
20 United States Flag was recited.)

21 (Whereupon, the Pledge of Allegiance to the  
22 Texas Flag was recited.)

23 MR. OXER: Okay. Tim, you have a resolution?

24 MR. IRVINE: Yes. Michael, would you read the  
25 resolution?

1 MR. LYTTLE: Yes.

2 MR. OXER: That was an aggressive yes, there,  
3 Mike.

4 MR. LYTTLE: Michael.

5 MR. OXER: Can you people hear? It sounds like  
6 that ought to be able to hear if they were at the Capitol  
7 with this, so far. Is that loud enough for everybody to  
8 hear? Everybody in the back? I have got it. Okay.  
9 Michael, do you want to read that resolution, or should we  
10 have the Executive Director do so?

11 MR. LYTTLE: I can read it.

12 MR. OXER: Go for it.

13 MR. LYTTLE: Okay. This is Resolution Number  
14 15-012; it reads:

15 Whereas, February 2015 is Black History Month,  
16 and is being celebrated with the theme of a century of  
17 black life, history and culture, in recognition of African  
18 American life, history, and culture in the United States,  
19 and the world, over the past century;

20 Whereas, the Texas Department of Housing and  
21 Community Affairs recognizes the significance of Black  
22 History Month as an important time to acknowledge and  
23 celebrate the contributions of African Americans in Texas=  
24 history, and that of the nation;

25 Whereas, TDHCA encourages the continued

1 celebration of this month as an opportunity for all Texans  
2 to learn more about the past, and to better understand the  
3 experiences of African Americans who have shaped our great  
4 state, and the nation;

5 And whereas, TDHCA recognizes that the ethnic  
6 and racial diversity of Texas enriches and strengthens the  
7 nation;

8 Now, therefore, it is hereby resolved that the  
9 Texas Department of Housing and Community Affairs  
10 recognizes the significance of Black History Month as an  
11 important time to acknowledge and celebrate the  
12 contributions of African Americans in Texas history, and  
13 encourages the continued celebration of this month to  
14 provide an opportunity for all peoples of the State of  
15 Texas to learn more about the past and to better  
16 understand the experiences that have shaped our Lone Star  
17 State, and recognizes that in pursuit of the goal and  
18 responsibility of providing equal housing opportunities  
19 for all, the Governing Board of the Texas Department of  
20 Housing and Community Affairs does hereby celebrate  
21 February 2015 as Black History Month in Texas, and  
22 encourages all Texas individuals and organizations, public  
23 and private to join and work together in this observance  
24 for free and equal housing treatment, and opportunity for  
25 all.



1 Signed this 19th day of February 2015.

2 MR. OXER: Great. Thanks very much. Is that a  
3 report item?

4 MR. IRVINE: It is a resolution for the Board  
5 to adopt.

6 MR. OXER: Okay. So it is a formal adoption we  
7 will go through. So given that is a resolution, is there  
8 a motion to accept and approve?

9 MR. GOODWIN: So moved.

10 MR. GANN: Second.

11 MR. OXER: Motion by Mr. Goodwin to accept and  
12 approve. Second by Mr. Gann. There is no public comment.  
13 All in favor, aye.

14 (A chorus of ayes.)

15 MR. OXER: That is unanimous. So thanks very  
16 much for that, Michael.

17 Okay. The next item is the consent agenda.

18 MR. IRVINE: Mr. Chairman, on the consent  
19 agenda, we have a few requested changes. One is, I  
20 believe that there are people here who might wish to  
21 testify on Item 1(j), and therefore we would ask that that  
22 come off of consent.

23 Also, I believe Brooke Boston has some changes  
24 she wishes to read into the record, not necessarily  
25 pulling something off of consent, but refining the

1 understanding of it.

2 And lastly, we would ask that Report Item 6  
3 come off consent and that Roy Davilas provide an update on  
4 Fair Housing.

5 MR. OXER: Okay. So it was Item 1(j). What  
6 was the other one?

7 MR. IRVINE: Brooke has a --

8 MS. BOSTON: Brooke Boston, one of the Deputy  
9 Executive Directors at the Agency. Item 1(k), which  
10 relates to the award of CSBG -- 2014 CSBG administrative  
11 and discretionary funds. There were two small  
12 clarifications I wanted to make that would be part of your  
13 consent agenda approval.

14 The first is that the amounts listed in the  
15 writeup are estimates. That is often the case, when we  
16 bring things to you, and we inadvertently left the word  
17 out.

18 MR. OXER: So you are just saying it is  
19 estimates where it reads -- it doesn't read "estimates."

20 MS. BOSTON: Correct.

21 MR. OXER: Okay. Good.

22 MS. BOSTON: Because it is formula based, and  
23 so, as a total amount may shift or change, it, you know,  
24 makes the amount per entity change.

25 MR. OXER: So it is essentially formulaic to

1 start with. You are just saying it is an estimate.

2 MS. BOSTON: Correct.

3 MR. OXER: Great. Okay.

4 MS. BOSTON: Yes.

5 MR. OXER: Thank you.

6 MS. BOSTON: And the other clarification is  
7 that we had -- we would like to be able to support  
8 organizations who are absorbing or helping temporarily  
9 other community action agencies with -- who does what they  
10 need help with. In one of the cases, we do have a  
11 subrecipient who has been absorbing another subrecipient,  
12 and that is not -- it is rare, but it is not uncommon.

13 So we wanted to make sure we had the ability to  
14 use some of the funds from this 2014 pot to assist  
15 organizations who do that. It's also something we are  
16 recommending elsewhere in the agenda for 2015, but we  
17 wanted to clarify that we could that with some of the 2014  
18 dollars as well.

19 MR. OXER: Do you have a question?

20 DR. MUÑOZ: I do if I can figure out how to  
21 turn on this microphone.

22 Is this about a million-plus carryforward of  
23 unexpended?

24 MS. BOSTON: It is.

25 DR. MUÑOZ: And how much is the total for these

1 groups that are -- I don=t even think these agencies that  
2 are receiving these monies --

3 MS. BOSTON: There are eight of them.

4 DR. MUÑOZ: Yes. It is probably about  
5 2 million maybe, or just under? I mean, what do you  
6 attribute such a large amount of unexpended?

7 MS. BOSTON: Well, the ones being awarded are  
8 out of the 1.1. So the total amount that we are  
9 reprogramming is the 1.1.

10 The activities that we had programmed that we  
11 ended up not using all of it related to some training  
12 money that was to allow some of our staff to do some  
13 training activities and to attend some training. We were  
14 able to spend less of that than we thought we would need.  
15 So that was a good thing.

16 DR. MUÑOZ: Why not just give more to these  
17 agencies?

18 MS. BOSTON: That is what we are doing.

19 DR. MUÑOZ: Everybody -- these are the amounts  
20 in addition to what they have received that you are going  
21 to give them?

22 MS. BOSTON: Correct.

23 DR. MUÑOZ: Uh-huh.

24 MS. BOSTON: So each of these organizations  
25 already got their annual allocation. We wanted to give it

1 back out, to get more money out into the network. The  
2 reason the list is this length instead of the picture of  
3 the full network is because we tried to only give it to  
4 those that had spent 90 percent of their funds or more.

5 MR. OXER: So essentially we are reprogramming  
6 the funds to those who are doing a good a job of getting  
7 their funds out.

8 MS. BOSTON: Correct. But I don=t want to say  
9 the other ones aren=t doing a good job.

10 DR. MUÑOZ: Including West Texas Opportunities  
11 and Bill=s shop in Levelland.

12 MS. BOSTON: Sure. I think that they are all  
13 doing a good job; some have just expended more quickly.

14 MR. OXER: Fair enough. So these are  
15 essentially clarifications.

16 MS. BOSTON: Correct.

17 MR. OXER: Okay. All right. Thanks, Brooke.

18 MS. BOSTON: Thank you.

19 MR. OXER: So that was -- what item was that,  
20 Brooke?

21 MS. BOSTON: 1(k).

22 MR. OXER: 1(k). Is it only on 1(k)?

23 MR. IRVINE: Right. Those were just  
24 clarifications.

25 MR. OXER: Two clarifications on one item.

1 MR. IRVINE: 1(k), which remains on the  
2 consent.

3 DR. MUÑOZ: And then 1(j), somebody was going  
4 to --

5 MR. IRVINE: 1(j) is coming off

6 MR. OXER: Yes, 1(j) is coming off.

7 MR. IRVINE: Consent.

8 MR. OXER: And the Report Item 6 is coming off.  
9 Correct?

10 MR. IRVINE: Correct.

11 MR. OXER: Okay. All right. With  
12 clarifications on Item 1(k) in the action, and pulling  
13 Item (j) and Report Item 6. Motion to consider.

14 MS. BINGHAM ESCAREÑO: Mr. Chair, I will move  
15 to approve the consent agenda with the exception of Items  
16 1(j) and Report Item 6, which are going to be pulled from  
17 the consent agenda, and with clarifications to (k) as  
18 reported by staff.

19 MR. OXER: Great. Motion by Ms. Bingham.

20 DR. MUÑOZ: Seconded.

21 MR. OXER: And second by Dr. Muñoz. No public  
22 comment?

23 (No response.)

24 MR. OXER: All in favor?

25 (A chorus of ayes.)

1 MR. OXER: It's unanimous. None opposed. All  
2 right. Under the -- just to recognize Robert McElroy --  
3 Robert McVey. I'm sorry.

4 (Pause.)

5 MR. McVEY: I'm here.

6 MR. OXER: Okay. Yes. Just wanted to make  
7 sure that you are here. We recognized you. This is from  
8 representative Ryan Guillen's office. I understand you  
9 have an interest in an item that we will be taking up a  
10 little bit later.

11 So with that, we are going to start with the  
12 first items on the report on Fair Housing, because we have  
13 a presentation that the Board will hear with respect to  
14 Item 1(j), and then we will take that up after our  
15 Executive Session. So is that clear for all?

16 (No response.)

17 MR. OXER: Okay. All right. Good morning.

18 MS. DeBELLAS: Good morning. My name is Laura  
19 DeBellas, and I am the Fair Housing team lead.

20 I wanted to briefly share some of the Fair  
21 Housing team=s accomplishments and progress since our last  
22 report in October 2014. Back in October, the Fair Housing  
23 team presented to the Board a mockup of an affirmative  
24 marketing tool, that was developed with the help of our  
25 PPPM team.

1           The affirmative marketing tool was presented as  
2 a report run from a demographic database kept in Access  
3 that pulls in household information from our central  
4 database system and compares that data to housing market  
5 area data from the decennial Census. The object of the  
6 tour is to assist owners in determining which populations  
7 are underrepresented in their developments when compared  
8 with populations in a wider housing market area.

9           I am pleased to report that as of January 2015,  
10 with the diligent help of our Information Systems  
11 Division, and in particular the work of Joe Burkhart, this  
12 tool has been transitioned to a web-based system. This  
13 has greatly improved the speed and functionality of the  
14 tool, and we are excited to release it for you on February  
15 23, as we present our affirmative marketing training  
16 webinar.

17           Since we last met, a revised tenant selection  
18 criteria rule and affirmative marketing rule have also  
19 been adopted. The new rules in Subchapter F, '10.610 and  
20 '10.617 were adopted in January 2015, with an effective  
21 date of April 2015. These rules received input from  
22 property managers, owners, and fair housing and legal aid  
23 advocates.

24           February training webinars were scheduled on  
25 the new rules in January. And our tenant selection



1 criteria webinar took place earlier this week, on February  
2 17th. We had 274 webinar participants on the call, have  
3 posted the webinar presentation on the compliance website,  
4 and will be posting a running FAQ on the new rule to  
5 assist with the rules rollout. The affirmative marketing  
6 webinar will take place next Monday, February 23, and  
7 currently has 340 registered participants.

8 In addition to these trainings, the Compliance  
9 Division and the Fair Housing team also rolled out the  
10 Tenant Rights and Resources Guide for TDHCA-Monitored  
11 Rental Properties, which integrates a tenant's  
12 programmatic rights brochure with TDHCA=s previous Fair  
13 Housing disclosure notice and the properties notice of  
14 amenities and services.

15 This effort is particularly noteworthy for its  
16 assistance in directly addressing the need for Fair  
17 Housing rights information across the state in the 2013  
18 State of Texas analysis of impediments.

19 I am also pleased to report that language  
20 assistance services are now available as planned under  
21 TDHCA=s language assistance plan. With the help of our  
22 purchasing staff, TDHCA was able to contract with two  
23 existing state vendors who offer document translation  
24 services and third-party calling services.

25 Spanish translations will be handled by

1 Universe Translation Service. And needs for non-Spanish  
2 language services will be handled by Language Line  
3 Services. An internal staff training is being planned to  
4 assist each division in understanding how to access both  
5 services.

6 Last but not least, I wanted to mention our  
7 traffic metrics for then new Fair Housing website section.

8 Our site traffic metrics show that 4,088 external users  
9 have visited the section between last October and  
10 February, 71 percent of which were tracked as new visitors  
11 to the site.

12 While I would be remiss if I did not mention  
13 that these types of metrics are not necessarily immune  
14 from tracking imperfections, I think we can use this data  
15 to highlight that the site is being used as a resource.  
16 Our site efforts have also led other state agencies to  
17 make new efforts with their own sites.

18 The Texas Workforce Commission Civil Rights  
19 Division is currently planning a site redevelopment. And  
20 the General Land Office and Texas Department of  
21 Agriculture have been working to integrate changes that  
22 will make Fair Housing information more available to their  
23 subrecipients and the general public.

24 With all these efforts in place, TDHCA is very  
25 excited to be running forward into Fair Housing month, and

1 we=ll begin advertising upcoming activities for April very  
2 soon. If there are no questions from the Board, that  
3 concludes our Fair Housing activities report.

4 MR. OXER: You should be so lucky for there to  
5 be no questions. Right?

6 Any questions from the Board?

7 DR. MUÑOZ: No questions, just a compliment.  
8 That is extraordinary.

9 MR. OXER: Yes. Good job on all of that. And  
10 it is nice to see the other agencies in the State are  
11 taking note of the lead that TDHCA is making in this. So  
12 that is one of the things that is critical to our mission.  
13 If we're going to do it, do it right.

14 Good. All right. Let=s jump into the --  
15 unless we have anything else left on that, let=s jump in  
16 and pick -- Julie. Julie Frank. Julie, hey, Good  
17 morning. The Lieutenant Governor=s Office.

18 Nice new gig. Congratulations on that. Glad  
19 to have you here. You are now the Intergoverment Affairs  
20 Coordinator, or Intergovernment Relations, IGR  
21 Coordinator?

22 MS. FRANK: IGR Policy Advisor.

23 MR. OXER: Great. Glad to have you. Okay.  
24 Let=s take Item Number 2. I guess that's for me.

25 MR. IRVINE: Are you going to defer the item

1 that was pulled off of the consent? So 1(k) will occur  
2 after Executive Session.

3 MR. OXER: 1(j). Yes. 1(j) is going to be  
4 deferred until we have this presentation in the exec  
5 session. So okay. All right.

6 It has got my name next to number 2. I think  
7 you have got it. Well, the question is, on the board, the  
8 Governor appoints the Chair.

9 The Governor appoints the Chair, which at this  
10 point, we have -- I assume I will continue in this  
11 position until advised otherwise. We will need to elect a  
12 Vice Chairman and pick a Secretary of the Board.

13 MR. IRVINE: And a Treasurer.

14 MR. OXER: And a Treasurer. A Secretary and a  
15 Treasurer. Can the Secretary and the Treasurer be the  
16 same?

17 MR. IRVINE: They can.

18 MR. OXER: Okay. So with that, we will have  
19 nominations for Vice Chairman.

20 MR. GANN: I'll make a motion for Dr. Muñoz.

21 MR. OXER: Okay. Motion by Mr. Gann to  
22 nominate Dr. Muñoz as the Vice Chairman.

23 MR. GOODWIN: Second.

24 MR. OXER: Second by Mr. Goodwin.

25 No public comment?

1 (No response.)

2 MR. OXER: Come on. Somebody has got to say  
3 something after he's been up here all this time.

4 (No response.)

5 MR. OXER: Okay. Put him on. All in favor of  
6 having Dr. Muñoz continue his position as Vice Chairman?

7 (A chorus of ayes.)

8 MR. OXER: Those opposed?

9 (No response.)

10 MR. OXER: There are none. Welcome back.  
11 Okay. As Secretary of the Board, our General Counsel has  
12 been serving as Secretary and as Treasurer or --

13 MS. DEANE: No.

14 MR. OXER: You don=t want to be Treasurer  
15 again?

16 MS. DEANE: I'm not Treasurer, I don=t think.

17 MR. IRVINE: David Cervantes, our CFO, has been  
18 our Treasurer.

19 MR. OXER: Okay. David, are you happy with  
20 that job?

21 MR. CERVANTES: Yes, sir.

22 MR. OXER: Okay. Just don=t want to be too  
23 much of a burden on you, you understand. Okay. Well,  
24 with respect to Board office as the Secretary of the  
25 Board, I will accept nominations.

1 MR. GANN: I'll make the motion for Ms. Deane.

2 DR. MUÑOZ: Second.

3 MR. OXER: All right. Motion by Mr. Gann,  
4 second by Dr. Muñoz, to have our General Counsel Barbara  
5 Deane continue in her position as Secretary to the Board  
6 proper. No comment?

7 (No response.)

8 MR. OXER: All in favor?

9 (A chorus of ayes.)

10 MR. OXER: Opposed?

11 (No response.)

12 MR. OXER: There are none. Of course, that  
13 means you still have to be General Counsel. For all of  
14 the stuff, we really want you as General Counsel. Okay?

15 All right. With respect to Treasurer for the  
16 Board, and continuing in his position, David Cervantes has  
17 served as the Board Treasurer.

18 Nominations for Board Treasurer.

19 MR. GOODWIN: So moved.

20 MR. OXER: Okay. Motion by Mr. Goodwin to  
21 nominate David Cervantes as Treasurer for the Board.

22 DR. MUÑOZ: Second.

23 MR. OXER: There is a second by Dr. Muñoz. All  
24 in favor?

25 (A chorus of ayes.)

1 MR. OXER: It is unanimous. Glad you like it,  
2 David. You've got it again.

3 For those of you out there, it seems like a  
4 trivial matter, but because of the way the State is  
5 organized and the operating responsibility they have,  
6 there is the responsibility to the Department as well as  
7 to the Board for managing these two functions.

8 So I appreciate the efforts that these two  
9 individuals from the staff have offered to continue in  
10 their positions. And I always appreciate the contribution  
11 and assistance of Dr. Muñoz as Vice Chairman.

12 Just don=t get too happy about that gavel when  
13 I give it to you next time, okay?

14 DR. MUÑOZ: I won=t. I'll take a moment of  
15 privilege and also thank the Chair for his willingness to  
16 take on -- continue to take on these responsibilities. It  
17 takes an inordinate amount of time to prepare for these  
18 meetings. And you do it with grace, charm, and, as  
19 importantly, humor.

20 MR. OXER: Well, I appreciate the thought. You  
21 know, it is the State=s business. And while we try to --  
22 it is very important that we do the work that we do.

23 But I always -- this is a point of privilege  
24 myself. I feel like we don=t do our best work until we  
25 are comfortable and can recognize that there is humor in

1 every situation. While there's serious components to it,  
2 the good news, at least up until recently, nobody's using  
3 live ammo in these meetings.

4 MR. IRVINE: Mr. Chair?

5 MR. OXER: Yes, sir. Mr. ED.

6 MR. IRVINE: Just a suggestion from staff. It  
7 might be good planning to have an Assistant Secretary in  
8 place. We've got to ensure continuity of operations. And  
9 sometimes things have to be certified right away. And  
10 Michael Lyttle, since he does sit on the dais and  
11 participate in these meetings, we'd offer that he would  
12 make an excellent Assistant Secretary.

13 MR. OXER: And since we have the option to  
14 create the position at our -- do we have to create the  
15 position and then fill it?

16 MR. IRVINE: No. You can do it all at once.

17 MR. OXER: Okay.

18 DR. MUÑOZ: So moved.

19 MR. OXER: All right. Motion by Dr. Muñoz to  
20 create the position of Assistant Secretary and to fill it  
21 with our good friend Michael Lyttle down here on the left.

22 MR. LYTTLE: Could maybe we add part of the  
23 title, Assistant Secretary and Captain Tweety.

24 MR. OXER: The Captain and Captain Tweety, and  
25 Assistant?



1 MR. LYTTLE: Well, we will start with Assistant  
2 Secretary.

3 MR. OXER: Okay. See, my position was Chief  
4 Deputy Assistant Junior Vice Associate Technician for  
5 Minerals Management, so anything beyond that --

6 DR. MUÑOZ: And Captain Tweety.

7 MR. OXER: And Captain Tweety. Okay. Let=s  
8 see. Motion by Dr. Muñoz.

9 MR. GOODWIN: Second.

10 MR. OXER: Second by Mr. Goodwin. All in  
11 favor?

12 (A chorus of ayes.)

13 VOICE: One opposed.

14 (General laughter.)

15 MR. OXER: He is supposed to be on that side of  
16 the -- let=s see. We will reflect that vote as a four to  
17 one vote with -- all right. We will assume that it is in  
18 fact unanimous. And thank you for your willingness to  
19 serve, Michael.

20 MR. LYTTLE: Yes.

21 MR. OXER: Like you really had a choice, but  
22 thanks, anyway.

23 MR. LYTTLE: I am sure our bond counsel  
24 appreciates the backup.

25 MR. OXER: Yes. And just in the event that

1 something untoward might occur with our current Secretary  
2 and General Counsel on a hiking trip to Japan -- I've got  
3 to tell you. I am jealous, okay.

4 MS. DEANE: Okay.

5 MR. OXER: In the event that something like  
6 that happened, we did need a backup. So thanks, Michael.

7 Okay. Monica, it looks like you are up.

8 MS. GALUSKI: Good morning, Mr. Chairman,  
9 members of the Board. For the record, I am Monica  
10 Galuski, your Director of Bond Finance.

11 I am here to present Item 3, which is the  
12 presentation, discussion and possible action regarding  
13 optional par termination rights with respect to interest  
14 rate swap transactions related to single-family variable  
15 rate mortgage revenue refunding bonds 2004 Series B and  
16 single-family variable rate mortgage revenue bonds 2004  
17 Series D.

18 I will start with a brief background. The  
19 Department currently has five swaps outstanding, all of  
20 which are within the single-family bond indenture. The  
21 current total notional or outstanding swap amount is  
22 \$205,530,000. We expect that amount to reduce down to  
23 about \$190 million with the March 1 debt service payments.

24 These swaps were implemented by the Department  
25 in conjunction with tax-exempt variable debt that was

1 issued between 2004 and 2007 to synthetically swap the  
2 variable rate to fixed rate through a swap provider. This  
3 was a relatively mainstream technique at the time, and it  
4 allowed the Department to achieve more competitive rates  
5 than it would have, had it simply sold fixed-rate debt at  
6 that time.

7 Two of these swaps that related to the 2004 B  
8 bonds and the 2004 D bonds were restructured in 2014 to  
9 reduce the fixed rate that was payable on those, to revise  
10 the swap amortization schedules to better match the  
11 underlying loan portfolios and to add optional par  
12 termination rights on the swaps.

13 The authority sought under this item is to  
14 allow the Department to capitalize on the par termination  
15 rights that we negotiated for the Department=s benefit in  
16 the 2014 swap restructurings.

17 Let=s talk par termination rights, which you  
18 may have also heard referred to as optionality. The  
19 Department has an optional right to terminate a portion of  
20 these outstanding swaps at par, up to a specified amount,  
21 as defined in each swap agreement.

22 This right is exercisable semiannually. The  
23 Department can exercise its first optional par termination  
24 on the 2004 D swap this March 1 and on the 2004 B swaps,  
25 beginning September 1 of 2015.

1           Because the 2004 D swap is up and coming with  
2 the March 1 payment, I will use it as an example and walk  
3 through the dynamics and the economic benefit to the  
4 Department. The details are shown in the middle of page 2  
5 for Board Item 3. It looks like this background  
6 (indicating).

7           And so we will just briefly go through it. We  
8 will start with the bonds. Currently, there are  
9 33,165,000 in 2004 D bonds outstanding. On March 1, the  
10 Department is required to redeem \$3,580,000 of those bonds  
11 due to principal and prepayments that were received on the  
12 underlying loans. After the March 1 redemption, there  
13 will be \$29,585,000 in bonds outstanding.

14           On the swap side, the current notional amount  
15 of the 2004 D swap is 33,165,000. On March 1, 1,180,000  
16 of that amount will amortize, or will be mandatorily  
17 terminated under the swap agreement. An additional 4.5  
18 million can be optionally terminated at par.

19           Because state law prohibits the Department from  
20 having more swap outstanding than corresponding bonds, 2.4  
21 million of the 4.5 available is being terminated in  
22 conjunction with the mandatory bond redemption above; from  
23 the \$3,580,000 that has to be redeemed. That leaves 2.1  
24 million that we could optionally terminate at par, after  
25 which, if we did that, the bonds outstanding would be

1       \$27,485,000.

2                   Now, for savings. The Department currently  
3       pays a fixed rate of 3.084 percent on the swap. By  
4       exercising our optional par termination rights on this 2.1  
5       million, we pick up the spread between the swap rate of  
6       the 3.084 and the current variable rate index, which is  
7       approximately four basis points, so our spread is over 3  
8       percent.

9                   The present value of the anticipated savings:  
10       we had put in the item, between 30- and \$90,000, depending  
11       on prepayment speed. With the prepayment speed of this  
12       particular portfolio, it is probably more in the range of  
13       35- to \$40,000 in savings. If we don=t take this benefit,  
14       the economic benefit, it does accrue to Goldman Sachs, who  
15       is the swap provider.

16                   MR. OXER: So either we get it or they get it?

17                   MS. GALUSKI: Yes.

18                   MR. OXER: Okay. That's good. We'll take it.

19

20                   MS. GALUSKI: Okay. As far as exposure, the  
21       Department -- we're cash hedged in the indenture. We can  
22       redeem a corresponding \$2.1 million in bonds with a 30-day  
23       notice period.

24                   These bonds are optionally redeemable now, at  
25       any time with 30 days' notice, so that, if in the unlikely

1 event rates were to spike above the 3.084 percent, which  
2 would be a significant spike, we can always take them out  
3 with 30 days' notice.

4 This is the first optional par termination for  
5 the 2004 D swap. The 2004 B, as I said earlier, will  
6 begin -- we will have those rights beginning in September.

7 And so we are expecting that there are going to be many  
8 opportunities for us to capitalize on this and achieve a  
9 tangible economic benefit from the swaps in a manageable  
10 way.

11 So staff is also requesting that the Director  
12 of Bond Finance, with the approval of the Executive  
13 Director, be authorized to take such additional future  
14 actions as necessary to execute the Department=s right to  
15 optional par termination under the 2004 B and D swap  
16 agreements. In the future, updates to the Board would be  
17 provided as a semiannual report and not presented for  
18 individual approval prior to department action.

19 Does anybody have questions? I'm actually  
20 afraid to ask that one.

21 MR. OXER: Welcome to the kitchen.

22 MS. BINGHAM ESCAREÑO: Mr. Chair, just to  
23 clarify, so our resolution today would be to authorize the  
24 bond finance director on both B and D, even though D is  
25 going to come up first, and B will be later?

1 MS. GALUSKI: Yes.

2 MS. BINGHAM ESCAREÑO: Okay. And staff is  
3 saying that between now and then -- because the Bs will be  
4 in September, but would follow basically the same type of  
5 example that you laid out with the Ds?

6 MS. GALUSKI: Exactly.

7 MS. BINGHAM ESCAREÑO: Okay.

8 MR. OXER: Yeah. You are essentially saying,  
9 we've got two things to do. There is no reason -- not  
10 that there is no reason, but you can cover the authority  
11 to do this, which would be the same thing on each one of  
12 them.

13 MS. GALUSKI: Correct.

14 MR. OXER: One resolution, one Board action.

15 MS. GALUSKI: Correct.

16 MR. OXER: Okay.

17 MR. IRVINE: And correct me if I am wrong. I  
18 believe we actually already had the staff authority to  
19 carry this out, but I wanted to bring it back to the Board  
20 so that the two new members could understand the concept  
21 of optionality and the way that it works within our  
22 portfolio.

23 MS. GALUSKI: That is correct.

24 MR. OXER: Mr. Goodwin, do you have any  
25 questions on this? Are you comfortable?

1 MR. GOODWIN: (No verbal response.)

2 MR. OXER: Okay. So long term, Monica, what  
3 this is really saying is we are continuing to manage our  
4 variable-rate debt, so that the variable-rate debt that  
5 the Agency is carrying continues to go downward. We are  
6 taking those off the table and replacing that long-term  
7 with fixed-rate debt.

8 MS. GALUSKI: Correct.

9 MR. OXER: Good.

10 MS. GALUSKI: Yes.

11 MR. OXER: Variable rate just -- you know, my  
12 perspective of variable-rate debt, it's not one of those  
13 things that we are strong enough as an agency to manage  
14 these days. We need to leave that to the Comptroller's  
15 Office. So all right. Any questions? Any other  
16 questions?

17 (No response.)

18 MR. OXER: Okay. Then motion --

19 MS. BINGHAM ESCAREÑO: So resolve, by staff's  
20 recommendation.

21 MR. OXER: Okay. Motion by Ms. Bingham to  
22 resolve staff recommendation.

23 MR. GOODWIN: Second.

24 MR. OXER: And a second by Mr. Goodwin, I think  
25 was first. So there appears to be no public comment. All



1 in favor?

2 (A chorus of ayes.)

3 MR. OXER: Opposed?

4 (No response.)

5 MR. OXER: There are none. It is unanimous.

6 MS. GALUSKI: Thank you.

7 MR. OXER: Thanks, Monica.

8 Okay. Item 4. Good morning, Jean.

9 MS. LATSHA: Good morning. So Item 4(a), staff  
10 is actually recommending tabling this to March. The  
11 Applicant had some experts that they were expecting to  
12 provide testimony, and they weren=t able to make it.

13 It's not a problem for staff to table this to  
14 March. It won=t affect our ability to administer the  
15 cycle in any way. So if you want to just hear that one in  
16 a month. It is an appeal of a termination of an  
17 application.

18 MR. OXER: Do we have to formally table it?

19 MS. DEANE: Or staff can pull it.

20 MR. OXER: Staff, pull it.

21 MS. LATSHA: Absolutely. Staff recommends  
22 pulling it.

23 MR. OXER: Okay. Then staff will pull that  
24 one. So go straight to (b) then.

25 MS. LATSHA: All right. Item 4(b), this, staff

1 would actually like to kind of revise the recommendation  
2 here as well.

3 This has to do with a credit return that was  
4 received on December 31, 2014 from Royal Gardens Mineral  
5 Wells. The Board might be aware that that development was  
6 awarded back in 2012. And on April 1, earlier this year,  
7 when they were halfway through construction, the entire  
8 property was destroyed in a fire.

9 There is no provision federally for an  
10 extension of a placement-in-service deadline. And we  
11 don't have the authority to extend that deadline either.  
12 So the deadline for that property to be placed in service  
13 was December 31, 2014. The Applicant returned the credit  
14 right before 5:00 p.m. on December 31, 2014.

15 We planned on having some discussion here today  
16 as to the application of the force majeure provision,  
17 which is a new rule in the 2015 QAP, and the application  
18 of that rule to this return.

19 However, staff would also like to pull that  
20 part of this resolution for a similar reason. There is  
21 some testimony that was planned to be provided today that  
22 couldn't be, due to a death in the family.

23 However, staff is obligated to submit our Forms  
24 8610 to the IRS. Part of that form is identifying credits  
25 that were returned in 2014. The IRS does allow us to

1 consider any returns that happened after September 30th of  
2 2014 as returned on January 1, 2015.

3 It is actually in the best interest of the  
4 Department to consider that return that happened on  
5 December 31 as returned on January 1. This would allow us  
6 to qualify for national pool, which allows us to get  
7 additional credit for our 2015 credit ceiling.

8 You will see the first part of the resolution  
9 is that staff is recommending that the credits returned by  
10 Royal Gardens Mineral Wells be considered as returned on  
11 January 1, 2015, for purposes of reporting to the IRS.

12 The second part of the resolution, with respect  
13 to the application of the 2015 provision of the rule, we  
14 would like to take that discussion up in March. I think  
15 there might be some testimony here as well --

16 MR. OXER: Yes.

17 MS. LATSHA: -- unless you have any questions  
18 from me.

19 MR. OXER: I had a couple of questions.

20 MS. LATSHA: Yes.

21 MR. OXER: Did you have some also? Okay.

22 The -- obviously, this one is falling through, not the  
23 cracks, but in a web that we had not potentially  
24 anticipated. Since they returned the credits on December  
25 31, we have records that that was done?

1 MS. LATSHA: Yes, sir.

2 MR. OXER: Okay. So if we say that they were  
3 returned on January 1, what risk do we have? What risk  
4 does the Agency have?

5 MS. LATSHA: There is not -- if they were  
6 returned on -- considered on January 1, 2015, there is not  
7 really a risk. Either way, that credit return will go  
8 into the 2015 ceiling.

9 The second question is how those credits will  
10 actually be allocated. The Applicant has requested that  
11 they be allocated separately from the rest of the ceiling,  
12 pursuant to a 2015 rule.

13 However, regardless of that decision, the  
14 credits will get reallocated. Whether they are considered  
15 returned on December 31, 2014 or January 1, 2015, either  
16 way, they will go into the 2015 ceiling. The only  
17 question is whether or not we will be eligible for the  
18 national pool in 2015.

19 MR. OXER: So it is to our benefit to have them  
20 returned on January 1?

21 MS. LATSHA: Yes, sir.

22 MR. OXER: Okay. Then the -- and then since  
23 the force majeure -- modification to the QAP with respect  
24 to the force majeure was included in the 2015 QAP, and  
25 this is for a 2014 event, if I'm reading this correctly.

1 Is that correct?

2 MS. LATSHA: The credits were technically  
3 returned voluntarily in 2014. Yes, sir.

4 MR. OXER: Okay. So the question is, does a  
5 deal like this -- does the QAP for 2015 apply to something  
6 that had been --

7 MS. LATSHA: That is the second part of this  
8 presentation, which, like I said, we would recommend  
9 taking up in March and just dealing with the date of the  
10 return itself for purposes of -- only for purposes of  
11 reporting to the IRS.

12 MR. OXER: Okay. So it is only -- a single  
13 component to the larger item is just to look at the IRS  
14 reporting date on the return of the credits.

15 MS. LATSHA: Correct. The IRS I don=t think  
16 would weigh in on whether or not we applied a 2014 or a  
17 2015 rule to the return.

18 MR. OXER: Well, the question I was trying to  
19 get to, will they look at this. Will it make any  
20 difference to them if it were returned in 2014 or 2015?

21 MS. LATSHA: To the IRS?

22 MR. OXER: Right.

23 MS. LATSHA: Yes.

24 MR. OXER: It will make a difference.

25 MS. LATSHA: Yes.

1 MR. OXER: Okay.

2 MS. LATSHA: Because if they are considered  
3 returned in 2014, we will not have allocated at least 99  
4 percent of our 2014 ceiling, and therefore would not be  
5 eligible for the national pool.

6 MR. OXER: We wouldn't be eligible for the  
7 pool.

8 MS. LATSHA: That is right.

9 MR. OXER: Okay. But since they were, and  
10 there is a track on this, and there is documentation that  
11 they were returned on December 31, where does that risk  
12 for us stand if we say they were returned on January 1?

13 MS. LATSHA: There is none with the IRS. The  
14 IRS clearly allows us to consider any credit returned  
15 after September 30 of 2014 to be considered at January  
16 >15.

17 MR. OXER: Okay.

18 MS. LATSHA: Right.

19 MR. OXER: That is the answer I was looking  
20 for.

21 DR. MUÑOZ: And Jean, why would the  
22 Applicant -- you said the Applicant would prefer for this  
23 to be in >14 or -- why would they weigh in if they are  
24 returning them?

25 MS. LATSHA: I think that they were going to

1 make certain arguments with respect to the application of  
2 the force majeure provision and probably thought that the  
3 return happening on December 31, 2014, would support their  
4 arguments.

5 MR. OXER: But it doesn't necessarily, until we  
6 get to the second point of the item.

7 MS. LATSHA: That's right, sir.

8 MR. OXER: Okay.

9 MS. DEANE: And, Mr. Chair, let me just state,  
10 that I know Jean mentioned that there was a death in the  
11 family. Applicant=s counsel could not be here today.

12 MR. OXER: Right.

13 MS. DEANE: And so that is why they requested  
14 that this particular -- that that particular issue,  
15 because it has legal issues involved in it, that we hold  
16 that specific issue until March, so that she could be  
17 here.

18 MS. LATSHA: Okay.

19 MR. OXER: Does that -- does the unavailability  
20 of the Applicant=s counsel on this change anything on the  
21 recommended action? We are just saying we are taking up  
22 this one component.

23 Do we need to change anything? Are you going  
24 to stay with staff recommendation? How are you going to  
25 do this, Jean?

1 MS. LATSHA: The only thing that I would say is  
2 that staff=s recommendation would be limited to that first  
3 resolution --

4 MR. OXER: Okay.

5 MS. LATSHA: -- that basically considers the  
6 Royal Gardens Mineral Wells return as of January 1, 2015,  
7 for purposes of reporting to the IRS.

8 MR. OXER: Okay. So that is the modification  
9 to this particular action?

10 MS. LATSHA: Yes, sir.

11 MR. OXER: Okay. Any other questions of the  
12 Board? We will have a motion to consider on that modified  
13 staff recommendation.

14 MS. BINGHAM ESCAREÑO: So moved.

15 MR. OXER: Okay. Motion by Ms. Bingham to  
16 approve staff recommendation as modified.

17 MR. GANN: Second.

18 MR. OXER: Okay. A second by Mr. Gann.

19 We have public comment on this, or did we --  
20 okay. You guys don=t want to talk about this issue?

21 VOICE: No.

22 MR. OXER: Just being careful, because you are  
23 up there in the hot seat.

24 MR. LYTTLE: Mr. Chairman?

25 MR. OXER: Yes, sir.



1 MR. LYTTLE: Just for the record, we did  
2 receive a letter from the Mayor of Mineral Wells, in  
3 support of the Applicant, which we can read if we are  
4 taking that part of the issue up in March, so I just  
5 wanted to get on the record that the letter was submitted.

6 MR. OXER: So the Mayor was supporting the  
7 issue that we will be taking up in March as opposed to  
8 today?

9 MR. LYTTLE: He is supporting the Applicant  
10 wanting to get the tax credits, essentially.

11 MR. OXER: Okay.

12 MR. IRVINE: We did receive another letter,  
13 similarly recommending support of that, and we will bring  
14 all of that in the March Board action item.

15 MR. OXER: Okay. All right. Motion by Ms.  
16 Bingham to support staff recommendation as modified.  
17 Second by Mr. Gann.

18 No public comment?

19 (No response.)

20 MR. OXER: All in favor?

21 (A chorus of ayes.)

22 MR. OXER: Opposed?

23 (No response.)

24 MR. OXER: There are none. It is unanimous  
25 again.

1                   Thanks, Jean. So we will see you again on this  
2 item in March.

3                   MS. LATSHA: Yes, sir.

4                   MR. OXER: Okay.

5                   MS. LATSHA: All right. Item 5. This is a  
6 request for a waiver from two applicants. What you will  
7 notice here is that staff is actually recommending that  
8 this waiver be granted for these two applicants, which  
9 admittedly is where -- the situation is --

10                  MR. OXER: You guys are getting soft, or what?

11                  MS. LATSHA: I wouldn't say that, but our rules  
12 call for -- the undesirable site features rule, which in  
13 subchapter B of Chapter 10, calls for sites to be found  
14 ineligible if they are found in proximity to certain  
15 undesirable site features such as railroads or huge oil  
16 refineries and such. Both of these applicants happen to  
17 be within a hundred feet of an active railroad track.

18                  The rule calls for any application that is  
19 proposing rehabilitation of a development that is already  
20 federally assisted through HUD or the USDA to be allowed  
21 an exemption that is granted by the Board.

22                  But that exemption request was required to be  
23 accompanied by a Fair Housing Compliance letter; basically  
24 a letter from HUD saying that this rehabilitation proposal  
25 was in compliance with the Fair Housing Act.

1           HUD has declined to submit -- to write such a  
2 letter for these applicants. I will note that the  
3 applicant for Cleme Manor went directly to a HUD office,  
4 and then I believe contacted some national folks at HUD as  
5 well, and the Bay City Manor folks tried a different route  
6 there.

7           It is a USDA-funded deal. And they tried to go  
8 through a USDA Civil Rights office, and also contacted HUD  
9 too. So these two applicants took slightly different  
10 paths, but the end result was they were completely unable  
11 to obtain the letter that staff was requiring in this  
12 rule.

13           You will see in your Board book that the  
14 Applicant for Cleme Manor included an email from HUD  
15 saying that they were not going to write this letter. We  
16 actually received that correspondence directly, too -- the  
17 Department did.

18           So basically, since the requirement is  
19 essentially impossible to meet, staff is recommending a  
20 waiver of this very specific part of this rule. Staff is  
21 not recommending that the rule -- a blanket waiver of the  
22 rule. The rule calls for a number of other things that  
23 these applicants actually request the exemption, where  
24 simply saying that you can request your exemption and that  
25 exemption can be considered by the Board without this Fair

1 Housing compliance letter.

2 Those actual exemption requests have not been  
3 received by staff yet, and they will come with those full  
4 applications.

5 MR. OXER: So this is a pre-app stage  
6 essentially.

7 MS. LATSHA: That is correct. So the  
8 exemptions and/or waivers are required to be requested by  
9 the time of full application submission, so --

10 MR. OXER: So what you are really -- what we  
11 are really saying is that we are not going to knock them  
12 out because of this. We are not going to knock them out  
13 now.

14 MS. LATSHA: Right. They still have time to  
15 make some mistakes.

16 MR. OXER: Right. It is still a pretty steep  
17 climb to get out of this, but we are not going to take  
18 this one out on them.

19 MS. LATSHA: Yes, sir.

20 MR. OXER: Okay.

21 MS. LATSHA: And also, I would like to point  
22 out that this is for these two very specific applications.

23 There could very well be similarly situated applicants  
24 that have not contacted staff yet. But these were  
25 reserved for these two particular applications.

1 MR. OXER: Remind me again, Jean. Are these  
2 renovations or are they for new construction?

3 MS. LATSHA: These are rehabilitation.

4 MR. OXER: Rehabilitations. Okay. So there  
5 is -- essentially, these people have been living near  
6 these railroads -- somebody has been living near these  
7 railroads.

8 MS. LATSHA: A long, long time.

9 MR. OXER: For a while. How long have the  
10 facilities been in place? Do you have any idea?

11 MS. LATSHA: I don=t know offhand.

12 MR. OXER: Okay.

13 DR. MUÑOZ: Are they going to have to  
14 manufacture these letters later on?

15 MS. LATSHA: These applicants will not, no.  
16 What they will need to do is, when they submit their full  
17 applications, actually request those exemptions.

18 DR. MUÑOZ: Which we might grant.

19 MS. LATSHA: Which you could -- you could  
20 still -- that is correct. Those exemptions cannot be  
21 granted administratively; they have to be granted by the  
22 Board. So these two applicants will come back to you for  
23 those exemptions.

24 MR. OXER: So this is -- this is a waiver or an  
25 appeal?

1 MS. LATSHA: A waiver.

2 MR. OXER: This is a waiver of this particular  
3 rule for these two applications, not a wholesale waiver of  
4 the rule.

5 MS. LATSHA: That is correct, sir.

6 MR. OXER: Okay. Are you good with that?

7 MS. DEANE: Yes.

8 MR. OXER: Okay. Motion to consider?

9 MR. GOODWIN: So moved.

10 MR. OXER: Okay. Motion by Mr. Goodwin to  
11 approve staff recommendation on this Item 5. Is there a  
12 second?

13 MS. BINGHAM ESCAREÑO: Second.

14 MR. OXER: There is a second by Ms. Bingham.  
15 Anybody else care to speak?

16 (No response.)

17 MR. OXER: No public comment?

18 (No response.)

19 MR. OXER: All in favor?

20 (A chorus of ayes.)

21 MR. OXER: Opposed?

22 (No response.)

23 MR. OXER: There are none. It is unanimous.

24 Okay. Making the aggressive progress that we  
25 have on the schedule today, we are about to go into an

1 Executive Session for an item that we will have some  
2 discussion afterward. So everybody sit still and listen  
3 for a second.

4 The Governing Board of the Texas Department of  
5 Housing and Community Affairs will go into closed session  
6 at this time, pursuant to the Texas Open Meetings Act, to  
7 discuss pending litigation with its attorney under Section  
8 551.071 of the Act, to receive legal advice from its  
9 attorney under Section 551.071 of the Act; to discuss  
10 certain personnel matters under Section 551.074 of the  
11 Act; to discuss certain real estate matters under Section  
12 551.072 of the Act; and to discuss issues related to  
13 fraud, waste or abuse under Section 2306.039(c) of the  
14 Texas Government Code.

15 Closed session will be held in the anteroom  
16 chamber behind us with the fine officer of the DPS who has  
17 joined us this morning, which we much appreciate, sir.  
18 The date is February 19th, and the time is 10:20. We  
19 expect this is going to take a little while.

20 MR. IRVINE: I wouldn=t think it would take  
21 that long.

22 MR. OXER: Okay. Let=s just say -- it is  
23 10:20. Let=s say 11:00 we will be back, and then we=ll  
24 take up the rest of the agenda that we have deferred until  
25 after this meeting.

1                   (Whereupon, the Board recessed into Executive  
2 Session at 10:20 a.m.)

3                   MR. OXER: We are reconvened in open session.  
4 It is 11:32. It took us a little longer than we expected,  
5 but we received counsel from our counselor, advice from  
6 our General Counsel and from Internal Auditor.

7                   No decisions were made. And we received  
8 information from our Counsel and Audit, as I said.

9                   Okay. So now we will take Item 1(j).

10                  MR. DORSEY: Good morning. Cameron Dorsey,  
11 Chief of Staff.

12                  This particular agenda item concerns the  
13 possible award of funding. It's three specific sources of  
14 funds. Each is a formula kind of grant that goes through  
15 the formula and is provided to a network of existing  
16 eligible providers.

17                  This particular item relates to the funding  
18 that would generally go to one of those providers:  
19 Cameron and Willacy Counties Community Projects. Just to  
20 let you know, the Board took action on the CSBG -- 2015  
21 CSBG awards, the 2015 LIHEAP awards, and the 2014 and 2015  
22 DOE Weatherization awards for the majority of that network  
23 at the December Board meeting.

24                  And we had a couple where EARAC had recommended  
25 basically tabling the awards until we could -- EARAC could



1 get some additional information, to get comfortable that  
2 there were no previous participation issues that warranted  
3 conditions or other types of considerations associated  
4 with those awards. So today this item relates to the  
5 possible award of DOE-WAP, CSBG, and LIHEAP WAP and CEAP  
6 funding for Cameron and Willacy Counties Community  
7 Project.

8 EARAC originally, as I mentioned, tabled the  
9 items. EARAC had some concerns about the financial  
10 management systems.

11 The bulk of the concerns related to simply an  
12 inability for the Department to conduct its required  
13 compliance monitoring for these grant sources, where the  
14 Department is required under state and federal law to  
15 monitor these grants and make sure that the grants are  
16 administered in compliance with all applicable rules and  
17 laws. And in this case, we -- EARAC did not feel  
18 comfortable we had the information available to move  
19 forward with recommendations back at the December Board  
20 meeting.

21 So there was some back and forth with Cameron  
22 and Willacy Counties Community Project. I will just refer  
23 to the project as Cameron and Willacy from here on out, so  
24 I don't have to say the whole long name.

25 But we have had some back and forth with the

1 organization concerning the financial management concerns  
2 and attempting to get additional information so that we  
3 could review that information and confirm whether or not  
4 the funding was being used in a lawful and compliant  
5 manner.

6 We -- EARAC met with Cameron and Willacy staff  
7 and a couple of Board members a few weeks ago, and at that  
8 time EARAC still had some -- there were still some  
9 outstanding requests.

10 We had a request, for example, that their  
11 external auditor provide a response and some additional  
12 information concerning how their audit was conducted and  
13 how deep that audit went. We also had an outstanding  
14 request for the provision of some -- a general ledger  
15 related to one of the funds that some of our funding flows  
16 through that's maintained by Cameron and Willacy Counties.

17 DR. MUÑOZ: Cameron, can I interrupt you?

18 MR. DORSEY: Sure.

19 DR. MUÑOZ: Say that last point again? There  
20 was also an issue with respect to a request for a ledger  
21 on a fund?

22 MR. DORSEY: That is right. So our funding --  
23 when it goes to these local organizations, they account  
24 for the funds at a local level. And this particular  
25 organization uses a fund called the Equalization Fund.

1           And we can see basically funds flowing into the  
2 Equalization Fund, but we have not previously had access  
3 to the documentation that shows kind of how it flows out  
4 of that fund. And we just need to complete the chain  
5 from, you know, it comes from the Feds through our Agency  
6 to the locals. And we need to see it go all the way to  
7 its final eligible use. And --

8           DR. MUÑOZ: Have we asked for access?

9           MR. DORSEY: Yes, sir, we have. And we have  
10 not yet gotten that information.

11          DR. MUÑOZ: Like how long? A week? A month?  
12 Longer?

13          MR. DORSEY: We have been asking for it for a  
14 while now.

15          DR. MUÑOZ: More than once?

16          MR. DORSEY: Yes. Yes. More than once. On  
17 multiple occasions. So EARAC -- after having met with  
18 Cameron and Willacy Counties Community Project, EARAC had  
19 some outstanding concerns, and we were hoping to get some  
20 additional documentation that would help resolve some of  
21 those concerns.

22                 EARAC was not able to get access to that  
23 documentation, so EARAC went ahead and made the following  
24 recommendation concerning each of the sources.

25                 First off is EARAC recommended the denial of

1 the formula-based awards for DOE-WAP fiscal year 2014 and  
2 2015 funds. And the approximate amounts are about 121,000  
3 and 156,000.

4 In addition, EARAC recommended the denial of  
5 the award of LIHEAP funds for the organization. In  
6 order -- LIHEAP funds is a really critical source for  
7 assisting with kind of emergency utility payments and  
8 making sure that folks that are in need of funding at the  
9 local level are able to keep their utilities turned on.

10 And so in an effort to ensure that EARAC=s  
11 recommendation would not result in a gap in services for  
12 those individuals, part of the recommendation from EARAC  
13 today is that up to 24.99 percent of the program year 2015  
14 LIHEAP award for Cameron and Willacy Counties be awarded  
15 to Community Action Corporation of South Texas. That is a  
16 neighboring provider.

17 We are allowed -- TDHCA is allowed to award up  
18 to 25 percent on a temporary basis to an organization that  
19 is already part of the network to address kind of this  
20 kind of gap in coverage situation, should the organization  
21 that is generally administering those funds not be in a  
22 position to administer the funding.

23 And so that is the recommendation we're making  
24 in this instance, is that 24.99 percent of the LIHEAP  
25 award go ahead and be awarded to this neighboring entity

1 so that we can address any gap in coverage issues, which  
2 is of paramount concern.

3 Further, we -- EARAC is recommending that a  
4 small amount of LIHEAP administrative funding be made  
5 available to facilitate that organization, Community  
6 Action Corporation of South Texas.

7 You know, taking on that additional funding;  
8 the 24.99 percent will obviously -- in order to administer  
9 that would require a little bit of ramp-up on their part,  
10 administrative ramp-up. And so we want to help facilitate  
11 that with a small amount of administrative funding.

12 MR. OXER: So that administrative funding is  
13 not included in that 24.9 percent?

14 MR. DORSEY: That is right.

15 MR. OXER: Okay.

16 MR. DORSEY: Lastly, as regards CSBG, EARAC is  
17 recommending the award of that money to the organization  
18 with a series of conditions. Before I elaborate on those  
19 conditions, I will kind of give you the rationale there.

20 Why would EARAC recommend the denial of the  
21 other two sources of funds to Cameron and Willacy, with  
22 recommending the award with conditions of the third  
23 source?

24 The basic reason is that there is a process in  
25 place, a federally required process that you must go

1 through that involves having the organization develop a  
2 quality improvement plan and some basic due diligence that  
3 must be done before any kind of denial of an award of that  
4 particular funding source.

5 So we are recommending -- EARAC is recommending  
6 the award of that funding with the following conditions:  
7 that any costs determined to be disallowed by the  
8 Department for 2013 and 2014 CEAP or CSBG costs must be  
9 repaid to the Department within 15 business days of this  
10 Board action or, alternatively, submission of documented  
11 eligible expenses expended during the appropriate contract  
12 periods; that Cameron and Willacy Counties Community  
13 Project will no longer include funds provided by the  
14 Department in its Equalization Fund account.

15 Given that we don=t have the records for  
16 exactly how that account --

17 DR. MUÑOZ: That is the one I asked you about?

18

19 MR. DORSEY: Yes.

20 DR. MUÑOZ: It=s that fund? That same fund?

21 MR. DORSEY: That is correct. So that any  
22 portion of funds provided by the Department for expenses  
23 that were historically covered using funds from this  
24 account will be documented through transactions recorded  
25 in a report specific to accounts that include only funds

1 from the Department.

2 So basically that there is not a mixing of  
3 funds and accounts, federal and non-federal funds, or  
4 Department and non-Department sources, just so that, on a  
5 go-forward basis, the administration of any CSBG funds, we  
6 can clearly see from the Department all of the way to its  
7 final eligible use.

8 In addition, that the quality improvement plan  
9 that was due to the Department on February 9 must be  
10 received and approved by the Department. The plan must be  
11 implemented and Cameron and Willacy Counties Community  
12 Project avail themselves of any appropriate technical  
13 assistance provided by the Department.

14 And lastly, that Cameron and Willacy Counties  
15 Community Project must provide the general ledger for the  
16 Equalization Fund as well as any other accounts through  
17 which the Department funds have moved.

18 So again, EARAC is recommending the denial of  
19 both the LIHEAP and DOE-WAP awards to Cameron and Willacy  
20 Counties, with 24.99 percent of the award that would  
21 generally go to Cameron and Willacy Counties go instead to  
22 the neighboring provider.

23 Again, that is a temporary basis, assuming that  
24 everything got worked out with Cameron and Willacy  
25 counties. There is still an additional 75 percent there

1 that Cameron and Willacy counties could get at a future  
2 Board meeting.

3 That 25 percent, or 24.99, is simply to cover  
4 any gap in service coverage that may result from this kind  
5 of process of getting through all of the documentation the  
6 Department needs to get through to perform its compliance  
7 obligations. And lastly, that the CSBG award be approved  
8 with the conditions that I previously laid out.

9 MR. IRVINE: And it would be suspended until  
10 the conditions were fulfilled.

11 MR. DORSEY: That's correct. So that is what  
12 EARAC and staff=s recommendation is, along with a general  
13 kind of overview of this agenda item. And I think there  
14 are some additional folks that want to speak. I can take  
15 questions now, and then after these folks speak, if --

16 MR. OXER: We have some questions -- I'm sure  
17 we will have some questions for you. We'll actually have  
18 questions from the Board, because I think we need to  
19 pursue those, and then following our normal process, we  
20 will have questions from the Board. A motion to consider,  
21 public comment, and then we will act on it.

22 DR. MUÑOZ: I have one question.

23 MR. OXER: Dr. Muñoz.

24 DR. MUÑOZ: Chairman, I have one. Just,  
25 Cameron, you said that you have asked for access to



1 this -- to the ledger for the Equalization Fund. I am  
2 assuming that you have asked for that in writing other  
3 than or prior to this particular sort of condition.

4 MR. DORSEY: That is correct.

5 DR. MUÑOZ: Right.

6 MR. OXER: So for how long have we been asking  
7 for this?

8 MR. DORSEY: For a while. I am not -- I don't  
9 have a specific date. I know that on February 4 we  
10 requested it. That was when EARAC requested it. It had  
11 been requested prior to that date as well.

12 MS. SYLVESTER: I believe it was included in  
13 the September 25 --

14 MR. OXER: Megan.

15 MS. SYLVESTER: Megan Sylvester, Legal. It is  
16 included in the September 25th as part of this monitoring.

17 I believe we had previously requested it in writing as  
18 part of a different monitoring, but then we were able to  
19 close out that monitoring without having access to it.

20 MR. OXER: So we have asked for this before.

21 MR. DORSEY: Yes.

22 MR. OXER: Okay. Our contract -- because these  
23 are all contracts that we have -- you know, this is not  
24 just money we hand out; there is actually a contract that  
25 goes with this, that we signed with Cameron and Willacy in

1 this particular case.

2 MR. DORSEY: That is correct.

3 MR. OXER: And that contract has what  
4 requirements in it that suggest that we should be able to  
5 ask for this information?

6 MR. DORSEY: It has a requirement that the  
7 organization provide to us any documentation necessary to  
8 account for how our funding was utilized.

9 That is a pretty standard requirement in all of  
10 the contracts we use for all of our federal funding  
11 sources, whether it be HOME or state funding sources as  
12 well, Housing Trust Fund; it is a fundamental aspect of  
13 what the Department=s role is in overseeing these federal  
14 and state funding sources, is to ensure the compliant use  
15 of those funds.

16 MR. OXER: So we had -- go ahead, Dr. Muñoz.

17 DR. MUÑOZ: So, Cameron, in all of the  
18 different programs that we administer and the many  
19 agencies that dutifully carry out those responsibilities,  
20 and what have you, it is very routine for us to have  
21 access, or to ask and have access to different accounts in  
22 order to prove up periodically that the funds that are  
23 being allocated are, you know, being used in a way that  
24 they were stipulated for?

25 And we gain access fairly easily? Or are there

1 instances where it has to be negotiated, or are there  
2 might be some extenuating circumstances?

3 MR. DORSEY: I think it is fairly rare for  
4 occurrences where we aren't able to, over an extended  
5 period of time, gain access to the information. It is a  
6 pretty rare occurrence.

7 Generally I think that that when that happens,  
8 it would get kicked up to a higher level. And I can tell  
9 you I haven't been recently involved in situations where  
10 we haven't been able to get documentation, except for this  
11 one.

12 MR. GANN: Cameron, is it common to use an  
13 equalization fund, or this type of fund, to commingle  
14 these funds by other nonprofits?

15 MR. OXER: You can ask for help from the  
16 auditor, if you like.

17 MR. DORSEY: Sure. This is an uncommon use of  
18 a kind of intermediate fund. There are organizations that  
19 use funds where multiple funding sources are commingled.  
20 But the accounting records would be such that they fully  
21 supported how each of those dollars was used and it was  
22 directly traceable all of the way through any intermediate  
23 kind of fund like this.

24 MR. OXER: So they have an obligation under the  
25 contract to us, and we have an obligation as the managing

1 state entity managing the funds through -- it is a federal  
2 passthrough from HHS or DOE or all of the other sources  
3 that we have. So as a fiduciary to that, to the state, we  
4 have an obligation to make sure that this tracks according  
5 to the compliance that we have in the contracts.

6 MR. DORSEY: Absolutely.

7 MR. OXER: Okay. So when we ask for an audit,  
8 the nature of that audit is prescribed, I gather, under a  
9 statement of how those audits are supposed to be carried  
10 out. Is that not correct?

11 MR. DORSEY: That is correct. There is your  
12 most standard audit for an organization and then there is  
13 what is called the A-133 audit. And that -- the  
14 obligations under an A-133 audit are more extensive than  
15 just your more general audit.

16 The whole -- it's called a single audit, and  
17 the idea there is that for an organization receiving  
18 perhaps multiple federal funding sources, that you don't  
19 just look at -- what you can have is situations where  
20 there might be one agency looking at one source, another  
21 agency looking at another source.

22 And the idea of a single audit, or an A-133  
23 audit is that you look at the sources holistically and  
24 make sure that each source is used in accordance with  
25 program requirements and that there is no kind of

1 duplication of -- you know, expenditure records from one  
2 source used to support the same expenditure be used to  
3 support income from two sources, basically; things like  
4 that.

5 So that is kind of the overall objective of a  
6 133 audit. But it does require some additional detail.  
7 It does require some additional knowledge for the auditor  
8 to perform an appropriate and compliant A-133 audit.

9 MR. OXER: So this type of compliant A-133  
10 audit is not something that would be unanticipated by any  
11 agency doing this, for which we provide funds.

12 MR. DORSEY: No. The A-133 audit is a pretty  
13 common requirement once you reach a certain funding level  
14 of federal funds, and so there are dozens and dozens of  
15 organizations that we work with that must provide an A-133  
16 audit, including Cameron and Willacy Counties.

17 MR. OXER: Okay. For the -- let's make sure we  
18 are clear on this. Let's go back through the specific  
19 items that are in the resolution.

20 MR. DORSEY: Okay. EARAC is recommending the  
21 denial of the award of 2014 and 2015 DOE Weatherization  
22 Assistance; the denial of LIHEAP, both weatherization and  
23 utility assistance funds for Cameron and Willacy Counties;  
24 but up to 24.99 percent go to the neighboring network  
25 organization to administer with some administrative LIHEAP

1 funds being made available to that organization to help  
2 them ramp up; and lastly, to approve the CSBG award with  
3 the contract put into suspense until satisfaction of the  
4 four conditions that I previously read into the record.

5 MR. IRVINE: And one thing I think is important  
6 to clarify on those conditions, because one of them  
7 involves the QIP, the quality improvement plan and so  
8 forth, there has been a submittal of a quality improvement  
9 plan.

10 We have not completed our review of that, but  
11 we will advise the Agency, presumably, if it is  
12 satisfactory or not.

13 We have also granted them additional time to  
14 supplement that if they wish. And at the end of the day,  
15 if the quality improvement plan is something we can work  
16 with, we will work with it. And if we reject it, then  
17 that triggers other avenues.

18 MR. OXER: Is there any prospect of the  
19 questions that we have for Cameron and Willacy being  
20 answered to our satisfaction that would benefit the  
21 process to delay until the next meeting to take this item?

22 MR. DORSEY: I'm not sure exactly what you  
23 mean.

24 MS. BINGHAM ESCAREÑO: Mr. Chair, can I  
25 restate? Could we put it this way? Are there any of

1 those recommendations that it would not hurt to possibly  
2 postpone?

3 MR. OXER: That sounds like a better  
4 description. That is one of the reasons I have a great  
5 board up here, by the way.

6 MR. DORSEY: Okay. No. I think that all of  
7 those decisions could be tabled. I think we would  
8 continue to recommend that the 24.99 percent of LIHEAP  
9 funds be awarded to the neighboring entity as well as  
10 making available some administrative funds to them, so  
11 that we can make sure that as those items are tabled, and  
12 additional documentation is gathered, and we try to make  
13 sure we verify that everything is being done compliantly,  
14 we can make sure there is no gap in coverage.

15 DR. MUÑOZ: Cameron, in order for you to verify  
16 that everything is being undertaken compliantly, would you  
17 need access to the ledger related to this equalization  
18 fund?

19 MR. DORSEY: We believe that we would need  
20 access to that general ledger for the equalization fund.  
21 Yes.

22 MR. OXER: But under our contract, we have the  
23 right to ask for that.

24 MR. DORSEY: Yes.

25 MR. IRVINE: But we do believe we need to move

1 forward with the CSBG award with the conditions as noted.

2

3 (Pause.)

4 MR. OXER: Okay. With respect to the items as  
5 described --

6 MS. BINGHAM ESCAREÑO: One more question --

7 MR. OXER: Great.

8 MS. BINGHAM ESCAREÑO: -- just for  
9 clarification.

10 MR. OXER: Ms. Bingham.

11 MS. BINGHAM ESCAREÑO: If the Board so chose to  
12 possibly work with EARAC to postpone the recommendation on  
13 the denial of the 2014-15 LIHEAP and DOE-WAP, could we  
14 still make a motion to move the 24.9 percent to the  
15 adjacent --

16 MR. DORSEY: Yes.

17 MS. BINGHAM ESCAREÑO: Okay.

18 MR. DORSEY: Yes.

19 MR. OXER: Can we break this up into -- or  
20 modify it. So what we are saying is we want to make every  
21 effort to ensure that there is no gap in service to those  
22 who need the services these funds provide in that  
23 particular service area.

24 MR. DORSEY: That's correct.

25 MR. OXER: But we want to give the entity every



1 opportunity to present what they have, although it sounds  
2 like we have been asking since September for some of this  
3 information. I mean, it shouldn't take that long to  
4 provide it.

5 DR. MUÑOZ: In addition to -- just a question,  
6 Mr. Chairman.

7 MR. OXER: Uh-huh.

8 DR. MUÑOZ: In addition to, potentially, a  
9 motion and a vote on the 24.99 percent, the Executive  
10 Director indicated that -- is that -- and that would  
11 satisfy moving on the CSBG -- do we have to do something  
12 on that?

13 MR. IRVINE: We would recommend that the CSBG  
14 award be approved with the conditions as noted.

15 DR. MUÑOZ: And then --

16 MR. IRVINE: We will work through the quality  
17 improvement plan process. The Agency will need to address  
18 the other conditions in order to lift the suspension on  
19 that CSBG award.

20 DR. MUÑOZ: Just for that.

21 MR. IRVINE: But the award will be in place.  
22 Yes.

23 MR. OXER: The award goes into place. You move  
24 24-and-change, a little under 25 percent to another  
25 agency. You hold the rest in abeyance until we sort this

1 out.

2 MR. DORSEY: That's right.

3 MR. OXER: Okay. And the other two are denied.

4 MR. IRVINE: Tabled.

5 MR. OXER: I'm sorry. Tabled until the next  
6 meeting.

7 MR. IRVINE: Well, they would be deferred. And  
8 when we bring them back, presumably --

9 MR. OXER: Bring them back --

10 MR. IRVINE: At that point, we would have more  
11 expanded information. And I would think that in  
12 accordance with our statutory responsibilities for EARAC,  
13 they would again relook at it and make their  
14 recommendation at that time.

15 DR. MUÑOZ: We would have expanded information  
16 or documentation related likely to the conditions that  
17 EARAC has already stipulated.

18 MR. DORSEY: That is correct.

19 MR. OXER: And those stipulations include  
20 access to the ledger for this Equalization Fund.

21 MR. DORSEY: That's correct.

22 MR. OXER: Okay.

23 DR. MUÑOZ: So we almost have like two actions  
24 here; maybe two separate votes.

25 MR. IRVINE: I think you could do it as simply

1 one vote to award the 24.9 to the adjacent community  
2 action agency along with the LIHEAP administrative funding  
3 that would accompany it, and to approve the CSBG awards,  
4 subject to the conditions stated, and simply cut it off  
5 there.

6 DR. MUÑOZ: Yes. I move the recommendation. I  
7 move the recommendation provided by the ED just now. Do I  
8 need to frame it any other way?

9 MR. OXER: Let me see if I can frame it.

10 DR. MUÑOZ: All right.

11 MR. OXER: Although our best framer over here  
12 is Ms. Bingham.

13 MS. BINGHAM ESCAREÑO: I'll give it a try.

14 DR. MUÑOZ: Yes.

15 MS. BINGHAM ESCAREÑO: Dr. Muñoz, do you  
16 accept friendly --

17 DR. MUÑOZ: Yes. My paraphrasing usually  
18 lingers.

19 MS. BINGHAM ESCAREÑO: Let=s do this. Let=s  
20 move a motion to table -- to work with EARAC and table the  
21 recommendation for the denial of the 2014-2015 LIHEAP and  
22 DOE; to move staff's recommendation to approve the CSBG  
23 award with the conditions as recommended by the staff, and  
24 to also move to approve awarding 24.99 percent LIHEAP to  
25 the adjacent organization plus some funding for

1 administrative costs.

2 DR. MUÑOZ: Second.

3 MR. OXER: Okay. Motion by Ms. Bingham to  
4 approve staff recommendation as presented and modified by  
5 Mr. Dorsey. Second by Dr. Muñoz. We will have public  
6 comment.

7 MS. BINGHAM ESCAREÑO: Can I ask a question  
8 real quick. Is it just LIHEAP, or is it LIHEAP and DOE?

9 MR. DORSEY: The 24.99 percent would be 24.99  
10 percent of the LIHEAP, just the total LIHEAP amount, which  
11 includes LIHEAP WAP and LIHEAP CEAP. The 24.99 percent  
12 would be of the total amount, but it would be used to  
13 provide CEAP services.

14 MS. BINGHAM ESCAREÑO: Okay. I just wanted to  
15 be clear we were covering all of the funding.

16 MS. SYLVESTER: Just for the record, Megan  
17 Sylvester with Legal Services. The administrative funding  
18 is coming out of the State=s portion of administrative  
19 funding and is not -- the 24.99 percent comes with its own  
20 administrative funding as a percentage of it. Just to  
21 clarify that the additional money is not money that  
22 typically goes to an agency.

23 MR. OXER: Okay. So what we are saying is we  
24 move part of the money that would be services we=ll  
25 handle -- we are basically paying for the management of

1 that until we sort all of this out.

2 MR. DORSEY: That's right.

3 MR. OXER: Okay. So with respect to the  
4 auditing and that sort of stuff -- and we've had other  
5 requests for information -- what has been the response in  
6 terms of additional review or invitation by other audits,  
7 or what? Anything?

8 MR. DORSEY: Sure. I think that Cameron and  
9 Willacy Counties Community Project has indicated a  
10 willingness to bring in someone to look at the books. I  
11 think that there have been some discussions concerning  
12 what organization or individual should perform that  
13 function. And so there were some ongoing communications  
14 concerning who might go in and help make sure everything  
15 is either good or that there are issues that need to get  
16 cleaned up.

17 MR. OXER: You know, we have a little few  
18 pending litigation items. And we have retained counsel,  
19 our law firm for a couple of those is the Attorney  
20 General=s Office. What is the prospect of using the  
21 Accounting Office for help on this one?

22 MR. DORSEY: That sounds like a Barbara  
23 question.

24 MS. DEANE: The Attorney General=s?

25 MR. IRVINE: No. The Accounting Office.

1           MR. OXER: No. The Attorney General is our --  
2 or the Attorney General's Office is our law firm for a  
3 couple of the legal issues we have pending, so don't we  
4 have access to the State Accounting Office to --

5           MS. DEANE: Oh, yes. The State Auditor's  
6 Office?

7           MR. OXER: I'm sorry. The State Auditor's  
8 Office. Correct.

9           MS. DEANE: Yes, we do.

10          MR. OXER: Okay.

11          MS. DEANE: Yes.

12          MR. OXER: All right. Then we have a motion by  
13 Ms. Bingham; second by Dr. Muñoz as described.

14                 Is there any public comment. Mr. McVey, do you  
15 wish to speak?

16          MR. McVEY: Apparently, I do, sir, so I am  
17 told. Representative Guillen asked me to come and make a  
18 statement. My name is Robert McVey. I am Chief of Staff  
19 for State Representative Ryan Guillen. I made notes. I  
20 am not a great public speaker.

21          MR. OXER: I am not either, as you can tell,  
22 but that is all right. Most people know that before --

23          MR. McVEY: You keep it entertaining, sir.  
24 Representative Guillen asked me to say, he is in a  
25 meeting. He really would like to be here personally on

1 this, but he couldn't come.

2 He wanted to thank you for the many projects  
3 you administer across South Texas that benefit families  
4 there and across the state. Your agency does great work,  
5 and we work with it all of the time.

6 They have been very patient working with us.  
7 They have been really helpful working with us, on this  
8 issue, and others. And I have always been impressed by  
9 them, myself. He wants things to run right. He wants the  
10 books to be right. He wants everything to be done  
11 properly.

12 In this case, his only request is that you  
13 defer any drastic action that would reflect poorly on the  
14 agency or the services they deliver until the State  
15 Auditor has a report that requires action. At this point,  
16 no one has actually found anything wrong. No one is  
17 alleging, as far as I know, there has been any malfeasance  
18 of any kind.

19 MR. OXER: I gather nobody has found anything  
20 at this point.

21 MR. McVEY: This is true. And there is even an  
22 argument about whether the books were available or not. I  
23 have no clue what side of the argument to get into on  
24 that.

25 But my understanding from conversations that I

1 have had in the last two days is that there is a kind of  
2 quasi agreement to have the State Auditor's Office step  
3 in, look at all of the books, make a decision, and come  
4 back to you with a complete report.

5 If there is a problem, the representative of  
6 course, will support you 100 percent. If there is not, he  
7 is hopeful that the standing of this agency in the  
8 community can be maintained. They have done excellent  
9 work for many, many years. A great number of people rely  
10 on them. And we want them to be able to continue to do  
11 good work, as long as everything is being done properly.

12 If the Board has any questions, there are  
13 several representatives from the agency here today that  
14 they said that they would be happy to speak if you want  
15 them to. That is totally up to you. Thank you all very  
16 much.

17 MR. OXER: Give our best to Representative  
18 Guillen also, if you would, please.

19 MR. MCVEY: Thank you, sir.

20 MR. OXER: Well, and it occurs to me, you know,  
21 that we have some questions. We are asking for our  
22 staff -- staff is asking for information. There is still  
23 a question of whether or not that information is  
24 available.

25 You know, we make no accusation of what the



1 circumstances are, apart from the fact that we don=t have  
2 the information that we need to properly carry out the  
3 duty we have as a fiduciary to the State. So that is why  
4 we continue to ask the questions that we have.

5 MR. McVEY: Yes, sir.

6 MR. OXER: Thank you for your comments.

7 MR. McVEY: Thank you, sir.

8 MR. IRVINE: And, Mr. Chairman, if I might  
9 just -- I believe that the record should reflect that  
10 there have been monitoring findings, including disallowed  
11 costs, which have to be addressed in the conditions  
12 imposed.

13 MR. OXER: Okay. And the conditions as  
14 imposed, we will have to get answers on all of those,  
15 which I assume will be a part of the criteria that would  
16 be a part of the -- not investigation but review of the  
17 data in the compliance audit for this. So are there any  
18 questions?

19 (No response.)

20 MR. OXER: Would anybody from Cameron and  
21 Willacy Counties Community Projects care to speak? I will  
22 ask that. But if you are not up here. You don=t have to.  
23 I am asking. The people that want to speak are typically  
24 up here. So if you would like to speak, you are welcome  
25 to, but don=t feel as though you are obliged to.

1 MS. GARZA: I would like to.

2 MR. OXER: Very good.

3 MS. GARZA: Yes. My name is Amalia Garza. And  
4 I am the Executive Director for that agency. Now, as far  
5 as records being available, they have been available for  
6 the past ten years, if not more. The Department does  
7 monitor the agency on an annual basis.

8 The problem, I think, has been just  
9 misunderstandings, and I think that if someone with a  
10 fiscal background would go in and look at our records, we  
11 would get all of this cleared up in California one minute,  
12 is it? But we are --

13 MR. OXER: I will split the New York second, as  
14 they say, I think. But that is all right.

15 MS. GARZA: Oh, is that it? Everything comes  
16 from California, I think. So there has never been any  
17 attempt to hold on to our records. They are open.

18 DR. MUÑOZ: Yes. Ms. Garza, let me ask this  
19 question. I want to be very clear. So you have heard me  
20 ask the question. I have asked several times. Have we  
21 requested access to the ledger for this Equalization Fund?  
22 You are saying that either we have never asked for it, or  
23 we have asked for it and you have made it fully available.

24 MS. GARZA: All of the above.

25 DR. MUÑOZ: Okay. Because let me -- now,

1 Cameron, who would have received that ledger? Okay. When  
2 we asked for it, who would have received the ledger? Who  
3 would it have come to? Mark? Who?

4 MR. OXER: Cameron Dorsey.

5 MR. DORSEY: Cameron Dorsey, Chief of Staff.  
6 It would have come to Patricia. I think Patricia signed  
7 the letter.

8 DR. MUÑOZ: Okay.

9 MR. DORSEY: I think they had indicated that  
10 they were working on it, and that it might take them a  
11 little bit of time. I think we are past what we thought  
12 it would take to get that information mailed to us. I  
13 know that they had some concerns that it was sufficiently  
14 voluminous that they would not be able to scan it easily  
15 and send it.

16 DR. MUÑOZ: Okay. So do we have it, or don=t  
17 we?

18 MR. DORSEY: We do not.

19 DR. MUÑOZ: Patricia, have you ever received  
20 it, or haven=t you?

21 MS. MURPHY: No, we haven't.

22 DR. MUÑOZ: So I hear the staff saying we've  
23 asked for and we don't have it. I hear you saying it's  
24 available. But where is it?

25 MS. GARZA: It's been available.

1 DR. MUÑOZ: It's been available.

2 MS. GARZA: Every time a monitor goes into our  
3 office to monitor, we give them a manual of the things  
4 that they need. We also have our staff available for any  
5 questions that they may have. We also have all the other  
6 documentation. It is tedious. It is a multitude of  
7 information that they would have to go through.

8 DR. MUÑOZ: And they would have -- included in  
9 that manual, they would have had access to the full  
10 ledger, expenses, income, transactions, transfers, for  
11 this Equalization Fund?

12 MS. GARZA: That Equalization Fund has existed  
13 for more than 20 years with the Agency.

14 DR. MUÑOZ: Okay. Patricia, have you ever seen  
15 that?

16 MS. MURPHY: No.

17 MS. GARZA: She's never been there.

18 DR. MUÑOZ: Okay.

19 MS. MURPHY: Patricia Murphy, Chief of  
20 Compliance. The monitoring staff was at Cameron and  
21 Willacy in August of 2014 and requested access to the  
22 records that were needed to trace the funds through this  
23 Equalization Fund, and they were not provided such access.  
24 And so we have since, in a letter in September, in person  
25 in February, and in writing in February, requested that

1 documentation.

2 DR. MUÑOZ: Okay. All right.

3 MS. GARZA: So obviously we're not going to  
4 settle it here. So whenever the State Auditor goes in, or  
5 whomever, we will be more than happy to sit down with  
6 them, again.

7 MR. OXER: Well, that sounds like that would  
8 probably be the best thing to do. Let=s get -- I mean,  
9 your assessment is somebody with a fiscal background, a  
10 financial background.

11 MS. GARZA: Exactly. I have asked --

12 MR. OXER: There are a couple of them up here,  
13 but the State Auditor can make this available. It sounds  
14 like it would be exactly the thing to do, to have the  
15 State Auditor to go.

16 MS. GARZA: I had asked Mr. Irvine about  
17 sending someone from the Department with a fiscal  
18 background, and he said that he didn=t have anyone with  
19 that background, and I don=t know what that means, but --

20 MR. OXER: So you have asked our Executive  
21 Director, and he says we have no one on the staff with a  
22 fiscal background?

23 MS. GARZA: That he didn=t have the expertise,  
24 unless I misunderstood.

25 MR. IRVINE: I believe we have the expertise to

1 review all of the books and records relating to the  
2 monitoring of these programs.

3 MS. GARZA: If you call us, we are open. All  
4 right.

5 MR. OXER: Well, and it sounds like you would  
6 be -- you would welcome a state audit, just --

7 MS. GARZA: Yes.

8 MR. OXER: Okay. Well, then that may be the  
9 best approach to this in the first place. So all right.

10 MS. GARZA: And I thank you.

11 MR. OXER: Yes, indeed. We are glad to have  
12 you here. Is there any other public comment?

13 (No response.)

14 MR. OXER: There appears to be none. Don=t  
15 forget to sign in. Penny needs to know who you are. We  
16 know who you are, but she needs to know who you are.

17 DR. MUÑOZ: And, Ms. Garza, thank you for  
18 making the trip.

19 MS. GARZA: Yes, sir.

20 MR. OXER: Okay. We have a motion by Ms.  
21 Bingham and a second by Dr. Muñoz to approve staff  
22 recommendation of Item 1(j) and modified in testimony by  
23 Mr. Dorsey. Is there any other questions of the Board?

24 (No response.)

25 MR. OXER: Okay. And that was in -- to make

1 sure I'm clear, come back up for a second, Cameron. Make  
2 sure I am clear: Suspend the two programs, approve the  
3 CSBG -- do it one more time, Cameron.

4 MR. DORSEY: Okay, okay.

5 MR. OXER: I don=t want to put words in your  
6 mouth; I want you to put them in ours.

7 MR. DORSEY: So I believe the motion that is on  
8 the floor is to table the decisions concerning denial of  
9 LIHEAP funding and DOE-WAP funding until next Board  
10 meeting; to move forward with the award of the 24.99  
11 percent of LIHEAP along with some access to administrative  
12 funds to help with ramp-up; and to award the CSBG funding  
13 with the four conditions that I previously laid out and  
14 that are reflected in your Board materials.

15 MR. OXER: Good. Okay. That said, all in  
16 favor?

17 (A chorus of ayes.)

18 MR. OXER: Opposed?

19 (No response.)

20 MR. OXER: There are none. It is unanimous.

21 We look forward to having the information. I  
22 understand the -- it sounds like you need to ask the State  
23 Auditor to see if they can give us a hand on this one,  
24 Tim.

25 All right. We have reached the point at the

1 end of our formal agenda where we ask for an open session  
2 for anyone who wishes to speak to add anything to the  
3 agenda for any of our next meetings.

4 So, Ms. Latsha, welcome back.

5 MS. LATSHA: Jean Latsha, Director of  
6 Multifamily Finance. I don=t have anything to add to the  
7 next agenda, but I just wanted to point out, I think that  
8 all of the guys from El Paso are probably having champagne  
9 over lunch right now.

10 But on the consent agenda earlier today, if  
11 nobody else noticed, you approved the termination notices  
12 in the amount of over \$8.4 million in 4 percent tax  
13 credits, a \$125 million bond deal that will rehabilitate  
14 almost 1,600 units of housing in El Paso.

15 That's tremendous, quite frankly. I honestly  
16 didn=t have to work that hard, because my staff --

17 DR. MUÑOZ: Jean. Of course we were aware of  
18 it. We just need to, you know, restrain our enthusiasm.

19 MS. LATSHA: I could not restrain my  
20 enthusiasm. I'm sorry. But I am enthusiastic about that.

21 So Brent and his staff, that is a truly amazing feat that  
22 they were able to do that.

23 (Applause.)

24 MR. OXER: I am happy to see some of the 4  
25 percent funds going out and being exercised and people



1 accessing those, because typically -- come back up for a  
2 second, Jean, because we have a lot of -- there were a  
3 pretty good batch of 4 percent funding that is available  
4 that goes unused each year. Is that not correct?

5 MS. LATSHA: Pretty good, but it's not as good  
6 as it was, thanks to us.

7 MR. OXER: So we are dipping a little deeper  
8 into the bucket here?

9 MS. LATSHA: Yes, sir.

10 MR. IRVINE: A big dip.

11 MR. OXER: That is good. So you know, we have  
12 an obligation to do what we can on behalf of the State.  
13 So I like to -- and I guess we knew it was on there; I  
14 don=t think we took proper notice of it in this.

15 But, Brent, you guys did -- and I would say  
16 this to every one of the staff out there. You have no  
17 idea how much we appreciate the work that you guys do. So  
18 that said, would anybody care to add anything to the  
19 existing -- or since we are finished with the formal  
20 agenda, anybody care to make comment about items to be  
21 considered for future agendas?

22 MR. LYTTLE: Mr. Chairman, I just want to add  
23 one item about El Paso. It is an historic deal. TDHCA  
24 has never done a 4 percent deal at that level. We are  
25 planning on working with the El Paso Housing Authority on

1 a press release indicating that.

2 And also, during the break, Gerry Cichone, the  
3 lead for the Housing Authority, came up to me and  
4 personally wanted to express his gratitude to our  
5 underwriting staff. He said they did phenomenal and  
6 amazing work.

7 MR. OXER: Well, we set a record at 8.4 million  
8 out of the 4 percent funds. The first one in El Paso. We  
9 had -- Monica, is Monica here?

10 We had a day we had reservations on mortgages  
11 that went over \$7 million this past year, when they were  
12 averaging what, 1.6 something like that. So, you know,  
13 you guys are raising our expectations. I just want you to  
14 know this. You know, we expect good things out of you  
15 guys.

16 So all right. Is there anybody, any staff wish  
17 to make another comment?

18 (No response.)

19 MR. OXER: Terri is about to tell us our lunch  
20 is getting cold. All right. Any member of the Board like  
21 to say anything?

22 MS. BINGHAM ESCAREÑO: Mr. Chair, I don=t have  
23 anything on the coming agendas, but I just wanted to say  
24 that one of my County Commissioners, Sofia Benavides is  
25 out in the audience, Cameron County Commissioner. And I

1 feel weird, because usually I am out there, and she is up  
2 here when I go to her meetings. But she has a history of  
3 serving with expertise and grace, and she has been a  
4 really great role model for me. So I just wanted to  
5 recognize her while she was with us.

6 MR. OXER: Glad to have you here. Thanks very  
7 much.

8 (Applause.)

9 MR. OXER: Okay. That said, I get the last  
10 word. It is good work that we do here, and I appreciate  
11 the effort on everybody -- not only the staff but the  
12 members of the community that make every effort to do what  
13 we try to do. So that said, entertain a motion to  
14 adjourn.

15 MR. GOODWIN: So moved.

16 MR. OXER: Okay. Motion by Mr. Goodwin to  
17 adjourn. Second? I will second since I am the Chairman.  
18 I am second. I get to second. That is one I want.

19 No public comment?

20 (No response.)

21 MR. OXER: Those in favor?

22 (A chorus of ayes.)

23 MR. OXER: Opposed?

24 (No response.)

25 MR. OXER: There are none. We'll see you in a

1 month, folks.

2 (Whereupon, at 12:35 p.m., the meeting was  
3 concluded.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: February 19, 2015

I do hereby certify that the foregoing pages,  
numbers 1 through 85, inclusive, are the true, accurate,  
and complete transcript prepared from the verbal recording  
made by electronic recording by Penny Bynum before the  
Texas Department of Housing and Community Affairs.

\_\_\_\_\_  
(Transcriber) 02/25/2015  
(Date)

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