

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

January 28, 2016
10:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair
LESLIE BINGHAM ESCAREÑO, Member
T. TOLBERT CHISUM, Member
TOM H. GANN, Member
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

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- h) Presentation, Discussion, and Ratification of Low Income Home Energy Assistance Program ("LIHEAP") Awards for the PY 2016 Weatherization Assistance Program ("WAP") and one 2016 LIHEAP Comprehensive Energy Assistance Program ("CEAP") Award to Webb County Community Action Agency
- i) Presentation, Discussion, and Possible Action regarding authorization to release a Notice of Funding Availability ("NOFA") for Fiscal Year 2016 Emergency Solutions Grants Program ("ESG"), and to Authorize Specific Continuum of Care ("CoC") Lead Agencies to Perform a Local ESG Competition

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- o) Presentation, Discussion, and Possible Action on adoption of amendments to 10 Texas Administrative Code ("TAC") Chapter 23, Single Family HOME Program, Subchapter A, General Guidance, §23.2 Definitions; Subchapter C, Homeowner Rehabilitation Assistance, §23.32 Homeowner Rehabilitation Assistance ("HRA") Administrative Requirements; Subchapter D, Homebuyer Assistance Program, §23.41 Homebuyer Assistance ("HBA") Program Requirements and §23.42 HBA Administrative Requirements; Subchapter E, Contract for Deed Conversion Program, §23.51 Contract for Deed Conversion ("CFDC") Program Requirements and §23.52 CFDC Administrative Requirement; Subchapter F, Tenant-Based Rental Assistance Program, §23.62 Tenant-Based Rental Assistance ("TBRA") Administrative Requirements; and Subchapter G, Single Family Development Program, §23.72 Single Family Development ("SFD") Administrative Requirements, and directing that they be published in the Texas Register

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1
2 MR. OXER: Good morning. Welcome back to the
3 January 28 meeting of the Texas Department of Housing and
4 Community Affairs Governing Board. Hope everybody had
5 safe holidays; glad to see you back in a new year and new
6 start here.

7 So we'll begin with roll call, as we do. Ms.
8 Bingham?

9 MS. BINGHAM ESCAREÑO: Here.

10 MR. OXER: Mr. Chisum?

11 MR. CHISUM: Present.

12 MR. OXER: Mr. Gann is not with us; Mr. Goodwin
13 is not with us.

14 Dr. Muñoz?

15 DR. MUÑOZ: Here.

16 MR. OXER: And I'm here, that gives us four, so
17 we are in business, we have a quorum.

18 Tim, lead us in the pledges, please.

19 (The Pledge of Allegiance and the Texas
20 Allegiance were recited.)

21 MR. OXER: I think we have a resolution.
22 Michael, are you going to read that for us into the
23 record?

24 MR. LYTTLE: Yes, sir. This is the resolution
25 in honor of Black History Month, and it reads as follows:

1 "Whereas, February 2016 is Black History Month,
2 and is being celebrated in the United States with the
3 national theme of "Hallowed Grounds: Sites of African
4 American Memories," by preserving and reflecting on the
5 places where African Americans have made history;

6 "Whereas, the Texas Department of Housing and
7 Community Affairs recognizes the significance of Black
8 History Month as an important time to acknowledge and
9 celebrate the contributions of African Americans in Texas'
10 history and that of the nation; and

11 "Whereas, the Department encourages the
12 continued celebration of this month as an opportunity for
13 all Texans to learn more about places that have been
14 important in the making of African American memory and to
15 better understand the experiences of African Americans who
16 have shaped our great State and the nation; and

17 "Whereas, the Department recognizes that the
18 ethnic and racial diversity of Texas enriches and
19 strengthens the nation;

20 "Now, therefore, it is hereby resolved that the
21 Texas Department of Housing and Community Affairs -

22 "(1) recognizes the importance of Black History
23 Month as an important time to acknowledge and celebrate
24 the preservation of e sites of the eighteenth and
25 nineteenth centuries that have become hallowed grounds of

1 African Americans and all Americans in Texas history, and
2 encourages the continued celebration of this month to
3 provide an opportunity for all peoples of the State of
4 Texas to learn more about the past and to better
5 understand the experiences that have shaped our Lone Star
6 State; and

7 "(2) recognizes that in pursuit of the goal and
8 responsibility of providing equal housing opportunities
9 for all, the Governing Board of the Texas Department of
10 Housing and Community Affairs does hereby celebrate
11 February 2016 as Black History Month in Texas and
12 encourages all Texas individuals and organizations, public
13 or private, to join and work together in this observance
14 for equal housing treatment and opportunity for all.

15 "Signed this twenty-eighth day of January
16 2016."

17 MR. OXER: Good. All right. Let's move to the
18 consent agenda.

19 MR. IRVINE: You need to probably adopt that.

20 MR. OXER: Is that official?

21 MR. IRVINE: Adopt it by acclaim.

22 MR. OXER: Okay. In that case we'll accept a
23 motion to adopt by acclaim.

24 MR. CHISUM: So moved.

25 MS. BINGHAM ESCAREÑO: Second.

1 MR. OXER: Motion by Mr. Chisum to adopt by
2 acclaim, second by Ms. Bingham, and by acclaim raise your
3 hands. All in favor?

4 (A chorus of ayes.)

5 MR. OXER: And opposed are none.

6 With respect to the consent agenda, Jennifer,
7 did you have something you wanted to address to modify
8 here?

9 And while she's coming up, is there any item
10 that any member of the Board wishes to pull from the
11 consent agenda?

12 (No response.)

13 MR. OXER: Jennifer.

14 MS. MOLINARI: All right. Good morning, Mr.
15 Chairman, Board members. Jennifer Molinari, HOME Program
16 director.

17 At the November 12 board meeting you approved
18 the HOME Program rules in draft form to be released for
19 public comment. The amendments did go out for comment and
20 they codified procedures, clarified rules and made
21 revisions that were necessary as a result of changes in
22 state and federal laws in 2015. The public comment period
23 was November 27 through December 28, and no public
24 comments were received.

25 We are recommending approval of the rules as

1 proposed in the draft form, but do want to make one change
2 for the record. The change is going to align with changes
3 made during the 84th Legislative Session that greatly
4 simplify title conversion processes. So before this
5 change, HOME funds were used to convert deeds under the
6 Contract for Deed Conversion Program, but with the change
7 in legislation, ownership can now be recognized by filing
8 contract for deeds, so to reflect that, we'd like to
9 change the name of the activity from the Contract for Deed
10 Conversion Program to the Contract for Deed Program.

11 It's important to note that there are still
12 many contract for deeds and we're working in tandem with
13 the Housing Trust Fund Program to identify these
14 households, work with title issues, and make the
15 conversion process as simple as possible. So this change
16 simply reflects what the HOME funds will now be used to
17 do.

18 And with that, I'll answer any questions that
19 you have.

20 MR. OXER: Sounds like sort of a minimal thing
21 just to clarify and clean up and straighten out a little
22 bit and be consistent with the 84th Legislature. Is that
23 about right?

24 MS. MOLINARI: That's correct.

25 MR. OXER: Any questions from the Board?

1 (No response.)

2 MR. OXER: With that modification, Counselor,
3 can we take this all with that modification on there, or
4 do we have to vote for it?

5 MR. IRVINE: The only other change is that the
6 Compliance Division update, which is a consent report
7 item, will be coming off of the consent agenda, but with
8 that change, prepare to adopt the consent agenda.

9 DR. MUÑOZ: Move to adopt the consent agenda
10 with change.

11 MR. OXER: With change as identified which is
12 the one that Jennifer read in and pulling the compliance
13 report. Is that right, Patricia? Which number is that?

14 MR. IRVINE: 2(b).

15 MR. OXER: Okay. Motion by Dr. Muñoz to
16 approve the consent agenda as modified by Jennifer and
17 with the restriction of item 2(b). Do I hear a second?

18 MS. BINGHAM ESCAREÑO: Second.

19 MR. OXER: Second by Ms. Bingham. There's no
20 public comment. Motion as described. Those in favor?

21 (A chorus of ayes.)

22 MR. OXER: And opposed?

23 (No response.)

24 MR. OXER: There are none. It's unanimous.
25 So Jennifer, we don't have to address yours.

1 We're essentially accepting that as a modification in the
2 rule.

3 So Patricia, you're up first since we took that
4 off the consent agenda. Good morning, and Happy New Year.

5 MS. MURPHY: Good morning and Happy New Year to
6 you as well. Patricia Murphy, chief of Compliance.

7 So this is a report item, there's no action
8 that you need to take on it. It's a report about an
9 update of the activities of the Compliance Division.

10 In the subrecipient monitoring area there's an
11 update about Community Services, Inc., the Community
12 Action Agency in Dallas, EBENZ, and Cameron and Willacy
13 counties. Since the time of posting, there have been
14 several changes worth mentioning.

15 First, regarding the Community Action Agency in
16 Dallas, we have received correspondence from an attorney
17 representing them informing us that they are now doing
18 business under the name Urban Community Center of North
19 Texas. There is an ongoing suit between them and the
20 National Urban League, trial is not set until January of
21 2017, and during the pendency of litigation the court has
22 limited the use of the name Urban League. So we've been
23 asking for an update about this matter for some time and
24 now we can update you about that.

25 A review of the corrective actions submitted by

1 EBENZ has been completed. A letter was issued Tuesday,
2 January 26, 2016, so just a couple of days ago, requesting
3 repayment of disallowed costs in the amount of
4 \$114,625.35. In accordance with the contract, EBENZ has
5 been provided a 30-day period to repay. There's a
6 separate item on your agenda today, item 6(c), related to
7 this matter.

8 Just yesterday we issued a notice of Cameron
9 and Willacy Communities Project, Inc. that their quality
10 improvement plan was not approved.

11 In the multifamily area, there's an update
12 about the staffing situation. Since posting, another
13 compliance monitor has given notice, so now that area of
14 the division has three vacant positions.

15 And not in your board packet, but I also
16 understand there is some concern and frustration about the
17 utility allowance rule that is currently out for public
18 comment, so I'd like to give an update about that, as some
19 action on the rule will likely come before you next month.

20 We monitor several different affordable housing
21 programs, housing tax credits being the one everyone is
22 most familiar with, but we also monitor HOME, tax-exempt
23 bonds, Housing Trust Fund, Neighborhood Stabilization
24 Program. All the programs are pretty similar but there's
25 some nuanced differences between them.

1 All the programs have a maximum rent limit that
2 hate owner is allowed to charge for the units designated
3 under the program, and the rent limit includes an
4 allowance for utilities or a utility allowance, the idea
5 being the amount of rent someone pays plus what they pay
6 in utilities shouldn't go over the limit. Under the
7 Housing Tax Credit Program, owners have several different
8 options for calculating the allowance and they can pick
9 which one they want to use.

10 Under the HOME Program, the final rule in
11 Section 92.252(c) requires the participating
12 jurisdiction -- that's us, TDHCA -- to establish the
13 utility allowance for the owner. That section of the HOME
14 final rule was amended in 2013 and the requirement to use
15 a specific method, the HUD model schedule, when estimating
16 the allowance was added. So there's two issues: one is
17 that under the HOME rule the PJ must establish the
18 allowance, and the second issue is what's the method that
19 needs to be used when establishing the allowance.

20 HUD suspended implementation of the amendment
21 to this section so what they suspended was the requirement
22 to use the HUD model schedule. The old rule and the new
23 rule requires that the PJ establish the utility allowance
24 for property owners under the HOME Program. There's no
25 prohibition from using the HUD model under the old rule or

1 the new rule.

2 For many years, the Department has been
3 allowing owners of HOME properties to establish their own
4 utility allowance, and several have done it incorrectly,
5 resulting in noncompliance that gets reported to HUD
6 during our annual report to the. And when HUD got our
7 annual report and reviewed it, they said, Hey, what do you
8 mean the owner must calculate the utility allowance;
9 you're supposed to be calculating the utility allowance.

10 So we have proposed an amendment to the
11 compliance monitoring rule to bring our HOME Program into
12 compliance with HUD's expectation that we calculate the
13 allowance for the owners of HOME properties. When we
14 proposed amendments to the rule, we proposed an amendment
15 using the HUD model schedule. There's about 300 of these
16 properties so it's going to be quite a bit of work for us
17 to calculate this, and this method of calculating the
18 allowance is the easiest for us logistically. We can get
19 the data from easily available sources and it's the
20 easiest for us to do. And if HUD ever does implement the
21 rule using the HUD model, we'll be ahead of the game there
22 if we're already in compliance with that.

23 So that's the issue with the HOME aspect of
24 this matter. I think the concern and worry, if I were an
25 owner, might come from if I were a HOME property layered

1 with housing tax credits. The Treasury regulation that
2 allows owners of housing tax credit buildings to choose
3 the method for their utility allowance does not make that
4 option available if you're a HUD regulated building. So
5 under HUD regulations your utility allowance is being
6 calculated, you don't get to pick.

7 So in the draft rule that we released, we
8 stated that tax credit buildings layered with HOME units
9 will be required to use the allowance we calculate for the
10 HOME Program. We believe the Treasury regulation requires
11 that use. We've emailed the Treasury Department and
12 requested guidance, but we haven't received any. And
13 prior to the release of this proposed rule, we held a
14 roundtable to discuss all of this and we also reached out
15 to others in the industry to talk through this. And I can
16 understand why owners might have some concern about this,
17 but no one has offered a different interpretation and the
18 rule is still out for public comment through February 2.
19 So I'm trying to give you an update on this matter in case
20 there are some concerns about it.

21 Any questions or other information you'd like
22 an update about?

23 MR. OXER: Sure. Any questions?

24 I have a couple. So HUD says we get to choose,
25 so what mechanism, what model have we been using?

1 MS. MURPHY: So historically, we have been
2 allowing owners of HOME properties to pick one of the
3 methods we have in our rule. So we have the PHA, the HUD
4 model schedule, a written local estimate, all these
5 different methods, and we've been allowing HOME property
6 owners to pick one of the utility allowance methods, and
7 then when we come out to monitor them, we see did they do
8 it right. And HUD is saying to us: Nope, that's
9 backwards.

10 MR. OXER: Rather than letting them pick,
11 you're supposed to tell them?

12 MS. MURPHY: You tell them. And that was the
13 requirement in the old rule and in the one that they have,
14 the new HOME rule, although they have suspended the
15 requirement to use the HUD model schedule. So both rules
16 required us, the PJ, to establish the allowance.

17 MR. OXER: So even if we pick one, do we have
18 the option of those four to pick one, or does it have to
19 be one consistently for everybody, or can we choose one as
20 applies?

21 MS. MURPHY: There's nothing in the HOME rule
22 that would say if you're going to tell a property owner
23 they're using the HUD model schedule that you have to do
24 that for all of them. Logistically, considering all the
25 staffing issues in this area and trying to implement

1 this --

2 MR. OXER: I was going to say you've got some
3 issues to deal with here, you've got more to do and less
4 people to do it with.

5 MS. MURPHY: So staff and I did quite a bit of
6 work on this and drafting this rule and looking at if
7 we're going to -- this is us admitting we aren't
8 technically in compliance with HOME's expectation of how
9 we're going to implement the HOME Program, and we are
10 coming into compliance with their expectations. And in
11 doing so, we believe that this was the most orderly
12 fashion of doing it, the HUD model schedule.

13 MR. OXER: When they were choosing of these
14 three or four options that they had to determine the
15 utility allowance, what would be a typical variance
16 between those two, or would they essentially come up with
17 the same? What would make one apply to one location and
18 not to another?

19 MS. MURPHY: One more time, can you explain
20 your question?

21 MR. OXER: You said that there were several
22 options were identified, three or four of those options.

23 MS. MURPHY: Yes.

24 MR. OXER: And they got to pick their own.

25 MS. MURPHY: Yes.

1 MR. OXER: Okay. Why would somebody pick one
2 over another, and would one produce an answer materially
3 different from another, or is it based on the data
4 availability to generate an answer?

5 MS. MURPHY: So there are varying results in
6 which methods you use, and HUD appears to not want HOME
7 properties to use the public housing authority utility
8 allowance. I'm not super certain I understand why they
9 don't want that, that they think it's not project
10 specific, but they don't want HOME property owners to use
11 the PHA, which many properties use the PHA method.

12 I have to admit that I think the HUD model
13 schedule sometimes produces a kind of low estimate of
14 someone's utilities, but this is the formula and the
15 method that's been created by the nation's housing agency
16 for calculating utility allowances, this HUD model
17 schedule, so if you plug in the numbers and that's what it
18 comes up with, that's what you get.

19 MR. OXER: That's what you get. Right>

20 MS. MURPHY: And some of the other methods, the
21 written local estimate, that's someone asking a utility
22 provider how much do you think. There shouldn't be wide
23 variances in these numbers, but how people come up with
24 it, the housing stock they use, the assumptions they make
25 about people's energy usage can produce different results.

1 MR. CHISUM: Mr. Chairman.

2 MR. OXER: Mr. Chisum.

3 MR. CHISUM: You said there was 300 properties,
4 and so might suggest to you that the calculations by the
5 residents/tenants were based on self interest. That is to
6 say that if they understood it, that they would try to
7 come up with the least amount of money that it would cost
8 them getting a utility allowance. My question is if we
9 now are responsible for calculating that, do we have the
10 information necessary to be able to do that? That's the
11 first question. The second question is then assuming that
12 we would be able to use three of the four, assuming we
13 have the information, that we could have a formula,
14 computer-based, that would automatically calculate for us,
15 or do we have to use -- this goes back to the chairman's
16 question -- it's my understanding that we can use any of
17 the three, or are we limited, do we have to use a
18 universal calculation for all 300 residents?

19 MS. MURPHY: Under the HOME Program currently
20 we are not limited in what method we can use to calculate
21 the amounts. So for example, we could use the public
22 housing authority method because right now it doesn't say
23 you can't. Even though we know HUD doesn't want us to do
24 that, the rule doesn't prohibit us from doing that. But
25 if we chose to do that, then our own staff would be

1 responsible for contacting the applicable housing
2 authority -- which sometimes can be questionable, the
3 local one, the regional one, the county one -- and then
4 getting the most current utility allowance schedule and
5 then making sure it's for the right building type or do
6 they have any duplexes. It's quite complicated. This s
7 how we find noncompliance when the property owners do
8 this.

9 So the HUD model schedule, it's an Excel
10 spreadsheet that you plug data into, and in the proposed
11 rule for areas that are deregulated where you can select
12 which provider do you want to purchase power through, we
13 have come up with a proposed way to say the rate plan
14 we're going to use is the one in the middle, we're not
15 going to use the high one, we're not going to use the low
16 one, this is the one we're going to use, we're going to
17 plug in this data and this is how it's going to work.

18 Does that answer your question?

19 MR. CHISUM: Yes.

20 MR. OXER: To your point about HUD or the
21 federal agency having come up with one that's supposed to
22 work, rather than afford too much credibility for our
23 federal government being able to create a one size fits
24 all anywhere, my question is what are the ones that fit
25 best in Texas and if there is a difference in those. And

1 so even if they say they don't want us to do that, if
2 there's not a preclusion to using that and if it's more
3 appropriate, we should use our best judgment and be
4 influenced by the rules as opposed to, let's say,
5 inclinations.

6 One quick other point on that. One of the
7 things that I hear, and I've been working on -- in fact,
8 Mr. Chisum and I were having some conversation about this
9 earlier today -- is that water rates are in a tragic state
10 of depression right now and are going up. Not only are we
11 doing to use less water, we're going to pay more for it,
12 and as a consequence of the way we're managing water in
13 this state, we're not going to use more water, we're going
14 to use the water we have more often which means that the
15 cost of maintaining and renovating are going to go up.

16 So water rates tend to be one of those things
17 that can't keep up on these utility allowances because of
18 the restrictions or the structuring of the model. So I've
19 heard commentary from a number of sources about that one
20 particularly, and you can probably guess some of the
21 sources of that, but those are issues.

22 Do you have a sense of how responsive and
23 robust any model that we pick would be in dealing with
24 sudden escalations in any particularly utility allowance,
25 principally being power and water?

1 MS. MURPHY: There's a lot there.

2 MR. OXER: Does that spot that you're standing
3 on just put you on the spot?

4 MS. MURPHY: There's just a lot to respond to.
5 So which one is the best estimate of the household's
6 utilities? I think that is a matter of today and that an
7 engineer would say -- because one of the possibilities is
8 to have an engineer study done, and that costs money and
9 we don't have the budget to have an engineer do all of
10 this for us at this time.

11 One of the methods that is allowable under the
12 Housing Tax Credit Program, and could potentially be
13 allowable under the HOME Program, is based on the
14 residents' actual utilities bills, and so that the owner
15 of the building gets the people's utility bills, and we
16 say you need to have this much data in order for it to be
17 valid and we don't look at months that there was no usage.

18 We have this whole rule that spells out how you do that.

19 Now, that is cumbersome on the residents, on the property
20 owner, and on us, but that gives us how much are people
21 really paying for their utilities. Also, that does not
22 take into consideration is that an energy conservative
23 household.

24 MR. OXER: It's essentially a report, not an
25 estimate.

1 MS. MURPHY: It's data that you get to say,
2 okay, in these one-bedroom units people are averaging \$52
3 a month on electricity, and that's looking at the past
4 twelve months, their usage, and then multiplying it by the
5 current rate is how that's done.

6 Utility allowances have to be updated once a
7 year. Can they be updated more frequently? If there is a
8 spike or some dramatic change, they could be. And the
9 rule is open for comment. We could receive comment that
10 says that we agree to recalculate the allowance if there
11 is a dramatic change or something like that.

12 MR. OXER: And the question is does our
13 response to this, and obligation or requirements that we
14 have to meet in this afford an opportunity more than once
15 a year for sudden spikes in any of these that require, for
16 whatever reason, does our rule allow for reevaluation
17 before we get to the point of somebody going upside down
18 on some of these.

19 MS. MURPHY: So the higher the utility
20 allowance is, the less rent the owner is permitted to
21 charge the resident.

22 MR. OXER: Because there's a total combined
23 maximum that's imposed by HUD. Right?

24 MS. MURPHY: That is correct. So generally we
25 receive public comment on our rules from owners, so you

1 might expect to receive the opposite comment that if
2 utility rates plummet, that they would request that we
3 recalculate it so that they could turn around and charge
4 the residents more rent. So we could receive comment from
5 residents saying if there is this big spike, would you
6 take some action, or from owners.

7 And the rule is out for public comment, I
8 believe public comment ends February 2, and we will take
9 all comment that we receive and through our reasoned
10 response. But we need to estimate the allowance for these
11 HOME properties and we believe that logistically using the
12 HUD model schedule is the way we can accomplish that.

13 MR. OXER: About as good as we can get right
14 now.

15 Mr. E-D, you have a comment.

16 MR. IRVINE: I think it's just a balancing act.
17 I mean, you've got a finite amount that you can charge
18 for the combination of rent and utilities and you want to
19 develop an allocation model that's going to be predictable
20 and stable and reasonable. It may be not be perfect, but
21 don't forget that at the end of the day you've got a
22 tenant who needs to live within their means and you've got
23 an owner who has to continue to operate the property and
24 receive the revenues that are necessary to sustain the
25 property.

1 MR. OXER: Right. If it was easy, you wouldn't
2 be here.

3 MR. IRVINE: In a theoretical individual
4 situation, you might look at all kinds of specific
5 esoteric adjustments, but in the reality of operating a
6 large property, you really do need to model it.

7 MR. CHISUM: Mr. Chairman.

8 MR. OXER: Mr. Chisum.

9 MR. CHISUM: Back to the question, it's 300
10 residents --

11 MS. MURPHY: Properties.

12 MR. CHISUM: Excuse me. Properties. And so
13 when we are looking for this kind of information, do we
14 get this information from the owner or do we have to go to
15 the residents?

16 MS. MURPHY: What we will get from the owner is
17 a questionnaire that asks what utilities are the residents
18 responsible for, and then we will get the data ourselves
19 from the Power To Choose website, we'll get data rates and
20 whatnot ourselves. So what we need from the property
21 owner is what are you charging the residents.

22 MR. CHISUM: Okay. Thank you.

23 MR. OXER: Okay. So this is a report item.

24 MS. MURPHY: It's a report item.

25 MR. OXER: So you're asking for comments, and

1 you're going to come back later on with something more.

2 MS. MURPHY: The public comment on the rule
3 ends February 2.

4 MR. OXER: You go from there and make
5 modifications and then we'll know about what those are.

6 MS. MURPHY: That's right.

7 MR. OXER: Good. Any other questions from the
8 Board?

9 (No response.)

10 MR. OXER: Great. Thanks, Patricia.

11 MS. MURPHY: Thanks.

12 MR. OXER: All right. Let's go to the action
13 item list here on item 3. Michael.

14 MR. DeYOUNG: Good morning, Mr. Chairman and
15 members of the Board. Michael DeYoung, Community Affairs
16 Division director.

17 Item 3 is a report to you on kind of a change
18 in process that we are --

19 MR. OXER: And for the record let's point out
20 that's 3(a). Correct?

21 MR. DeYOUNG: 3(a), yes. I'm sorry.

22 Let's go back a year and a month ago. You
23 approved LIHEAP awards for both the CEAP and the WAP
24 contracts, so we started January 2015. Those contracts
25 normally would end December 31, 2015 and then we'd have a

1 45-day closeout period for our subrecipients to get their
2 final expenditures together, submit them to TDHCA, and
3 then that contract would be considered closed for our
4 purposes. And then staff would de-obligate the balance of
5 the contract and we would create what's called UB,
6 unutilized balance funding, and we would come back to you
7 for an additional award and we would distribute those
8 funds to the same network by formula and we would fully
9 expend those funds prior to the two-year period of
10 availability from the federal government.

11 During a recent LIHEAP monitoring visit, and in
12 conversations with other state directors, it has come to
13 be the interpretation of current federal staff that that
14 practice of re-obligating after we take the money out of
15 the contract could expose us to some risk for recapture
16 from the federal government. There's a provision that
17 allows provision for 10 percent of the money to be carried
18 over. The LIHEAP award is approximately \$130 million, we
19 would have about \$13 million that we could carry over. In
20 most years we exceed that amount by a small percentage;
21 historically we've been about 13 to 14 percent. And so we
22 would have that 3 or 4 percent that is subject to
23 recapture by the federal government if their
24 interpretation is pursued.

25 So staff is recommending to you that we extend

1 some contracts from last year so that we don't end up de-
2 obligating that balance and getting it back in our
3 coffers, as you would say. So we want to extend our WAP
4 contracts, our CEAP contracts, allow those subrecipients
5 to fully expend those contracts so that the clients get
6 the benefit of all those dollars. And then staff is
7 asking for some time. The LIHEAP visit was two weeks ago
8 and we talked with the LIHEAP Program director about some
9 potential solutions, but we want to vet those solutions
10 with our financial division, we want to talk through
11 executive, and then also staff just to kind of get all
12 those conversations, put it into a proposed rule -- and we
13 think we have to do this in a rule -- to come back for
14 public comment because it would be a big change.

15 We've done it this way. I've been in the
16 Community Affairs Division for thirteen years. We've done
17 it this way for thirteen years and it's never been brought
18 to our attention that they think this is a violation. And
19 they gave us the warning comment and we want to be
20 preemptive now to go ahead and extend these contracts, and
21 then give us a little time. We'll come back to the Board
22 with a proposed draft rule and then we'll go out for
23 public comment and work through what is a pretty big
24 change to the way we do contracts, the main goal being
25 that we fully expend the funds. We have a two-year

1 period.

2 We get the funds technically on October 1, you
3 all provide approval to start contracts January 1, we run
4 it for a year, and we have about nine months then, and
5 we've just got to make sure that every one of those
6 dollars is spent by the end of that nine-month period.

7 MR. OXER: And you're just sealing up a chink
8 in the armor that leaves a high vulnerability at this
9 point.

10 MR. DeYOUNG: Yes. One or two states have been
11 dinged for this. For the most part, it has not been a
12 large sum of funds, but potentially there are many states
13 that are in the same position as we are right now.

14 MR. OXER: I don't know any of the states that
15 have extra money that they can afford to lose, so let's
16 seal this one up.

17 MR. DeYOUNG: Agreed. Well, staff is
18 recommending that you grant us the ability to extend those
19 contracts and give us a little time to work on a proposal.
20 We'll bring that back to you and then we'll put it out for
21 public comment.

22 MR. OXER: Okay. Any questions from the Board?

23 (No response.)

24 MR. OXER: Do I hear a motion to proceed?

25 MR. IRVINE: It's just a report item.

1 MR. OXER: Just a report item. Okay. Thanks,
2 Michael. You'll have something back for us on the outcome
3 of this pretty soon.

4 MR. DeYOUNG: Not the next board meeting but
5 probably the board meeting after that we'll be ready.

6 MR. OXER: All right. Thanks.

7 Good morning, Monica.

8 MS. GALUSKI: Good morning, all. Monica
9 Galuski, director of Bond Finance.

10 This is item 3(b). It's a report to update the
11 Board on the current status of the Department's swaps and
12 certain actions taken by staff with respect to those
13 swaps. We last updated you at the July 30 board meeting
14 in 2015. At that time we presented March 1 of 2015 data
15 that reflected approximately \$195 million in swap to
16 variable rate bonds outstanding, and about \$189 million in
17 corresponding swaps. We're pleased to report that as of
18 December 1, 2015, swap to variable rate bonds are
19 approximately \$144 million, the associated swaps \$138
20 million.

21 The \$51 million reduction came as a result of a
22 combination of things. One, just regular principal and
23 prepayments on the underlying mortgage-backed securities
24 and the indenture. Two, we did an optional termination of
25 approximately \$6.5 million, a 2004B swap on December 1.

1 That generated in economic benefit to the indenture of
2 about \$200,000, and the refunding of the 2006 Series H
3 bonds and termination of the corresponding swap which
4 closed at the end of October. So this is the first report
5 that incorporates that as well.

6 While the swaps are working as designed, and
7 we're continuing to work with our swap advisor, George K.
8 Baum, to monitor their performance and to explore
9 opportunities to reduce the Department's swap and
10 associated liquidity positions, we also evaluate potential
11 economic opportunities such as the risk/reward associated
12 with actually doing these optional terminations at par
13 like we did for the 2004B issue, and when it's both
14 prudent and economically beneficial to do so, we exercise
15 on those.

16 And just as a reminder, the two swaps, 2004B
17 and 2004D, that were restructured in 2014 which gave us
18 the optionality and the ability to do these par
19 terminations, both of those swaps are fully callable in
20 September of 20121.

21 We are also, in conjunction with our financial
22 advisor, evaluating a proposal that we received on the
23 2005A and 2007A swaps. If there's anything that makes
24 economic sense, though, that would allow us to refund or
25 restructure all or a portion of those swaps, we will bring

1 that to you.

2 And just so you know, we are redesigning this
3 report. Future reports will show the swaps and bonds from
4 the prior report compared to this report on a swap by swap
5 basis so you'll clearly see any changes for each swap.

6 That being said, that sort of concludes my
7 update. Do we have questions?

8 MR. OXER: Questions from the Board?

9 (No response.)

10 MR. OXER: From a financial standpoint, we
11 started some time ago, and you have the history of where
12 we started several years ago, so we continue to drive down
13 our variable rate debt, reduce the amount of liquidity
14 that the Comptroller's Office has, so we're making that
15 liquidity available to other agencies in the state that
16 need it perhaps more than we do. So I think they can
17 fairly call us good citizens within the state within the
18 portfolio of agencies?

19 MS. GALUSKI: I would think that they would be
20 very pleased.

21 MR. OXER: Any questions, Mr. E-D?

22 I have to tell you one of the things I like to
23 think about is no variable rate debt. And we're not there
24 yet, it will be a while, but anybody in this state that
25 wants to do variable rate debt, they can do it through the

1 Comptroller's Office. I just think for an agency like
2 ours, it makes more sense to be structured more
3 conservatively and more strongly.

4 Thanks, Monica.

5 MS. GALUSKI: Thank you.

6 MR. IRVINE: We really appreciate Comptroller
7 Heger and Tom Smelker and Piper Montemayor and the whole
8 team over at the Comptroller's Office.

9 MR. OXER: And I'm sure they're giving us all
10 kinds of help and support because that liquidity is pretty
11 valuable right now, given the way the economics are in the
12 state.

13 Let's see. Mark, you're up.

14 MR. SCOTT: Good morning. I'm Mark Scott,
15 director of Internal Audit.

16 The Audit Committee met this morning and I gave
17 a report on the status of the Internal Audit Plan,
18 consulting and external audits. I wanted to point out the
19 last time that I reported, I mentioned a potential problem
20 with the KPMG audit. We had further discussions with them
21 and they have agreed to not write any findings related to
22 the implementation of the new grant guidance.

23 MR. OXER: So that's good news.

24 MR. SCOTT: That is great news.

25 On the program income audit, I reported this

1 morning that the reconciliations of the various agency
2 systems were not being done, and management has agreed to
3 do full reconciliations at a minimum on a quarterly basis.

4 We also had the State Auditor present the audit
5 of the TDHCA financial statements in compliance with the
6 Public Funds Investment Act, and this is a very important
7 audit that they do. And the SAO staff is here to present
8 the results, and then the protocol is for the Board to
9 accept the audit. So the State Auditor's staff. Cesar.

10 MR. OXER: Hey, Cesar. Welcome back.

11 MR. SALDIVAR: Good morning, Mr. Chairman,
12 Board members. For the record, my name is Cesar Saldivar
13 with the State Auditor's Office.

14 I was the audit manager on this project, as I
15 was last year. I am also the contact manager for your
16 office on behalf of the State Auditor's Office, so if
17 there's any questions your agency has, I work through
18 Mark, but I did want to make sure I let the Board know if
19 you have any questions, please don't hesitate to give me a
20 call. I'm your contact manager on behalf of the State
21 Auditor's Office.

22 MR. OXER: And to clarify, any member of the
23 Board has direct access, on the Audit Committee or not.

24 MR. SALDIVAR: Correct.

25 With me this morning is Philip Stringer who was

1 the project manager on this audit, and Sarah Puerto, the
2 assistant project manager. I'm going to hand it over to
3 them to talk about the many deliverables that we have on
4 this, but before I do, I would like to thank agency staff.

5 David Cervantes and his staff, Curtis Howe and his staff
6 were very helpful providing us information in a timely
7 manner that helped get the project out in a timely manner.
8 So I did want to put that out there before I hand it over
9 to Philip.

10 MR. OXER: We always appreciate hearing that
11 they're doing it well and quickly.

12 MR. SALDIVAR: So I'm going to hand it over to
13 Philip to go over some of the details, and if you have any
14 questions, he'll be more than happy to answer any
15 questions.

16 MR. STRINGER: Good morning. The State
17 Auditor's Office issued several reports this year.

18 MR. OXER: I have to ask you, this is a
19 protocol thing, you have to say who you are.

20 MR. STRINGER: This is Philip Stringer with the
21 State Auditor's Office.

22 On December 18, 2015, we expressed unmodified
23 opinions on the Department's fiscal year 2015 basic
24 financial statements, on the Revenue Bond Program
25 Enterprise Fund financial statements, and the computation

1 of unencumbered fund balances of the Housing Finance
2 Division. We also issued a report on compliance with the
3 Public Funds Investment Act.

4 Earlier on in the audit we issued two other
5 reports. On August 3, we issued a report that concluded
6 that the financial data schedule prepared by the
7 Department was fairly stated in all material respects in
8 relation to the fiscal year '14 basic financial statements
9 taken as a whole. And on September 24, we issued a report
10 that concluded that the Department's electronically
11 submitted financial data schedule through the U.S.
12 Department of Housing and Urban Development Real Estate
13 Assessment Center agreed with related hard copy documents.

14 And then on January 5, I emailed a document
15 titled "Required Communication" to those charged with
16 governance. That included several items that we are
17 required to communicate to the Board. Would you like me
18 to go over that document, or did you have any other
19 questions?

20 MR. OXER: Any questions from the Board? We're
21 satisfied with the document that we received via email.

22 Go ahead, Philip.

23 MR. STRINGER: That's all I had if you didn't
24 have any other questions.

25 MR. OXER: Are there any other questions?

1 Ms. Bingham, as chair of the Audit Committee,
2 would you care to make a comment?

3 MS. BINGHAM ESCAREÑO: Sure, my pleasure. The
4 State Auditor's Office presented to the committee this
5 morning. The committee did not have any material
6 questions, so we were happy that it was a good outcome,
7 good report back.

8 MR. OXER: Good. In that case, we're going to
9 have to have a Board resolution to accept this report. Is
10 that correct?

11 MS. BINGHAM ESCAREÑO: It is an action item, as
12 is the internal program income, but maybe we could do the
13 State Auditor's report first.

14 MR. OXER: Okay. Let's do the State Auditor's
15 report first, and as committee chair, would you care to
16 offer that?

17 MS. BINGHAM ESCAREÑO: I so move.

18 MR. OXER: Okay. Motion by Ms. Bingham to
19 accept the State Auditor's Office report. Is there a
20 second?

21 MR. CHISUM: Second.

22 MR. OXER: Second by Mr. Chisum, who also, I
23 might point out, serves on the Audit Committee. There's
24 no public comment. Those in favor?

25 (A chorus of ayes.)

1 MR. OXER: Opposed?

2 (No response.)

3 MR. OXER: There are none. Thank you, Philip.

4 MS. BINGHAM ESCAREÑO: Thank you, Philip.

5 MR. SCOTT: So I had concluded my presentation.

6 As Ms. Bingham noted, we have the protocol of also
7 accepting Internal Audit reports.

8 MS. BINGHAM ESCAREÑO: Mr. Chair, if I can just
9 make a comment. There were no questions related to the
10 program income audit report. The executive director did
11 make a couple of statements thanking the staff and the
12 audit department, and also communicating that there was
13 good communication and a good working process between
14 management and the audit department.

15 There was the finding that Mark mentioned which
16 was audit has recommended to management a more regular
17 reconciliation process.

18 MR. OXER: What was the original one? You want
19 to do it quarterly now as opposed to?

20 MR. SCOTT: Well, there was one system that
21 wasn't being reconciled and it was the one that reports to
22 HUD. And we, as audit, withdrew it and did a day-by-day
23 reconciliation just to kind of show that it could be done,
24 and we're recommending to management that they reconcile
25 all of the systems, at least on a quarterly basis. That

1 would coincide with the external reporting they do to HUD.

2 MR. OXER: Is that it?

3 MS. BINGHAM ESCAREÑO: I think that's it.

4 MR. OXER: David Cervantes, is he here? And
5 Curtis out there? Curtis is probably watching at home.
6 The Board thanks you guys for making sure this works out
7 and making sure we have this good interaction and
8 communication with Internal Audit. From me, thank you for
9 that.

10 MR. SCOTT: Management was very helpful. It
11 was good to have everybody working together, the
12 accounting staff and the program staff, to get these audit
13 issues addressed.

14 MR. OXER: Great.

15 MR. IRVINE: I'd also like to thank Homero for
16 stepping up as the program manager.

17 MR. OXER: Thanks, Homero.

18 Anything else, Mark?

19 MR. SCOTT: No, that's it.

20 MR. OXER: Great. Thanks.

21 MR. SCOTT: Thank you.

22 MS. BINGHAM ESCAREÑO: Do you need a motion for
23 the program audit?

24 MR. OXER: I think we do for the program audit.

25 MS. BINGHAM ESCAREÑO: Move to accept the

1 program income audit report.

2 MR. OXER: Motion by Ms. Bingham to accept the
3 program income internal audit, our internal audit.

4 DR. MUÑOZ: Second.

5 MR. OXER: And a second by Dr. Muñoz. There's
6 no public comment. All those in favor?

7 (A chorus of ayes.)

8 MR. OXER: And opposed?

9 (No response.)

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

11 MR. SCOTT: Thank you.

12 MS. BINGHAM ESCAREÑO: Thank you.

13 MR. OXER: That was essentially number 4(a) and
14 4(b).

15 Marni.

16 MS. HOLLOWAY: Good morning, Chairman Oxer,
17 members of the Board. I'm Marni Holloway. I'm director
18 of the Multifamily Finance Division.

19 Item 5(a) is presentation, discussion and
20 possible action regarding frequently asked questions for
21 the current competitive housing tax credit cycle. The
22 potential applicants and other interested parties have
23 submitted questions to the Multifamily Finance staff
24 seeking information regarding the application process and
25 how the 2016 Qualified Allocation Plan, the QAP, and the

1 Multifamily Rules will be applied during the current
2 round. Our responses help applicants to make decisions
3 regarding applications and in preparation of the response
4 of application materials that we will be reviewing.

5 In order to assure that all applicants are
6 receiving the same information, inquiries received and our
7 responses that have broad application are published as
8 frequently asked questions on the Department's website.
9 Several of the questions require interpretation of the QAP
10 and the rules in order to determine how they will be
11 applied to a given set of circumstances. In these cases,
12 staff has recommended approval of the response to the
13 frequently asked question with the caveat that it is
14 subject to final determination by the TDHCA Board.

15 The full document is in your board book. There
16 are a couple of items I wanted to bring to your attention.

17 As I understand it, we may have some comment on them.

18 MR. OXER: Hold on a second, Marni. Were you
19 expecting comment today?

20 MS. HOLLOWAY: I was.

21 MR. OXER: Everybody, just a quick housekeeping
22 item here.

23 MS. HOLLOWAY: And I very much appreciate that
24 Sarah and I were able to have a conversation yesterday
25 about these items.

1 MR. OXER: If you want to say it here, you've
2 got to let me know you want to. Hi, Sarah.

3 Anybody else want to talk on any item, just for
4 clarifying, this is 2016, we're going to run it more or
5 less like we did in 2015, so anybody who wants to talk on
6 any item, come up here and sit in this front row.

7 Go ahead, Marni.

8 MS. HOLLOWAY: So the two items that Sarah and
9 I discussed yesterday, one of them regards mandatory
10 community assets, and there's a list of items that
11 applicants may choose from, they have to have so many out
12 of the whole list, and one of them is a full service
13 grocery store. We have in the past dealt with the
14 question of whether or not a convenience store qualifies
15 as a full service grocery store, and really handled that
16 one.

17 MR. OXER: As long as it's not a Walmart
18 Express these days. Right?

19 MS. HOLLOWAY: Right. They're all going away.

20 The current question is will a Sam's Club or a
21 Costco, a membership retail establishment, qualify as a
22 grocery store. Our response says this is subject to final
23 determination by the TDHCA Board, however, staff believes
24 that as long as any member of the public can access
25 membership, it would count as a supermarket or retail

1 store. So that is what's published in the book.

2 The other one regards undesirable neighborhood
3 characteristics. The item in the rule states that if the
4 development is located within the attendance zones of an
5 elementary school, a middle school, and a high school that
6 does not have a Met Standard rating by the Texas Education
7 Agency, so then it must be disclosed.

8 This item originally started out in the
9 September '11 board book as part of mandatory community
10 services and assets, and then subsequently through that
11 whole process, wound up as part of undesirable
12 neighborhood features. It started as: A new requirement
13 is being added that a development be located within the
14 attendance zones of an elementary school, a middle school
15 and a high school that has a Met Standard rating by the
16 Texas Education Agency, or the application will be
17 considered ineligible, except for applications proposing
18 to serve a limited elderly population.

19 So in moving it from mandatory community
20 services where there's a positive statement to undesirable
21 neighborhood characteristics where there's a negative
22 statement, our intent behind the rule was lost. I will
23 say, though, that putting it under undesirable
24 neighborhood characteristics allows the opportunity for an
25 applicant to disclose that any one of those schools has

1 not met standard and allows us to review and have a
2 conversation and dive deeper into that application.

3 MR. OXER: So does it say that they can or they
4 must?

5 MS. HOLLOWAY: Before it said they must, all
6 three must have. Now it says all three do not have. It's
7 twisted language. Would you like me to read it again?

8 MR. OXER: A regulation? How odd.

9 MS. HOLLOWAY: How could that have happened.

10 (General laughter.)

11 MR. OXER: Just read through each one of them.

12 MS. HOLLOWAY: When the item was introduced, it
13 was described as: New requirement that a development be
14 located within the attendance zones of an elementary
15 school, a middle school and a high school that has a Met
16 Standard rating by the Texas Education Agency, or the
17 application would be considered ineligible, except for
18 applications proposing to serve limited elderly
19 populations.

20 So when it was moved, through that whole
21 rulemaking process that we went through, to undesirable
22 neighborhood characteristics, it changed from a total
23 prohibition to a you must disclose. And what it says is:
24 The development site is located within the attendance
25 zones of an elementary school, a middle school and a high

1 school that does not have a met Standard rating by the
2 Texas Education Agency.

3 The question that was posed to us is: Do the
4 elementary, middle school and high school all have to have
5 the Met Standard rating? Our response, which is subject
6 to your determination, was that we believe all three have
7 to meet the rating, if one or more does not, you must
8 disclose. Which goes back to our original intent of the
9 rule.

10 So I believe those were the two items Sarah
11 wanted to speak to.

12 MR. OXER: Hold on. We have to have a motion
13 to consider first because this is an action item.

14 MS. HOLLOWAY: Yes, it is.

15 MR. OXER: Any questions from the Board?

16 (No response.)

17 MR. OXER: And to be clear, staff
18 recommendation is?

19 MS. HOLLOWAY: The staff recommendation is that
20 all three schools, the elementary school, middle and high
21 school, must have a Met Standard rating or it must be
22 disclosed.

23 MR. OXER: If they do not. If any of the three
24 do not, it has to be disclosed.

25 MS. HOLLOWAY: Must be disclosed.

1 MR. OXER: Is that clear to the Board? Any
2 questions?

3 (No response.)

4 MR. OXER: Motion to consider.

5 MS. BINGHAM ESCAREÑO: So moved.

6 MR. OXER: Motion by Ms. Bingham to approve
7 staff recommendation on item 5(a).

8 DR. MUÑOZ: Second.

9 MR. OXER: And second by Dr. Muñoz.
10 Sarah.

11 MS. ANDERSEN: My name is Sarah Andersen and
12 I'm here representing myself, S. Anderson Consulting.

13 And I think I'll start with the school item to
14 begin with, and I'm mostly here to make sure that these
15 things are on the record and discussed, not that I
16 necessarily -- they're not huge issues but I always like
17 to make sure that we don't show up in six months with
18 somebody saying this was never really vetted and I don't
19 agree now.

20 The school item, to me this is a new item and
21 we should be interpreting it based on the clear language
22 that's in the QAP, and I feel like the interpretation
23 that's being taken isn't going by the plain language.
24 Right now, as Marni said, it says basically you have to
25 disclose if, and specifically says if the development is

1 located within the attendance zones of an elementary
2 school, a middle school and a high school that does not
3 have a Met Standard rating.

4 MR. OXER: It's bad language, it's bad
5 construct.

6 MS. ANDERSEN: Well, it is. Right. It's
7 missing commas, and we could go into exactly. But it's
8 the first time it's in here.

9 The plain language implies and reads, to me,
10 you have to have all three of those before you have to
11 give disclosure. It's a big difference. We're late in
12 the process and it's a big change from going now only one
13 of those three and you have to disclose. Especially not
14 knowing what on the back end the disclosure and the review
15 are, it seems to me a very big difference to take that
16 interpretation. So I just wanted to have that on the
17 record.

18 I don't personally have a problem with any of
19 my deals on this, but somebody may, and going from where
20 you had maybe one school was a problem and you didn't feel
21 you had to disclose and now you do. So I just wanted that
22 to be on the record.

23 The other item, again, I don't necessarily have
24 a dog in this hunt, but we have struggled a lot, and I
25 think we asked the question about the Sam's Club, and the

1 reason was that we've been struggling is that, yes, a
2 Sam's Club would meet the general definition of they have
3 all the items that you would in a grocery store, I don't
4 dispute that. My concern is when we're trying to make
5 sure that you have a community asset that serves our
6 population well, is it appropriate to --

7 MR. OXER: Have an economic hurdle to access
8 it.

9 MS. ANDERSEN: Exactly. And not only an
10 economic hurdle to access it, I don't know how many times
11 everyone has been there, but it's economical if you have a
12 large family and you buy in bulk. If I'm a senior and I
13 go to a Sam's Club, it is not affordable because for me to
14 buy anything, I have to buy something that's ten times
15 more than it would be if I just bought one lettuce. I'm
16 buying ten things of lettuce, waste. And so again, I
17 don't necessarily know the answer to this, but I do think
18 that it's a discussion that I would like. I just wanted
19 to make sure you guys at least had a little bit of
20 discussion because those are the areas, it's a new scoring
21 item again, and is that where we want to say there will be
22 this hurdle to meet this item.

23 I just wanted to have those two items on the
24 record.

25 MR. OXER: Appreciate your comments, of course.

1 DR. MUÑOZ: I have a comment.

2 MR. OXER: Dr. Muñoz.

3 DR. MUÑOZ: I was just struck by the
4 introduction in the fact sort of section and there's this
5 one passage: Applicants should also appreciate that this
6 type of guidance is limited by its nature and that staff
7 will apply the rules of the QAP to each specific situation
8 as it is presented in a submitted application. Further on
9 it goes: Staff guidance must be considered merely as an
10 aid.

11 So I also wanted to read that, that an
12 applicant continues to assume full responsibility, that
13 this sort of direction is intended to be assistive, to
14 help guide, but it has limits.

15 MS. ANDERSEN: Correct. And usually I come up
16 and try and make these points now so that we're not here
17 making these points when we're fighting over things and
18 we're down to the deadline. So I'm just trying to bring
19 up what I see are going to possibly be issues later.

20 DR. MUÑOZ: I appreciate that, Sarah. But you
21 know, you can appreciate, as well, that on the one hand
22 you try to craft some kind of direction, guidance,
23 interpretation to assist the applicant, and then on the
24 other hand that same guidance, assistance, goodwill
25 spirit, interpretation effort could be used to sort of

1 criticize it.

2 MS. ANDERSEN: Sure. And in this case I'm
3 certainly not intending to criticize, but on our side
4 we're always looking for this, and I just want to help
5 plug up holes if I can do that now.

6 DR. MUÑOZ: I appreciate that. The point is
7 that this sort of is intended to help and guide but is not
8 definitive until it's decided up here.

9 MS. ANDERSEN: Absolutely. Thank you.

10 MR. OXER: Thanks, Sarah.

11 The QAP and the all the things that go with
12 this, owing to the nature of the problem we continue to
13 try to address, the QAP and other regulatory insight that
14 we offer up is going to be a continuous work in progress.

15 MS. HOLLOWAY: Absolutely.

16 MR. OXER: It's the nature of the beast.

17 MS. HOLLOWAY: We've already started working on
18 next year.

19 MR. OXER: Right. We'll talk about that later.

20 All right. Any other questions for Marni?

21 (No response.)

22 MR. OXER: Okay. Motion by Ms Bingham, second
23 by Dr. Muñoz to approve staff recommendation on item 5(a).

24 There's no public comment. Those in favor?

25 (A chorus of ayes.)

1 MR. OXER: And opposed?

2 (No response.)

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

4 Thanks, Marni. That's a good one. 5(b) now.

5 MS. HOLLOWAY: Item 5(b) is presentation,
6 discussion and possible action regarding an award of HOME
7 funds from the 2015-1 Multifamily Development Program
8 notice of funding availability.

9 You'll remember at the December 17th meeting,
10 the Board rescinded the 9 percent tax credit award for
11 Stone Bridge at Childress, which resulted in Reserves at
12 Perryton, application 15102, receiving an award of 9
13 percent credits. Their initial application had included a
14 request for \$785,000 in HOME funds.

15 The 2015-1 Multifamily Development Program NOFA
16 included provision that any rescinded MFD funds will be
17 available to award to applications layered with
18 competitive -- which is 9 percent housing tax credits --
19 that did not initially receive the requested award of MFD
20 funds. So there's provision in the 2015-1 NOFA that
21 allows us to make later awards if the funds are available.

22 MR. OXER: So what we're saying is we're still
23 between the lines.

24 MS. HOLLOWAY: Yes, absolutely.

25 Sufficient HOME funds are available at this

1 time as a result of returned and reduced awards under that
2 NOFA, sufficient to fully fund the Reserves at Perryton
3 application.

4 This application proposes new construction for
5 a general population development in the City of Perryton
6 which will result in eleven HOME assisted units. Layered
7 within the 44 tax credit units there are an additional
8 four market rate units for a total of 48 new units in the
9 City of Perryton. The underwriting report has determined
10 that the development meets the real estate analysis rules
11 and requirements. The application has received an
12 acceptable previous participation review and has been
13 approved through the EARAC process.

14 Staff is recommending the Board's approval of
15 this HOME award totaling \$785,000 under the general set-
16 aside to Reserves at Perryton.

17 MR. OXER: Any questions from the Board?

18 Tell us again where Perryton is.

19 MS. HOLLOWAY: Perryton is in --

20 MR. IRVINE: Ochiltree County at the very top
21 of the Panhandle. It's just south of Oklahoma.

22 MS. HOLLOWAY: I didn't put in Ochiltree
23 because I wasn't sure how to pronounce it.

24 MR. OXER: It's literally Baja Oklahoma.

25 MR. IRVINE: The quickest way there is through

1 Liberal, Kansas.

2 MS. HOLLOWAY: Good to know if we go on a site
3 visit.

4 MR. OXER: So Brett checked all the boxes,
5 you've the whole thing, it works, finances are good.
6 We're just saying, okay, give them the money.

7 MS. HOLLOWAY: Yes, you are.

8 MR. OXER: Any questions?

9 MR. CHISUM: So moved.

10 MR. OXER: Motion to approve staff
11 recommendation by Mr. Chisum.

12 MS. BINGHAM ESCAREÑO: Second.

13 MR. OXER: I hear a second from Ms. Bingham.
14 There appears to be no public comment. No other questions
15 from the Board. Motion by Mr. Chisum, second by Ms.
16 Bingham to approve staff recommendation on item 5(b).
17 Those in favor?

18 (A chorus of ayes.)

19 MR. OXER: Opposed?

20 (No response.)

21 MR. OXER: There are none. Good. Thanks,
22 Marni.

23 MS. HOLLOWAY: Thank you.

24 MR. OXER: All right. We're moving along
25 briskly on the agenda here today. We're going to take a

1 ten-minute break here. It's three minutes after 11:00.
2 Let's come back at exactly 11:15 and be ready to go into
3 item number 6.

4 (Whereupon, at 11:03 a.m., a brief recess was
5 taken.)

6 MR. OXER: All right. Let's get back to it.
7 Item number 6, Jennifer.

8 MR. IRVINE: Before she begins, I'd just like
9 to correct. I believe there was a statement earlier
10 regarding the expiration of the comment period on the
11 rules regarding utility allowances. I believe the comment
12 period expires February 1.

13 MR. OXER: As opposed to the 2nd, so that's
14 Monday instead of Tuesday.

15 MR. IRVINE: You do not have until Groundhog
16 Day.

17 MS. MOLINARI: Good morning again. Jennifer
18 Molinari, HOME Program director.

19 Item 6(a) are award recommendations from the
20 2015 HOME Single Family competitive NOFA. I'm pleased to
21 present the first set of awards that we have made in
22 several years. On September 3, 2015, you authorized staff
23 to release a competitive NOFA for just over \$10 million,
24 utilizing a regional allocation formula which we commonly
25 refer to as the RAF. This allocates funds amongst

1 thirteen different service regions by rural and urban sub-
2 designations.

3 The NOFA established a subregional, regional
4 and statewide award process where the highest scoring
5 applications for which funds were available to fund the
6 requests would be selected for award, with tiebreakers
7 determine through a random selection process which was
8 referred to in the NOFA as the lottery.

9 Staff has completed the award recommendation
10 process, we received approval through EARAC, and we are
11 now presenting forty-two applications to you for
12 consideration of award. Funds in the amount of \$40,319
13 remain after these recommendations and will become
14 available under our 2015 Single Family programs
15 reservation NOFA.

16 There are a couple of interesting items that I
17 wanted to bring to your attention about this process.
18 First, the process for selection at the subregional level
19 was that the highest scoring applications were selected
20 for award recommendation if there was sufficient
21 subregional funding to fully fulfill the request. Rather
22 than have no funds awarded in any region, staff identified
23 the next highest scoring application that requested an
24 amount that was fully available to fund that request.
25 This ensured that funding, to the extent possible,

1 remained within the region as contemplated in the RAF and
2 diversified the types of assistance offered in that
3 region.

4 The process was repeated as funds collapsed,
5 much like the tax credit Process at both the regional, and
6 then finally statewide level. Those applications that may
7 not have been funded, because the request amount exceeded
8 the amount of funds available in any subregion or region,
9 had an opportunity to be funded in the next collapse
10 cycle.

11 Also, there were instances where two
12 applications in the same region had tied scores where
13 there was no enough funding to fully fund both tied
14 requests, and in those cases, award recommendations were
15 determined using a randomly assigned number. In total,
16 nine award recommendations were made based on this
17 randomly assigned number.

18 So in summary, staff is recommending forty-two
19 applications be awarded, totaling \$9,966,300, and these
20 are organized by region in your book. The first table
21 reflects the awards and the second table reflects the
22 application selection process.

23 Of note is that thirty of the awards are
24 recommended at the subregional level, with six awarded at
25 the regional level and six at statewide. Of these forty-

1 two awards, thirty-one are for homeowner rehabilitation
2 assistance, four are for tenant-based rental assistance,
3 and the remaining seven are for homebuyer assistance
4 awards.

5 The NOFA was oversubscribed by \$7 million. All
6 applicants not selected for award have the option of
7 applying under the reservation NOFA, and many of them did
8 do that.

9 So with that, I will answer any questions that
10 you have.

11 MR. OXER: So we had essentially a sequential
12 double collapse.

13 MS. MOLINARI: Yes, sir.

14 MR. OXER: Okay. That kept at least some of
15 the one in every one of the subregions.

16 MS. MOLINARI: Yes, except for Region 1. In
17 Region 1 which is the Panhandle Region, we did not have
18 any applications.

19 MR. OXER: No applications.

20 MS. MOLINARI: Correct.

21 MR. OXER: So since there were no applications,
22 was that rolled into the regional collapse for that
23 particular region?

24 MS. MOLINARI: So the funds for Region 1 were
25 actually rolled into the statewide collapse after both the

1 subregional and regional processes were complete.

2 MR. OXER: Okay.

3 MR. CHISUM: Question, Mr. Chairman.

4 MR. OXER: Yes, sir, Mr. Chisum.

5 MR. CHISUM: I notice that Buckner Family Place
6 has two listings, 0088 and 0090. Is that the same
7 facility in the same location?

8 MS. MOLINARI: So what you're seeing there is
9 that with the competitive NOFA any applicant could apply
10 to administer homeowner rehabilitation, homebuyer
11 assistance, or rental assistance award, and they could
12 apply in one region or in two regions or in different
13 subregional pots, so we did not limit the number of
14 applications that an organization might possibly submit,
15 however they only awarded or competed against applications
16 submitted within that subregion. And the reason that
17 you're seeing Buckner on there is that they applied to
18 administer tenant-based rental assistance in more than one
19 region.

20 MR. CHISUM: Okay. Thank you.

21 MR. OXER: Just out of curiosity, why did the
22 original NOFA wind up odd like that, instead of \$10
23 million even, it was \$10,600,619? Just leftover?

24 MS. MOLINARI: What that is a result of is our
25 RAF process. We wanted to make sure that we had at least

1 \$100,000 available within each subregion which when you
2 divvy it up and put a floor in place, in particular, it
3 means that we're going to have a little bit of residual.
4 So it is, as you're noting, a little more than what the --
5 we used a little bit of de-obligated funding which was
6 part of our original proposal when this was approved.

7 MR. OXER: Dr. Muñoz

8 DR. MUÑOZ: It just seems a little aberrant to
9 me that one region out of all of them would not submit
10 anything. I mean, I happen to live in the Panhandle, and
11 so any idea why? There was no overtures of interest, you
12 just didn't hear anything from any group in that area? You
13 contacted providers in that area to say: Hey, just to
14 remind you that there's a half a million dollars on the
15 table?

16 MS. MOLINARI: Well, I can tell you that that
17 region in particular doesn't often come into the HOME
18 Program with applications. We go pretty far out north and
19 we actually do go up into what you would probably
20 consider the bottom part of the Panhandle, but for
21 purposes of the actual designation there, no. And then in
22 answer to your other question, we don't traditionally
23 market the program at all across the state, so we didn't
24 know when the awards were due exactly who would come in
25 and from where.

1 MR. OXER: All right. Any other questions from
2 the Board?

3 MR. IRVINE: And don't forget, we just approved
4 \$785,000 of HOME funds going into multifamily development
5 at the top of the Panhandle. It's not the program doesn't
6 touch the Panhandle.

7 DR. MUÑOZ: I'd like it to touch it a little
8 more.

9 (General talking and laughter.)

10 MR. OXER: Item 6(a), need a motion to
11 consider.

12 MS. BINGHAM ESCAREÑO: So moved.

13 MR. OXER: Motion by Ms. Bingham to approve
14 item 6(a) as presented by staff.

15 DR. MUÑOZ: Second.

16 MR. OXER: And a second by Dr. Muñoz. We
17 appear to have some comment.

18 MS. MOLINARI: I believe that they're
19 commenting on the next agenda item, not on this one in
20 particular.

21 MR. OXER: All right. Then that makes this
22 easy. Everybody happy? Any other further questions?

23 (No response.)

24 MR. OXER: Motion by Ms. Bingham, second by Dr.
25 Muñoz to approve staff recommendation on item 6(a). Those

1 in favor?

2 (A chorus of ayes.)

3 MR. OXER: And opposed?

4 (No response.)

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

6 6(b), go ahead, Jennifer.

7 MS. MOLINARI: All right. Item 6(b) is staff
8 recommendation related to an amendment request by Runnels
9 County related to a home that is currently under
10 construction, not completed by the end of the construction
11 contract period which ended on January 5 of 2016.

12 You might recall at the last Board meeting --
13 excuse me, the November 12 Board meeting, two meetings
14 ago, the Board approved an extension for this very
15 activity, extending it through January 5 of 2016, as Board
16 action was necessary since staff had already approved an
17 extension request as well. Following that meeting, the
18 county determined that it was in the best interest of the
19 household to procure a brand new construction contractor,
20 and so they put that activity back out for bid and awarded
21 a bid on December 18 of 2015.

22 The county requested an extension on January 5
23 of 2016 which was the end date of the construction
24 contract, and a pre-construction contract on this house
25 did not occur until two days later on January 7. So

1 because the Department and the Board had previously
2 approved a cumulative six-month extension, Board
3 consideration and approval of this request is necessary,
4 and so we are presenting this to the Board because we
5 believe it's in the best interest of the household and the
6 Department to finish construction in accordance with the
7 contract terms and ensure that the displaced household is
8 able to return to their home.

9 I will say that based on the county's
10 construction timeline, as presented in your appeals
11 package, we believe the home can be fully constructed if
12 this request for additional time is approved, and
13 therefore, we recommend that the current contract be
14 extended from January 5, 2016 to May 4 of 2016. And so I
15 believe we have public comment on this item.

16 MR. OXER: You need basically another 120 days
17 to get this one done.

18 MS. MOLINARI: Yes, sir. That's four months,
19 and in your board book you'll see a construction timeline
20 that puts construction completion in about March, which is
21 why staff believes that 120 days is sufficient. It leaves
22 another month and a half or so variable.

23 MR. OXER: And you're comfortable it can be
24 done?

25 MS. MOLINARI: Yes, sir, although I definitely

1 would like to also hear from the county on this item.

2 MR. OXER: Okay. Any questions from the Board?

3 (No response.)

4 MR. OXER: We'll have a motion to consider
5 before we'll have comment.

6 MS. BINGHAM ESCAREÑO: Move staff's
7 recommendation.

8 MR. OXER: Motion by Ms. Bingham to approve
9 staff recommendation on item 6(b). Do I hear a second?

10 MR. CHISUM: Second.

11 MR. OXER: Second by Mr. Chisum.

12 Judge, I think you're up. Now, for the record,
13 just to be clear, it sounds like you're getting what
14 you're looking for.

15 JUDGE HILLIARD: Yes.

16 MR. OXER: Okay. So just to be clear.

17 JUDGE HILLIARD: We have a sweet little lady
18 that's been out of her home for a year now, and she's due
19 a home.

20 MR. OXER: All right. Let's do this, let's
21 make sure that Nancy can identify you, so state who you
22 are who you represent.

23 JUDGE HILLIARD: I'm Barry Hilliard. I'm a
24 Runnels County judge.

25 MR. OXER: Three minutes. Is there anything

1 else you need to say or you'd like to say?

2 JUDGE HILLIARD: No, sir. Do you have any
3 questions?

4 MR. OXER: You're confident this construction
5 will be completed?

6 JUDGE HILLIARD: Yes, sir. We terminated the
7 primary contractor for cause, and we went out for bids and
8 accepted a new contractor. I'm very pleased with him. He
9 anxious to get started.

10 MR. OXER: So this contract originally was with
11 the county for this woman, or was it with the woman for
12 her house?

13 JUDGE HILLIARD: I'm sorry?

14 MR. OXER: That's all right. Jennifer, come
15 help with this. Can you tell us was this original
16 contract with the county for these funds or was it with
17 the contractor?

18 MS. MOLINARI: The contract that we are talking
19 about is between TDHCA and Runnels County. Runnels County
20 would have subsequently identified a household and that
21 household would have entered into a separate construction
22 contract.

23 MR. OXER: So the construction contract is with
24 Runnels County.

25 MS. MOLINARI: No. The construction contract

1 is between the construction contractor and the homeowner.

2 The contract that I was speaking of is the contract
3 between TDHCA for the commitment of funds to assist the
4 household and Runnels County.

5 MR. OXER: Okay.

6 MR. CHISUM: Question.

7 MR. OXER: Mr. Chisum.

8 MR. CHISUM: Were there expenses incurred
9 previously that are not reimbursable under this
10 rearrangement?

11 MS. MOLINARI: So this household's budget was
12 about \$90,000. We have paid out to the previous
13 contractor for the work that he has completed, I believe,
14 about \$65,000. That leaves \$25,000 that can be used to
15 complete the construction and our staff will make sure
16 that our funds that we paid out before will not be paid
17 out again with the remaining balance that the county has
18 access to. So we're not going to duplicate.

19 MR. CHISUM: You got my question. Thank you.

20 MR. OXER: We recognize you drove a long way
21 here, Mr. Hilliard, and we appreciate your comments, so is
22 there anything else you'd like to tell us?

23 JUDGE HILLIARD: Thank you.

24 MR. OXER: Okay. Is there any other comment on
25 this item?

1 (No response.)

2 MR. OXER: All right. With respect to item
3 6(b), motion by Ms. Bingham, second by Mr. Chisum to
4 approve staff recommendation. No other public comment.
5 Those in favor?

6 (A chorus of ayes.)

7 MR. OXER: And opposed?

8 (No response.)

9 MR. OXER: There are none. It's unanimous.
10 Good job, Jennifer. Next.

11 MS. MOLINARI: So last item for me today for
12 you is item 6(c). A little bit of background, a little
13 bit of update on this action item. At our last Board
14 meeting you might recall that Mr. Anene of EBENZ, Inc. --
15 which we did talk about a little bit earlier today -- did
16 show up to make public comment and was requesting an
17 extension to a household commitment contract that he has
18 with our agency as well. That contract expired in
19 November of 2015, construction on that house is actually
20 stalled right now, and the home is about 75 percent or so,
21 plus or minus, complete.

22 That contract was not at the last Board meeting
23 because Mr. Ebenezer did not timely file an appeal with us
24 that would have allowed us to put it on the agenda. It is
25 on this agenda so that we can take measures to assist the

1 household that continues to be displaced, as we've kind of
2 laid out for you in your materials.

3 Unfortunately, this is not a simple question of
4 an extension. Complicating the matter is that recently
5 our monitors conducted both a subrecipient monitoring and
6 a physical inspection of his properties. Mr. Anene came
7 and met with our staff last week specifically to discuss
8 the findings and possible resolutions. I'm pleased to say
9 that as of board book posting, the construction
10 deficiencies have been resolved, however, the subrecipient
11 monitoring piece of this has not. Currently the contract
12 total has disallowed costs totaling -- as Patricia
13 mentioned earlier -- of over \$114,000. So in addition to
14 those disallowed costs, there were procurement weaknesses
15 that were identified and might be subjected to future
16 reviews.

17 So at this point, staff's greatest interest is
18 in making sure that the home can be completed and that the
19 displaced household can return to their residence. So in
20 light of the findings noted, staff has not determined
21 whether proceeding with Mr. Anene for completion of the
22 house is the proper course of action. Therefore, this
23 action item is requesting Board authorization to proceed
24 with any one of several courses of action as noted and an
25 action plan as determined by our executive director. And

1 if you would like to, I can talk through any one of the
2 points in your board book with you.

3 So upon Board authorization, staff would
4 proceed with implementing a plan to complete the home and
5 staff would report to the Board on the resolution of this
6 situation.

7 MR. OXER: So this was delayed/stalled. Was
8 there a particular reason? Was the contract economically
9 incapable of completing this?

10 MS. MOLINARI: Actually, I did say that the
11 construction itself was stalled in November, but the
12 contract ended in October, and staff, through discussions,
13 realized in October that it appeared to us that the house
14 was not going to be completed by the end of the contract.

15 And when we asked the contractor to tell us what that
16 phase was, expecting that it should have been complete by
17 that date, he confirmed for us that construction was still
18 incomplete, and that point staff was not authorized to pay
19 any more expenses on that house outside the contract term.

20 MR. OXER: What are the spectrum of options
21 that you have available to you for resolution?

22 MS. MOLINARI: So some of the things we are
23 looking at is proceeding with the contractual relation
24 with EBENZ, which would require us coming back to you at a
25 future date and asking for another extension of his

1 contracts to complete that construction, and that would be
2 contingent upon him resolving these outstanding monitoring
3 findings that Patricia has talked about earlier and
4 repaying of disallowed costs.

5 We could also proceed with a new sort of
6 agreement with him where he is under strict management
7 oversight of our agency, but it is through him and his
8 procurement that would allow us to complete that home.

9 Or we might identify an alternate subrecipient
10 or a state contractor to complete construction, correct
11 any construction deficiencies either through direct
12 procurement or direct administration. In other words, we
13 might be the ones physically contracting with the
14 contractor to complete the work.

15 MR. OXER: Either he does it like we expect him
16 to or we'll go do it.

17 MS. MOLINARI: Right. And then we might do
18 that with HOME funds or we might do that with another
19 funding source that's lawfully available to us. And I
20 believe the next action item kind of speaks to that a
21 little bit as well.

22 MR. OXER: Okay. Good. Any questions?

23 MS. BINGHAM ESCAREÑO: Before the motion?

24 MR. OXER: Any questions before the motion?

25 MS. BINGHAM ESCAREÑO: Is there a timeline for

1 this similar to the last agenda item that you went over
2 where they had a kind of how to complete the project
3 timeline, what was left, correcting framing or wiring or
4 anything? Is there anything like that relative to
5 finishing this project?

6 MS. MOLINARI: Not at this point. The
7 difference being that they're coming to the Board asking
8 for an extension which we're not doing this time. So
9 staff had said we'll present an extension for you but we'd
10 like to see your timeline for completion. This is
11 obviously a little bit different.

12 MS. BINGHAM ESCAREÑO: Okay. Thank you.

13 MR. OXER: Whatever we would be voting, we will
14 vote you to give the authorization to execute on this with
15 one of that spectrum of options with the approval by the
16 E-D.

17 MS. MOLINARI: Correct.

18 MR. OXER: Any other questions?

19 (No response.)

20 MR. OXER: Motion to consider then.

21 MS. BINGHAM ESCAREÑO: So moved.

22 MR. OXER: Regarding item 6(c), motion by ms.
23 Bingham to approve staff recommendation as presented. Do
24 I hear a second?

25 DR. MUÑOZ: Second.

1 MR. OXER: Second by Dr. Muñoz.

2 It appears we have comment here on this item.

3 MR. ANENE: Chairman of the Board, Board
4 members. My name is Reverend Ebenezer Anene.

5 We had a meeting on the 15th of this month with
6 the staff and I had requested for them to allow us to
7 gather some canceled checks so we would forward to them
8 before they make their decisions. It took over ten days
9 for us to collect that from the bank. American Bank was
10 very slow in providing such information to us. Now,
11 unfortunately, we didn't have checks for the carbon
12 copies. Some of them were not accurate carbon copies,
13 unfortunately, and when they added up the numbers, it came
14 out to be \$114,000 in the red. Unfortunately, we didn't
15 have the access to get the canceled checks.

16 Now, we had three jobs done, approved by TDHCA,
17 closed by TDHCA, completed and the contractors paid, and
18 monitors went out there to review the projects, and they
19 were better than most houses that were built by the
20 county. The county had over \$80- to \$100 million from
21 FEMA to compete with us and the housing was more
22 expensive, it cost them more to build. But we were able
23 to perform in the contracts.

24 Now, once I sent those canceled checks to them,
25 that would have totaled over \$150,000. They haven't

1 calculated that or added that up to what they sent to me
2 in the letter. That's why I came here to request for
3 completion of Mr. Sontag's home in Texas City.

4 The house is closed, actually, it is dried in,
5 and now all we need to do is complete electrical. And the
6 problem has been the rain. We had two weeks of rain
7 during the foundation work and the city would not allow us
8 to do any foundation. If you dig the ground, it fills up
9 with water with that rain because of the environment.
10 Texas City has a very low water bed. And so we were
11 unable to perform that foundation work, it took us over a
12 month before the foundation was poured. That was the time
13 the first approval extension was up; we requested another
14 one from them. We also had asbestos that took us over a
15 month to remove because the city requires a certain
16 procedure for us to remove the asbestos.

17 So these are the things that faced that
18 particular project, so we were able to delay because of
19 that, and that's why we came here to ask for this
20 extension.

21 I know what it is to do construction. I've
22 been a project manager, I worked for Texas Southern
23 University, so I own several companies when it comes to
24 construction work, but my contractors performed
25 excellently except for the weather issues that we had, and

1 I'm hoping that you guys will give us time to complete
2 that work. We have about two weeks left on the work if
3 we're allowed to do it because it's already dried in.

4 MR. OXER: All right. Thank you for your
5 comments, Mr. Anene.

6 Jennifer. The spectrum of options that you
7 identified includes allowing Mr. Anene to complete the
8 construction.

9 MS. MOLINARI: Yes, sir. We haven't ruled that
10 out as an option, it's just something that we need to work
11 through.

12 MR. OXER: A little more administratively
13 burdensome for him at this point.

14 MS. MOLINARI: Correct.

15 MR. OXER: And with respect to his questions
16 and his item regarding the payments and the checks, that
17 will be one of the things that you investigate as you go
18 forward and resolve this.

19 MS. MOLINARI: So I believe our monitoring
20 staff did receive those just yesterday and are looking
21 through that. We've been working in tandem with this to
22 come to that conclusion.

23 MR. OXER: Okay. Sounds like you got into the
24 inevitable crunch in construction deadlines and contract
25 deadlines and weather not cooperating, but those things

1 can be resolved. Assuming everything is okay, it will
2 eventually catch up with itself and the construction will
3 be there, but the option does exist for Mr. Anene to
4 complete the construction.

5 MS. MOLINARI: For Mr. Anene to finish the
6 construction, as one of several different options.

7 MR. OXER: Right. Okay. Is there any other
8 questions from the Board?

9 (No response.)

10 MR. OXER: All right. Regarding item 6(c),
11 motion by Ms. Bingham, second by Dr. Muñoz to approve
12 staff recommendation as presented. Those in favor?

13 (A chorus of ayes.)

14 MR. OXER: And opposed?

15 (No response.)

16 MR. OXER: There are none.

17 Homero.

18 MR. CABELLO: Good morning. Homero Cabello,
19 director for Single Family Operation Services.

20 I'm here to present an amendment to the 2016-
21 2017 Housing Trust Fund biannual plan. In the 84th
22 Legislative Session, the Department was appropriated
23 approximately \$11.8 million of general revenue funds for
24 housing programs, which represents about \$5.9 million per
25 fiscal year. But it's important to note that of the \$5.9

1 million, the Comptroller deposits about \$3.7 million into
2 our bank account, and the difference, \$2.2 million, is
3 collected through repayments of loans, and that's how we
4 get to our \$5.9 million allocation per year.

5 On July 16, 2015, we presented the plan, it was
6 approved by the Board. We are now requesting two
7 amendments to the plan. The first amendment is authority
8 for staff to use up to \$250,000 of excess Housing Trust
9 Fund loan repayments that is received for the biennium.
10 Of the \$2.2 million, and due to the renewed focus effort
11 on collections that we're doing in our loan servicing
12 department, we anticipate collecting more than \$2.2
13 million, and we want to utilize \$250,000 for development
14 workouts.

15 We will use these funds for practical solutions
16 for obstacles that arise on existing Department contracts.

17 The Department anticipates that the need to use these
18 excess loan repayments will be infrequent, but we'll use
19 it as last resort only when federal funds cannot be
20 utilized.

21 And then finally, also the second amendment is
22 on our contract for deed program. With the passage of
23 some legislation last session, when a contract for deed is
24 recorded, it then gives title to the borrower under the
25 contract for deed, and we want to refocus, re-strategize

1 the program to mainly reach for Colonia residents who have
2 unrecorded contracts for deed.

3 And so those are the two amendments that we're
4 hoping that you approve for the Housing Trust Fund plan.

5 MR. OXER: So we're getting a few more
6 resources, we expect some more resources to come in, and
7 you want to be able to take those resources and apply it
8 to making the contract for deed program more robust and
9 provide other options and other assistance to those trying
10 to work through that whole process. Is that correct?

11 MR. CABELLO: Correct. That's the second
12 amendment.

13 MR. OXER: Any other questions from the Board?

14 DR. MUÑOZ: So moved.

15 MR. OXER: Motion by Dr. Muñoz to approve staff
16 recommendation on item 7.

17 MS. BINGHAM ESCAREÑO: I'll second.

18 MR. OXER: And second by Ms. Bingham. There
19 appears to be no public comment.

20 Motion by Dr. Muñoz, second by Ms. Bingham to
21 approve staff recommendation on item 7. Those in favor?

22 (A chorus of ayes.)

23 MR. OXER: And those opposed?

24 (No response.)

25 MR. OXER: There are none. Thanks, Homero.

1 Okay, Tom.

2 MR. GOURIS: Just barely, but good morning
3 still.

4 DR. MUÑOZ: State your name for the record,
5 please.

6 MR. GOURIS: Tom Gouris, deputy executive
7 director.

8 (General talking and laughter.)

9 MR. GOURIS: I'm here to discuss funding for
10 Oasis Cove, an 64-unit tax credit HOME funded development
11 in Canadian, Texas, which is in the Panhandle of Texas.

12 This property was awarded \$750,951 in tax
13 credit and \$900,000 in a second lien HOME loan in 2011.
14 The owner originally anticipated an additional \$1.5
15 million in permanent first lien financing to come in when
16 the project was completed. Due to difficulties in the oil
17 and gas market, the property has struggled to maintain 80
18 percent economic occupancy, and as such, has not been able
19 to stabilize sufficiently to get the first lien to
20 convert.

21 They came to us late last summer and asked us
22 to consider a deferment of the HOME repayment because of
23 this economic issue, and we were not excited about that,
24 so we worked with them a little bit and tried to find a
25 solution that might be more amicable for everyone. A

1 couple of years ago we had requested and received approval
2 to set aside some of the TCAP repayment funds to do
3 workout kind of situations. We, I think, asked that the
4 first two years of repayments be set aside for that
5 purpose, and in fact, I think it was roughly \$9 million,
6 we used a little over \$5 million to resolve some HOME
7 issues with HUD last year. And so this would be the
8 ability to continue to use some funds for the same sort of
9 purpose in working out this transaction because the second
10 lien HOME funds would be in jeopardy without doing
11 something to help stabilize the situation.

12 So we worked with the applicant to create a new
13 permanent loan from TCAP repayment funds of \$600,000 that
14 would be combined with the existing \$900,000 -- or a
15 little less than \$900,000 now because they've been making
16 payments -- and be able to restructure this debt so they
17 could sustain a lower economic occupancy than what was
18 originally anticipated for this property.

19 So we've looked at it and come to a structure
20 that would create this \$600,000 first lien at 3 percent
21 over the remaining twenty-eight years of the HOME loan,
22 restructure the HOME loan also to go from 2 percent to 3
23 percent with the existing amount of debt also over the
24 remaining life of twenty-eight years, and that structure
25 would allow them to be classified as converted to perm

1 which would allow their equity to come in and repay the
2 construction loan. So it's a win-win situation. Gives
3 them a little bit of breathing room, gives us the ability
4 to strengthen our HOME loan and making it parity with our
5 TCAP repayment fund loan that we're proposing to make
6 here.

7 So the proposal is to approve \$600,000 in TCAP
8 repayment funds out of the normal funding cycle but inside
9 of kind of workout tranche of things at 3 percent over
10 twenty-eight years, and also amend the HOME loan to also
11 be at 3 percent over the remaining twenty-eight years.

12 MR. OXER: So this pencils out and strengthens
13 them, gives them some breathing room, everything works on
14 this?

15 MR. GOURIS: It does. Because the prior
16 anticipated first lien debt would have been a \$1.5 million
17 loan at 6 or 7 percent, and so now we're drastically
18 reducing the amount of that loan. They're having to defer
19 all of their developer fee in essence, so that's their in
20 to the transaction. And that will get repaid more likely
21 now because we've reduced their debt burden on the first
22 lien to \$600,000 at a 3 percent interest rate. So it
23 pencils, it works, it gives them a lot more flexibility.

24 They, of course, would like us to provide a
25 little bit more and they've asked us to go a little

1 higher, and we said, you know, this works and this will
2 fit and you guys will be in for a little bit, but it will
3 be good.

4 MR. OXER: What reasons were there not to do
5 this that you overcame by organizing and structuring it
6 this way?

7 MR. GOURIS: Well, I mean, the main reason not
8 to do this is that previously we didn't have this kind of
9 tool, the TCAP repayment fund. We didn't have this tool
10 to be able to suggest this.

11 MR. OXER: So essentially what we've got is
12 some more tools to give us a more robust toolbox for
13 workouts for things just like these problems that we run
14 into.

15 MR. GOURIS: Right. Quite frankly, if we
16 didn't have that tool, the next tool to use would have
17 been some sort of deferment of their HOME loan and
18 forbearance so they could convert their larger permanent.

19 MR. CHISUM: Question.

20 MR. OXER: Mr. Chisum.

21 MR. CHISUM: The interest rate went from 2
22 percent to 3 percent?

23 MR. GOURIS: On the HOME piece, yes. And part
24 of that was to put it in parity with the TCAP funds, but
25 also, because of the overall reduction in debt service,

1 now when we pencil it out, it works really well.

2 MR. OXER: So even though the interest rate
3 comes up, everything else balances.

4 MR. GOURIS: That's right. And there's parity
5 there.

6 MR. CHISUM: Thank you.

7 MR. GOURIS: And it also gives us a tool in the
8 future. If there's ever any other issues, we have some
9 interest rate room to work with.

10 MR. OXER: Right. Any other questions from the
11 Board? Item 8, motion to consider.

12 MS. BINGHAM ESCAREÑO: Move to approve staff
13 recommendation.

14 MR. OXER: Motion by Ms. Bingham to approve
15 staff recommendation on item 8. Do I hear a second?

16 MR. CHISUM: Second.

17 MR. OXER: Second by Mr. Chisum. There's no
18 request for public comment. Those in favor?

19 (A chorus of ayes.)

20 MR. OXER: And opposed?

21 (No response.)

22 MR. OXER: There are none. It's unanimous.
23 Michael.

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

1 Mr. Chairman and members of the Board, item 9
2 is a staff recommendation for two tranches of money from
3 the 2016 CSBG discretionary NOFA. We're recommending
4 awards to a series of CSBG eligible entities for some
5 improvements, and also some funds for the Migrant Seasonal
6 Farmworker category. But I want to make some corrections
7 to your Board action item, some verbal corrections.

8 The first is in the table for the community
9 action agencies, the eligible entities that you see before
10 you. EAC Gulf Coast, which is number 12 on the list,
11 actually asked for \$9,500. They separated their request
12 into two different pots of money, so it shows \$5,500, we
13 want to actually recommend \$9,500. GETCAP, which is
14 Greater East Texas Community Action Program, number 15,
15 states it as \$4,000, but they actually requested a total
16 of \$12,000. And then Panhandle Community Services, which
17 is number 9 on your list, is stated as \$11,500 and we are
18 changing that one to reflect a \$12,000 ask from those
19 three entities.

20 MR. OXER: So it's a twelve-five increase in
21 the total.

22 MR. DeYOUNG: The verbal corrections amend this
23 total request from \$291,000 to \$303,518 at the bottom of
24 that table, so we're talking \$12,000 more.

25 And as you may recall, agencies could apply for

1 the ability to have an intensive assessment performed for
2 their agency as a separate activity, and the state has
3 procured a third party provider, so we're actually going
4 to provide those services to four entities to have a
5 pretty intensive assessment done. Your book reflects
6 three organizations, and I am requesting that we verbally
7 amend that to four agencies. The fourth organization,
8 Community Council of South Central Texas, has a new fiscal
9 team and they want to have some very intensive analysis of
10 their fiscal capabilities, as well as their board
11 structure.

12 And then finally, staff is recommending an
13 additional award from the NOFA-2 which was the Native
14 American/Migrant Seasonal Farmworker NOFA, and we have an
15 organization in San Antonio, Texas, Family Service
16 Association of San Antonio, they had requested \$100,000
17 for basic skills education, college prep/GED classes,
18 occupational skills, case management and asset protection
19 education for families of migrant seasonal farmworkers.

20 So staff is recommending those verbal updates
21 to your current Board item 9.

22 DR. MUÑOZ: So moved.

23 MR. OXER: And those will be reflected in the
24 final resolution as it's written up. Correct?

25 MR. DeYOUNG: Correct.

1 MR. OXER: Okay. Motion by Dr. Muñoz to
2 approve staff recommendation on item 9. Is there a
3 second?

4 MS. BINGHAM ESCAREÑO: Second.

5 MR. OXER: And second by Ms. Bingham. There's
6 n request for public comment. Motion by Dr. Muñoz, second
7 by Ms. Bingham to approve staff recommendation on item 9.
8 Those in favor?

9 (A chorus of ayes.)

10 MR. OXER: And opposed?

11 (No response.)

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

13 We're at the end of our fixed agenda here but
14 we need a quick executive session. Everybody sit still
15 and let me read this.

16 The Governing Board of the Texas Department of
17 Housing and Community Affairs will go into closed or
18 executive session at this time. The Board may go into
19 executive session pursuant to Texas Government Code
20 551.074 for the purposes of discussing personnel matters,
21 pursuant to Texas Government Code 551.071 to seek and
22 receive legal advice of its attorney, pursuant to Texas
23 Government Code 551.072 to deliberate the possible
24 purchase, sale, exchange, or lease or real estate, and/or
25 pursuant to Texas Government Code 2306.039(c) to discuss

1 issues related to fraud, waste or abuse with the
2 Department's internal auditor, fraud prevention
3 coordinator or ethics advisor.

4 This closed session will be held in the
5 anteroom of this room which is John H. Reagan Building
6 Number 140. The date is January 28, 2016, and the time
7 right now is 11:58. We expect this will take about twenty
8 minutes and we'll be right back to finish up with the
9 final item on the agenda.

10 With that, we'll be back in twenty minutes.

11 (Whereupon, at 11:58 a.m., the meeting was
12 recessed, to reconvene this same day, Thursday, January
13 28, 2016, following conclusion of the executive session.)

14 MR. OXER: Okay. The Board is now convened in
15 open session again at 12:46. During the executive session
16 the Board did not adopt any policy, position, resolution,
17 rule, regulation, or take any formal action or vote on any
18 item.

19 We have reached the point in the agenda where
20 we invite public comment on matters other than items for
21 which there were posted agenda items for this meeting, and
22 the purpose of this is to build the agenda for future
23 meetings, to open up for public comment for anybody who
24 wishes to say anything.

25 Sir, I understand you have a comment. Great.

1 Come up there and let us know what you need to say.

2 MR. SALWITZ: Thank you. My name is Haiwa
3 Salwitz, and I'm a community organizer with ADAPT Texas,
4 which ADAPT Texas, for those of you who don't know, is
5 part of a national grassroots disability organization and
6 we advocate for people with all types of disabilities.

7 And one of the issues that we care strongly
8 about, of course, is housing, and not just housing, but
9 affordable, accessible, integrated housing that's not
10 connected to services. We say that because if you have a
11 problem with your service provider or your landlord and if
12 they don't allow you a key, that becomes an issue. So we
13 would like to see, especially here the Great State of
14 Texas and in Austin, a lot more affordable, accessible,
15 integrated housing.

16 And also, whether it be affordable or not, even
17 if it's market rent, we encourage you to encourage
18 developers to at least have a percentage of affordable
19 housing, and a way they could do that, we think, is to
20 also encourage mixed use development, especially here in
21 Austin and in Texas.

22 And also, we're concerned that the 811 Program,
23 although a very good program, is hard to utilize that when
24 you're rehabbing like single family homes and not doing
25 development.

1 So we want you to take those things into
2 consideration for future agendas. Thank you.

3 MR. OXER: Thanks for your comments. We
4 appreciate. Good points you made.

5 Any other questions?

6 You understand we can't respond to you apart
7 from making sure that we're clear on what you were looking
8 for?

9 MR. SALWITZ: Yes.

10 MR. OXER: Thanks very much.

11 MR. SALWITZ: Thank you.

12 MR. OXER: Do you have a comment here? Let us
13 get the mic set back up here.

14 MR. ALCOTT: I'm Tim Alcott. I am with the San
15 Antonio Housing Authority. You may recall us. We've been
16 here before with a big group of people with fancy yellow
17 shirts on.

18 MR. OXER: We see occasionally herds of T-
19 shirts that show up here.

20 MR. ALCOTT: Absolutely.

21 So I just want to talk to you about a few
22 things. One is about unintended consequences. And before
23 I go into that, last year I think we got a little bit late
24 in the game about the QAP, and so this year I'm attending
25 the monthly meetings with Tim Irvine and others. Your

1 staff is doing an absolutely fabulous job. I'm very
2 impressed as we bring up issues. I've been doing this for
3 about two years. I was general counsel of the housing
4 authority.

5 MR. OXER: You're not even scarred up yet.

6 MR. ALCOTT: Exactly. I'm learning a lot as
7 I'm going through this process. They answer all my
8 questions and they're very helpful, so I want to thank
9 them for that.

10 But as we're going through the QAP planning
11 session, what I thought was ironic is that yesterday we
12 talked about community revitalization plans. The San
13 Antonio Housing Authority, with our Choice development we
14 have the largest community revitalization plan, has to be,
15 in the state. Tim can correct me later if I'm wrong.
16 We're putting in about \$200 million in a two-mile area.

17 And so the unintended consequences I wanted to
18 talk about is even though we have this huge community
19 revitalization plan, and the reason we came up here before
20 to talk about the additional language to the QAP about
21 having a preference for folks that receive Choice grants
22 or Promise grants or things of that nature, is that even
23 though we're putting all this money in that area of town,
24 we're not going to score well. The preliminary apps have
25 come out and we're right in the middle and it doesn't look

1 like we're probably going to score well.

2 And so, again, the unintended consequence is
3 that even though with the San Antonio Housing Authority --
4 if you'll recall when I was here before a lady came from
5 Trinity University, Harvard of the South, that whenever
6 she came and spoke, the elementary school scored very
7 well, the high school scored very well, the 7th and 8th
8 grade scored very well. The 8th grade, two of the three
9 subject areas scored very well but one of the areas
10 didn't, and so because of that one area that didn't score
11 well that it's going to cost us about \$50 million worth of
12 equity in this project. And we can talk about how I
13 figured out that number, I'll be happy to do that.

14 So what we have to do, and we're going to work
15 through it with your staff, is figuring out a way whereby
16 whenever people are on the upswing and we increase the
17 high school graduation rate from the mid 40s --it was like
18 46 percent, to 80-something percent -- that as we're on
19 the upswing with the education that we're not losing so
20 much equity in our project with tax credits simply because
21 one grade, one subject matter didn't do well.

22 So I'm looking forward to working with your
23 staff over the next year. I'll be happy to talk about any
24 of the details regarding this if you have any questions.
25 And they're doing a great job but I think there's ways we

1 can figure this out. I know a lot of this came out of the
2 ICP-TDHCA litigation -- I suspect, I don't know that --
3 but if it did, one of the things that it didn't want to do
4 was no inner city development. So we even looked at land
5 in the city of San Antonio and they're poor school
6 districts. So we haven't found yet any deals that we
7 could do in the inner city of San Antonio whereby we would
8 score well enough.

9 And I think it's an unintended consequence.
10 That's not what the Supreme Court was saying that you
11 shouldn't do any deals. Now, I think in other parts of
12 the state it might be different, but I do know San
13 Antonio, and in San Antonio, the way it's currently
14 written, we won't score well and maybe we'll get the
15 scores up next year. But it's a big challenge for us, and
16 so I'm sure we'll be able to figure out a solution this
17 next year, but I want to let you know where we are in the
18 process. This next year it doesn't look like we will get
19 the tax credits.

20 We may ask HUD for an extension so we can
21 finish the development, because as you know, we got tax
22 credits on the first phase of Wheatley, second phase of
23 Wheatley, the rules changed midway through here, and so
24 when we budget this thing, we're in a tough spot, but
25 hopefully we can figure this out as a team.

1 So I appreciate your time.

2 MR. OXER: We appreciate your comments, Tim.
3 Thanks for coming over to see us.

4 We're always glad to hear staff is doing a good
5 job and it works. We pointed out before, they do all the
6 work and we get to take the credit for it, so we're happy
7 to see that somebody else recognizes the quality of the
8 work that they're doing.

9 Do you have another comment here, sir? Okay.
10 He's just holding down a seat over there.

11 Just for a reminder, those of you who are
12 listening in at home, the front row is for people who want
13 to speak to the item that's up.

14 With that, we have concluded the agenda. Is
15 there anybody else in the audience who wishes to say
16 anything? Any of the staff that wish to make a comment?
17 Anybody on the dais that wants to make a comment,
18 including the executive director? Any other member of the
19 Board?

20 (No response.)

21 MR. OXER: Boy, y'all are a talkative bunch
22 this morning.

23 All right. I'm the chairman, I get the last
24 word, and the last word is it's a good thing that we do
25 here. We make a long discussion to make sure that we

1 respect our rule and try to maintain a substantive and
2 robust consistency with the way we pursue the work that we
3 have to do here. I personally appreciate, and I think I
4 can speak on behalf of the Board that we appreciate the
5 work that's done by the staff, certainly by the staff and
6 by everybody else that participates in the community that
7 we're addressing.

8 With that, I'll accept a motion to adjourn.

9 MR. CHISUM: So moved.

10 DR. MUÑOZ: Second.

11 MR. OXER: Motion by Mr. Chisum to adjourn and
12 a second by Dr. Muñoz. Those in favor?

13 (A chorus of ayes.)

14 MR. OXER: See you next month.

15 (Whereupon, at 12:54 p.m., the meeting was
16 adjourned.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: January 28, 2015

I do hereby certify that the foregoing pages, numbers 1 through 95, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

Nancy H. King 02/03/2016
(Transcriber) (Date)

On the Record Reporting
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