

BOARD MEETING OF JANUARY 23, 2014

J. Paul Ozer, Chair



Juan Muñoz, Vice-Chair
J. Mark McWatters, Member
Leslie Bingham Escareño, Member
Robert D. Thomas, Member
Tom Gann, Member

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

AGENDA

10:00 a.m.
January 23, 2014

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

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

J. Paul Oxer, Chairman

Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

Memorial Resolution in Honor of Don Jones, Chief of Staff to the Honorable Jose Menendez, State Representative for Texas House District 124

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

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

EXECUTIVE

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for October 10, 2013

Barbara Deane
Board Secretary

INTERNAL AUDIT

- b) Presentation, Discussion, and Possible Action on the 2014 Internal Audit Charter and Board Resolution (No. 14-012)

Sandy Donoho
Dir. Internal Audit

RULES

- c) Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 1, Administration, §1.10, concerning Public Comment Procedures
- d) Presentation, Discussion, and Possible Action on adoption of an amendment to 10 TAC Chapter 90, Migrant Labor Housing Facilities, §90.8 (a) and (b), concerning Forms
- e) Presentation, Discussion, and Possible Action on the adoption of the repeal of 10 TAC Chapter 60, Compliance Administration, Subchapter B, §§60.201 – 60.211, concerning Accessibility Requirements, and adoption of Chapter 1, Subchapter B §§1.201 – 1.212, concerning Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and directing their publication in the *Texas Register*

Jeff Pender
Deputy General Counsel

Patricia Murphy
Chief, Compliance

COMMUNITY AFFAIRS

- f) Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2014 Emergency Solutions Grants Program (“ESG”)
- g) Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2014 Community Services Block Grant (“CSBG”) Discretionary funds
- h) Presentation, Discussion, and Possible Action on approval to release and subsequently award a Request for Applications (“RFA”) to administer the Comprehensive Energy Assistance Program (“CEAP”) in Hays, Caldwell and Blanco counties
- i) Presentation, Discussion, and Possible Action on approval to release and subsequently award a Request for Applications (“RFA”) for qualified firms to develop a Utility Allowance (“UA”) Schedule for use in the Section 8 Housing Programs
- j) Presentation, Discussion, and Possible Action on Approval of the Draft FFY 2014 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) State Plan for Public Comment

Michael DeYoung
Assist. DED, Network & Customer Service

MULTIFAMILY FINANCE DIVISION

- k) Presentation, Discussion, and Possible Action Regarding the Issuance of Multifamily Housing Revenue Bonds with TDHCA as the Issuer, Resolution #14-011 and a Determination Notice of Housing Tax Credits for Decatur-Angle Apartments
- l) Presentation, Discussion, and Possible Action regarding Awards of HOME funds from the 2013-1 HOME Multifamily Development Program Notice of Funding Availability

Cameron Dorsey
Dir. MF Finance

HOUSING RESOURCE CENTER

- m) Presentation, Discussion, and Possible Action to Ratify withdrawal of the 2014 State of Texas Consolidated Plan: One-Year Action Plan submittal to the U.S. Department of Housing and Development

Elizabeth Yevich
Dir. Housing Resource Ctr.

NEIGHBORHOOD STABILIZATION PROGRAM

- n) Presentation, Discussion, and Possible approval of a proposal to utilize NSP1 Program Income to support continued land bank programs

Marni Holloway
Dir. NSP

REPORT ITEMS

The Board accepts the following reports:

1. TDHCA Outreach Activities, Jan 2014
2. Status Report on the HOME Program Contracts and Reservation System Participants

Michael Lyttle
Chief of External Affairs

Jennifer Molinari
Dir. Home Program

ACTION ITEMS

ITEM 2: INTERNAL AUDIT

- a) Presentation, Discussion, and Possible Action on Acceptance of the 2013 Audit Results from the State Auditor’s Office
- b) Report from the Audit Committee Meeting

Sandy Donoho
Dir. Internal Audit

ITEM 3: MULTIFAMILY FINANCE DIVISION

Cameron Dorsey
Dir. MF Finance

- a) Presentation, Discussion, and Possible Action to Ratify the Award of Competitive 9% Low Income Housing Tax Credits from the Waiting List and Consider the Application Amendment for Bella Terra Apartments (#13270)
- b) Presentation, Discussion, and Possible Action to Accept Guidance Issued by Staff in the Form of Frequently Asked Questions for the 2014 Competitive 9% Low Income Housing Tax Credit Application Round
- c) Presentation, Discussion, and Possible Action to adopt a process for receipt and review of certain HOME Multifamily Development (MFD) Program applications prior to execution of a 2014 grant agreement with HUD for such funds

Item 4: Asset Management Division

Update and possible action regarding prior action to address non-performing HOME multifamily activities, including those in Dickinson

Tom Gouris
Deputy Executive Director for
Asset Analysis and Management

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
2. Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al., filed in federal district court, Northern District of Texas.*
 - b) *Galveston Open Government Project, et al., v. U.S. Department of Housing and Urban Development, et al., filed in federal district court, Southern District of Texas*
 - c) *Culberson County litigation*
3. Pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't. Code, Chapter 551
4. Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or-
5. Pursuant to Tex. Gov't. Code, §2306.039(c) the Department's internal auditor, fraud prevention coordinator, or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste, or abuse.

J. Paul Oxer
Chairman

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session

ADJOURN

To access this agenda & details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542 TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Jorge Reyes, 512-475-4577 at least three (3) days before the meeting so that appropriate arrangements can be made. Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

BOARD ACTION REQUEST
EXECUTIVE DIVISION
JANUARY 23, 2014

Presentation, Discussion, and Possible Action a Memorial Resolution in Honor of Don Jones

RECOMMENDED ACTION

WHEREAS, the Governing Board and the staff of the Texas Department of Housing and Community Affairs (“the Department”) were deeply saddened to learn of the passing on December 11, 2013, of Don Jones, chief of staff for the Honorable Jose Menendez, State Representative for Texas House District 124;

WHEREAS, Mr. Jones was a long-time legislative staff member who was deeply involved in many aspects of affordable housing and programs serving veterans and the homeless, and a person who provided keen oversight of the Department;

WHEREAS, Mr. Jones worked tirelessly to help improve the quality of state government programs which serve low-income Texans; and

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

NOW, therefore, it is hereby

RESOLVED, that the Governing Board of the Texas Department of Housing and Community Affairs adopts this memorial resolution, expressing its gratitude for Don Jones many contributions to the Department and the State of Texas, and directs that it be certified by the Secretary of the Department and delivered to his family and

FURTHER RESOLVED, that this Governing Board extends its sincerest condolences to the family of Mr. Jones and to Representative Menendez for their loss.

BACKGROUND

On December 11, 2013, Don Jones unexpectedly and suddenly passed away at his home in San Antonio. Mr. Jones served in the Texas Legislature most recently as chief of staff for the Honorable Jose Menendez, State Representative for Texas House District 124. Mr. Jones worked for Rep. Menendez for more than a decade and prior to his service in Rep. Menendez’s office, he worked two years for former State Representative Ken Mercer.

Throughout his career at the Capitol, Mr. Jones was very involved with matters of affordable housing and programs which served veterans and the homeless. He worked very closely with the Department in that time as an oversight person, a policy advisor, and as a friend to many of us. Mr. Jones was a source of great ideas, possessor of a passionate belief in aiming for the highest possible standards, and a tireless advocate for the constituents he served.

CONSENT AGENDA

1a

BOARD ACTION REQUEST

BOARD SECRETARY

JANUARY 23, 2014

Presentation, Discussion, and Possible Action on the Board Meeting Minutes Summary for October 10, 2013.

RECOMMENDED ACTION

Approve Board Meeting Minutes Summary for October 10, 2013

RESOLVED, that the Board Meeting Minutes Summary for October 10, 2013, as having been specifically approved, is hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
October 10, 2013

On Thursday, the 10th day of October, 2013, at 10 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) was held in Room E2.036 of the Texas Capitol Extension, Austin, Texas.

The following members, constituting a quorum, were present and voting:

- J. Paul Oxer
- Dr. Juan Muñoz
- Leslie Bingham Escareño
- Tom H. Gann
- J. Mark McWatters
- Robert Thomas

J. Paul Oxer served as Chair, and Barbara Deane served as secretary.

1) Following clarification from TDHCA Chief of Compliance Patricia Murphy on Item 1(i), the Board adopted the Consent Agenda as presented with five votes in favor and zero votes opposed.

2) Agenda item 2 – HOME Director Report – was heard by the Board with TDHCA HOME Director Jennifer Molinari providing details on expenditures, program achievements, and performance.

3) Agenda item 3a –Presentation, Discussion, and Possible Action on Requested Waivers and Consideration of Determination Notices for Housing Tax Credits with other Issuers, if all required waivers, if any, have been granted for #13412 Cypress Creek at Ledge Stone was adopted after public comment (listed below) with four votes in favor (Oxer, Bingham Escareño, Gann, and McWatters) and two votes opposed (Muñoz and Thomas).

- Melissa Roberts, Dripping Springs resident, in opposition to the application;
- Michelle Battle, Dripping Springs resident, in opposition to the application;
- Russell Scott in opposition to the application;
- Patrick Rose, business owner and resident of Dripping Springs, in support of the application;
- Rex Baker, Dripping Springs resident, in support of the application;
- Steve Nutt, resident of Heritage Oaks neighborhood, in opposition to the application;
- Dan O’Brien, Dripping Springs resident, in opposition to the application;
- John Sone, resident of Belterra neighborhood, in opposition to the application;
- Vincent Sikora, resident of Belterra neighborhood, in opposition to the application;
- Owen Grad, resident of Ledge Stone community, in opposition to the application;
- Theresa Scott in opposition to the application;
- Norman Peterson, resident of Heritage Oaks area, in opposition to the application;
- Dick Shively, Ledge Stone resident, in opposition to the application;

- Jonathan Hines, Dripping Springs resident, in opposition to the application;
- Brandy Stewart, resident of Ledge Stone, in opposition to the application;
- Sherrie Parks, from the Dripping Springs Chamber of Commerce, in support of the application;
- Linda Kinney, Dripping Springs resident, in opposition to the application;
- Steve Stout in opposition to the application;
- Tasha Nikara in opposition to the application;
- William Johns, Ledge Stone resident, in opposition to the application;
- Evelyn Strong, Dripping Springs resident, in opposition to the application;
- David Maddox, Ledge Stone resident, in opposition to the application;
- Ryan Combs, Belterra resident and employee of applicant, in support of the application;
- Stuart Shaw, the applicant, expressed his desire to clarify some comments previously made and answered questions from the Board.
- The Honorable Jason Isaac, Texas State Representative, in opposition to the application; and,
- Barry Palmer, from Coats Rose and representing the applicant, testified to clarify information on TEFRA hearing requirements

4) During deliberations on Item 3a, the Board went into executive session and then returned to open session. No action was taken in executive session. The Board adopted a resolution authorizing the initiation of legal proceedings as discussed with counsel. There were six votes in favor and zero opposed.

5) Agenda item 3a –Presentation, Discussion, and Possible Action on Requested Waivers and Consideration of Determination Notices for Housing Tax Credits with other Issuers, if all required waivers, if any, have been granted for #13413 Edison Square after public comment (listed below) with six votes in favor and zero votes opposed.

- Ike Akbari, the applicant, indicated he had received all proper zoning for the application

6) Agenda item 3a –Presentation, Discussion, and Possible Action on Requested Waivers and Consideration of Determination Notices for Housing Tax Credits with other Issuers, if all required waivers, if any, have been granted for #13418 Cedar Terrace was adopted with several conditions precedent after public comment (listed below) with six votes in favor and zero votes opposed. The conditions precedent relating to the approval or denial of two requested waivers were:

- A letter from HUD to be evaluated by the Board which answers concerns from the Board and TDHCA staff; and,
- The proposed development provide an engineering report confirming the option to either move specific transmission lines or to confirm the safety of specifically mentioned poles and transmission lines in light of the sensitive nature of the development.

Public comment included:

- Toni Jackson, attorney for Coats Rose, answered questions from the Board;
- Michael Lyttle, TDHCA staff, read letters into the record from The Honorable Craig Eiland, State Representative, and Michael Kovacs, Galveston city manager;

- Meg Manley, from McCormack Baron (the applicant), in support of the application and staff recommendation and also answered questions from the Board;
- John Henneberger, Texas Low Income Housing Information Service, in support of the application and staff recommendation and also answered questions from the Board;
- Mike Duffy, from McCormack Baron, clarified previous comments and answered questions from the Board;
- Richard Denson, from Galveston, provided numerous concerns he had with staff recommendation and approval of the application;
- Steven McIntyre, from Galveston, provided concerns regarding fair housing issues associated with the proposed development; and,
- Megan Sylvester, TDHCA Legal Division staff, spoke to clarify earlier comments from persons testifying about certain HUD reviews

7) Agenda item 3b – Presentation, Discussion and Possible Action on Extension Request relating to Commitment Notices Issued under the 2013 State Housing Tax Credit ceiling was adopted with six votes in favor and zero votes opposed.

8) Agenda item 3c – Presentation, Discussion, and Possible Action on Awards of Competitive 9% Low Income Housing Tax Credits from the 2013 State Housing Tax Credit ceiling from the Waiting List for the 2013 Housing Tax Credit Application Round was adopted with six votes in favor and zero votes opposed

After all action items had been acted upon or tabled and set for a future meeting the following persons made additional public comment:

- Barry Kahn, developer, spoke about current concerns in the affordable housing industry including comments on the proposed 2014 QAP;
- Audrey Martin, representing the Texas Affiliation of Affordable Housing Providers, spoke on other current concerns in the industry as well as comments on the proposed 2014 QAP;
- Cynthia Bast, from Locke Lord and representing Granger MacDonald and the MacDonald Companies, spoke on the draft compliance rules and proposed 2014 QAP;
- Veronica Chapa-Jones, from the City of Houston, shared comments and concerns on the proposed 2014 QAP;
- Ginger McGuire, Rural Rental Housing Association of Texas, shared comments and concerns on the proposed 2014 QAP;
- Steve Dietrich, City of Corsicana, shared comments and concerns on the proposed 2014 QAP;
- Jim Serran, Serran Company Landmark Group, shared comments and concerns on the proposed 2014 QAP; and,
- Bobby Bowling, developer from El Paso, shared comments and concerns on the proposed 2014 QAP

Except as noted otherwise, all materials presented to and reports made to the Board were approved, adopted, and accepted. These minutes constitute a summary of actions taken. The full transcript of the meeting, reflecting who made motions, offered seconds, etc., questions and responses, and details of comments, is retained by TDHCA as an official record of the meeting.

There being no further business to come before the Board, the meeting adjourned at 5:30 p.m. The next meeting is tentatively set for Thursday, November 7, 2013.

Secretary

Approved:

Chair

1b

BOARD ACTION REQUEST
INTERNAL AUDIT
JANUARY 23, 2014

Presentation, Discussion, and Possible Action on the 2014 Internal Audit Charter and Board Resolution No. 14-012.

RECOMMENDED ACTION

WHEREAS, the Internal Audit Division is required by audit standards to develop a charter, and to periodically update the charter, and

WHEREAS, the Department maintains a board resolution regarding internal audit in order to clarify its expectations regarding the audit function;

NOW, therefore it is hereby

RESOLVED, the Internal Audit Charter and Board Resolution No. 14-012 are approved as presented.

BACKGROUND

Internal Audit Standards (the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing*) require periodic approval of the Internal Audit Charter. The Board resolutions regarding internal audit are reviewed and approved as part of this process. The charter and the resolutions have not changed since their last approval in January 2013.

**Texas Department of Housing and Community Affairs
Internal Audit Division**

INTERNAL AUDIT CHARTER

(Effective October 17, 2001, Amended January 23, 2014
as approved by the Department's Governing Board)

DEFINITION

Internal audit is an independent, objective assurance and consulting activity within the Texas Department of Housing and Community Affairs (Department) designed to add value and improve the Department's operations. Internal audit helps the Department accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

PURPOSE

The purpose of internal audit's work is to determine whether:

- risks are appropriately identified and managed,
- management information is reliable, accurate and timely,
- acceptable policies and procedures are followed,
- compliance with applicable laws and regulations is achieved,
- resources are safeguarded and used efficiently and economically,
- planned missions are accomplished effectively, and
- the Department's objectives are met.

The internal audit division supports management in its responsibilities by furnishing analyses, appraisals, observations and recommendations to assist the Department in evaluating and improving the effectiveness of its risk management, control and governance processes.

AUTHORITY

The Internal Auditing Act (Chapter 2102, Government Code) and the Department's enabling legislation (Chapter 2306, Government Code) authorize the establishment of an internal audit program. Internal auditors shall have full access to all of the Department's records, facilities, properties and personnel relevant to the performance of engagements or investigations, and are free to review and evaluate all policies, plans, procedures and records. However, internal auditors shall have no direct responsibility for, or authority over, any of the activities reviewed, and the auditing, review and evaluation of an area shall in no way relieve management of its assigned responsibilities.

Department management shall respond to all information requests by the internal auditor or internal audit staff pursuant to this authority within two business days of such requests, including

**Texas Department of Housing and Community Affairs
Internal Audit Division**

requests of information considered confidential by its nature or due to pending or actual litigation. The internal audit staff shall use discretion in its review of records and assure the confidentiality of all matters that come to its attention.

The director of internal audit or a designated representative will be included in all entrance and exit conferences conducted by any external, federal or state auditors or monitors and shall receive copies of the audit or monitoring reports, as well as copies of management's written response. The internal audit division shall be available to assist management in providing additional information, preparing responses to reports and examinations, and subsequently reviewing the progress made to correct the deficiencies reported.

I N D E P E N D E N C E

Internal auditors shall not develop or install procedures, prepare records, perform internal control functions, or engage in any other activity which they would normally review and evaluate and which could reasonably be construed to compromise the independence of the internal audit division. However, the independence of the internal audit division shall not be adversely affected by determining and recommending standards of control to be applied to the development of the systems and procedures reviewed. The internal audit division shall be responsive to requests for assistance from management, provided that the subject of the request is related to auditing or internal controls. The internal audit division staff shall not assume operating responsibilities or direct the activities of any employee not employed by the internal audit division or assigned to assist the internal auditors.

The internal audit division shall be available to perform consulting and advisory services at the specific request of the board, or of management with the board's approval. The nature and scope of these services are subject to agreement with management and the board. Consulting and advisory services are intended to add value and improve the Department's governance, risk management and control processes. These consulting and advisory services will only be performed if the director of internal audit deems that the engagement can be performed while still maintaining the auditors' objectivity and independence, and if the assignment does not result in the internal audit division or any member of the internal audit staff assuming any management responsibility.

A C C O U N T A B I L I T Y

The director of internal audit shall report directly to the audit committee of the governing board of the Department and administratively to the executive director of the Department. The director of internal audit shall furnish copies of all audit reports to the audit committee and to the governing board in accordance with the criteria established by the audit committee. The director of internal audit shall periodically appear before the audit committee and/or the governing board at its meetings to report on audit findings and the operations of the internal audit division.

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Internal Audit Division**

The audit committee and the governing board shall periodically assess whether resources allocated to the internal audit division are adequate to implement an effective program of internal auditing. To facilitate this process, the director of internal audit will emphasize significant risks to the Department that are not addressed in the annual audit plan as proposed to the audit committee and/or the governing board for approval, and will periodically report to the audit committee and/or the governing board on internal audit staffing levels. The audit committee and/or the governing board shall approve the internal audit division's annual operating budget.

R E S P O N S I B I L I T I E S

The internal audit division shall:

- comply with the Texas Internal Auditing Act;
- execute a comprehensive audit program to insure all activities of the Department are reviewed at appropriate intervals as determined by the director of internal audit and as approved by the audit committee and/or the governing board;
- review and evaluate systems of control and the quality of ongoing operations, recommend actions to correct any deficiencies and follow-up on management's response to assure that corrective action is taken on a timely basis;
- perform an objective assessment of evidence to provide an independent opinion or conclusions regarding the Department, its operations, functions, processes and systems;
- evaluate the quality of management performance in terms of compliance with policies, plans, procedures, laws and regulations;
- evaluate the effectiveness and contribute to the improvement of risk management processes, including evaluating the potential for the occurrence of fraud and how the Department manages fraud risks;
- assess and make appropriate recommendations for improving the governance process for promoting ethics and values within the Department, ensuring effective organizational performance, achieving management's strategic objectives, communicating risk and control information to appropriate areas of the Department, and coordinating and communicating information among the governing board, external auditors and management;
- review the controls of significant new systems and subsequent revisions before they are implemented. In addition, the environmental, operational and security controls of the

**Texas Department of Housing and Community Affairs
Internal Audit Division**

Department's automated processes shall be assessed and reviewed as needed;

- verify the existence of Department assets and assure that proper safeguards are maintained to protect them from losses of all kinds;
- audit the reliability and operation of the accounting and reporting systems as needed;
- consider the scope of work of external auditors and regulators, as appropriate, for the purpose of providing optimal audit coverage to the Department;
- conduct or participate in internal investigations of suspected fraud, theft or mismanagement, and provide advice relating to internal fraud and security;
- identify operational opportunities for performance improvement by evaluating the functional effectiveness against Department and industry standards;
- coordinate its audit efforts with those of the Department's external, state, and federal auditors; and
- evaluate the adequacy of management's corrective actions and perform necessary follow-up procedures to ensure that the corrective actions have been implemented.

The Director of Internal Audit shall:

- ensure that written reports are prepared for every internal audit and that such reports are furnished to the director responsible for the audited activity. Copies of each audit report and management's responses shall be provided to the audit committee and the governing board in accordance with the criteria established by the audit committee. Management is responsible for providing the internal audit division with a detailed written response to reported deficiencies. Such response, stating corrective action taken or planned, including a target date for completion and the individual responsible for implementation, should be received by the director of internal audit within ten (10) business days after management has received the report draft disclosing the deficiencies. Additional response time may be granted by the director of internal audit if circumstances warrant additional time;
- present a summary of audit activities to the audit committee or to the governing board at least three times annually. Each presentation will include comments about major audit findings and if necessary, an opinion of the adequacy of management's response to the audit reports. In addition, the director of internal audit will meet, as needed, with the executive director and/or the audit committee to discuss the purpose, authority, responsibility and performance of the internal audit division, the status of the audit plan, the status of management's resolution of audit recommendations, and other significant

**Texas Department of Housing and Community Affairs
Internal Audit Division**

issues involving the internal audit function;

- prepare an annual summary report of audit activities in the content and manner prescribed by the State Auditor’s Office;
- confirm to the audit committee and/or the governing board on an annual basis the independence of the internal audit division and its audit staff;
- periodically review the internal audit charter and present it to management, the audit committee and/or the governing board for approval; and
- promote and encourage the advancement of audit and control knowledge through the dissemination of related information and the active participation in professional groups and organizations.

STANDARDS OF AUDIT PRACTICE

As a means of assuring the quality and performance of the internal audit division, the audit committee requires the internal audit division to meet or exceed the *International Standards for the Professional Practice of Internal Auditing* and to comply with the *Code of Ethics* prescribed by the Institute of Internal Auditors and with *Generally Accepted Government Auditing Standards*, as may be periodically amended. It is also expected that the internal audit division will obtain an external peer review of the internal audit division to evaluate the quality of its operations at least once every three years.

PASSED and APPROVED this 23rd day of January, 2014.

Chair of the Governing Board

Executive Director

Board Secretary

AUDIT COMMITTEE - BOARD RESOLUTIONS

Resolution # 14-012

(As approved by the Governing Board on January 23, 2014)

WHEREAS the original audit committee (Committee) members were appointed by the chairman of the governing board (Board) in April, 1992, pursuant to the Texas Government Code, Chapter 2306, *Texas Department of Housing and Community Affairs* (Department), section 2306.056, *Committees*, and whereas the Committee’s authority and composition has not been specified, and whereas the Committee members’ duties and responsibilities have not been previously enumerated, the Board hereby resolves the following:

RESOLVED, that the Committee shall have the authority to investigate any organizational activity as it deems necessary and appropriate, and shall have unrestricted access to all information, including documents and personnel, and shall have adequate resources in order to fulfill the oversight responsibilities it conducts on behalf of the Board, including full cooperation of Department employees. The Committee has the authority to pre-approve the annual budget of the internal audit division and the annual audit plan, and to approve any non-audit services or requests for audits or investigations outside of the annual audit plan.

RESOLVED, that the Committee shall be composed of three board members appointed by the Board’s chairperson who shall serve for two year terms each or until their respective successor shall be duly appointed and qualified. Audit committee members shall be free of any relationships that would interfere with their ability to exercise independent judgment as a member of the Committee.

RESOLVED, that a chairperson of the Committee shall be appointed by the Board’s chairperson.

RESOLVED, that the Committee shall meet a minimum of three times each year, either in a separate meeting or as part of a larger Board meeting, or at such additional or special meetings as may be called as needed by the Board chairperson, the Committee chairperson, or the executive director; and that the Committee shall report on its proceedings and actions to the Board with such recommendations as the Committee deems appropriate.

RESOLVED, that the Committee’s primary function is to assist the Board in carrying out its oversight responsibilities as they relate to financial and other reporting practices, internal control, and compliance with Board and ethics policies, and to ensure the independence of the internal audit function.

RESOLVED, that in fulfilling its function, the Committee’s responsibility for (i) financial and other reporting practices is to provide assurance to the Board that financial and other reporting information reported by management reasonably portrays the circumstances or plans reported; (ii) internal control is to monitor the effectiveness of control systems and processes through the results of internal and external audits and reviews; (iii) compliance with Board and ethics policies is to periodically inquire of management, the internal audit director, and the independent accountant about significant risks or exposures and assess the steps management has taken to minimize such risk; (iv) the internal audit function is to support the internal audit division so that internal auditors can gain the cooperation of auditees and perform their work independently and free from interference and to provide reasonable assurance that the internal auditors perform their responsibilities.

PASSED and APPROVED this 23rd day of January, 2014.

Chair of the Governing Board _____

Executive Director _____

Board Secretary _____

1c

BOARD ACTION REQUEST

LEGAL SERVICES

JANUARY 23, 2014

Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 1, Administration, §1.10, concerning Public Comment Procedures.

RECOMMENDED ACTION

WHEREAS, Pursuant to Texas Government Code §2306.066(d) the Board has developed and implemented rules that provide the public a reasonable opportunity to appear before the Board and make comments on matters within the Board's jurisdiction;

WHEREAS, the Board finds that proposed amendments to the rule are needed to improve the efficiency of the Board's open meetings and the effectiveness and value of public testimony to the Board and the public;

WHEREAS, such proposed amendments were published in the *Texas Register* for public comment from November 29, 2013, through December 30, 2013; and

WHEREAS, no public comments were received on the proposed amendments;

NOW, therefore, it is hereby

RESOLVED, that the adoption of the amendments to 10 TAC Chapter 1, Administration, §1.10, concerning Public Comment Procedures is hereby ordered and approved, together with the preamble presented to this meeting, and the Executive Director and his designees are authorized, empowered, and directed, for and on behalf of the Department, to cause the adopted rule, in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith to make such non-substantive technical corrections as they deem necessary to effectuate the foregoing.

BACKGROUND

At the November 2013 Board meeting, staff recommended and the Board approved the publication of proposed amendments for public comment that would give the Board more discretion to limit discussion of matters if those matters are to be placed on a future agenda. Additionally, amendments were proposed to provide for a more orderly procedure for presenters to bring written materials before the Board at an open meeting. Several other minor changes were proposed.

The proposed amendments were published in the *Texas Register* from November 29, 2013, through December 30, 2013. No comments were received.

Attachment A: Preamble for Adoption of Amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, Section 1.10 concerning Public Comment Procedures

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 1, Section 10, concerning Public Comment Procedures, without changes to the proposed text as published in the November 29, 2013, issue of the *Texas Register* (38 TexReg 8492) and will not be republished.

REASONED JUSTIFICATION: The Board finds that the efficiency of meetings and the effectiveness and value of public testimony can be improved by limiting public discussion of matters scheduled for future meetings where appropriate time for public comment will be available. The Board additionally finds that requiring presenters to provide to staff, prior to the Board meeting, any materials intended to be handed out at a Board meeting will add to the efficiency of the meeting and the testimonial value of the materials to the Board and public. Accordingly, the Board adopts the amendments allowing the Board to limit discussion of items scheduled for future meetings, and requiring presenters to provide staff with copies of any materials the presenter wishes to use at a meeting prior to the meeting.

The Department accepted public comments between November 29, 2013, and December 30, 2013. Comments regarding the amendments were accepted in writing and by fax. No comments were received.

The Board approved the final order adopting the proposed amendments on January 23, 2014.

STATUTORY AUTHORITY: The amendments are adopted pursuant to the authority of Tex. Gov't Code Ann. §2306.053 which authorizes the Department to adopt rules, and more specifically, Tex. Gov't Code Ann. §2306.066(d) which requires the Board to develop and implement policies that provide the public a reasonable opportunity to appear before the Board and make comments on matters within its jurisdiction.

1d

BOARD ACTION REQUEST

LEGAL SERVICES

JANUARY 23, 2014

Presentation, Discussion, and Possible Action on adoption of amendments to 10 TAC Chapter 90, Migrant Labor Housing Facilities, § 90.8 (a) and (b), concerning Forms.

RECOMMENDED ACTION

WHEREAS, Texas Government Code §2306.923 requires that a person apply to the Department for a license to operate or to renew a license to operate a Migrant Labor Housing Facility on a form prescribed by the Department's Governing Board;

WHEREAS, the forms to apply for or renew a license to operate a migrant labor housing facility are located in 10 TAC §90.8 (a) and (b);

WHEREAS, the current forms contain outdated information and require changes to make them more useful;

WHEREAS, proposed changes to the forms as rule amendments to 10 TAC §90.8 were published in the *Texas Register* for public comment from November 29, 2013, through December 30, 2013; and,

WHEREAS, no public comments were received on the proposed amendments;

NOW, therefore, it is hereby

RESOLVED, that the adoption of the amendments to 10 TAC Chapter 90, Migrant Labor Housing Facilities, § 90.8 (a) and (b), concerning Forms is hereby ordered and approved, together with the preamble presented to this meeting, and the Executive Director and his designees are authorized, empowered, and directed, for and on behalf of the Department, to cause the adopted rule, in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith to make such non-substantive technical corrections as they deem necessary to effectuate the foregoing.

BACKGROUND

Currently, 10 TAC §90.8 (a) and (b) includes links that the public can use to access forms to apply for or renew a license to operate a Migrant Labor Housing Facility. The amendments to 10 TAC §90.8 (a) and (b), make the new forms more consistent with other Department forms, in addition to simplifying them. Facsimile addresses have been corrected, and new boxes have been added to track the original license information for data entry purposes for the Department's internal use.

The proposed amendments were published in the *Texas Register* from November 29, 2013, through December 30, 2013. No comments were received.

Attachment A: Preamble for Adoption of amendments to 10 TAC Chapter 90, Migrant Labor Housing Facilities, Section 90.8 (a) and (b) concerning Forms

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 90, §90.8 concerning Forms, without changes to the proposed text as published in the November 29, 2013, issue of the *Texas Register* (38 TexReg 8502) and will not be republished.

REASONED JUSTIFICATION: The Board finds that the current application and renewal application forms contain incorrect contact information. Moreover, the Board finds that by including certain original license information on the forms, processing of new applications or renewals could be done more efficiently. Accordingly, the new rule updates Department contact information and includes a new section to allow internal tracking of original license information.

The Department accepted public comments between November 29, 2013, and December 30, 2013. Comments regarding the proposed amendments were accepted in writing and by fax. No comments were received.

The Board approved the final order adopting the proposed amendments on January 23, 2014.

STATUTORY AUTHORITY: The amendments are adopted pursuant to the authority of Tex. Gov't Code Ann. §2306.053 which authorizes the Department to adopt rules, and more specifically, Tex. Gov't Code Ann. §2306.923, which requires the Department to promulgate application forms to be used in licensing Migrant Labor Housing Facilities.

1e

BOARD ACTION REQUEST

COMPLIANCE DIVISION

JANUARY 23, 2014

Presentation, Discussion, and Possible Action on the adoption of a repeal of 10 TAC Chapter 60, Compliance Administration, Subchapter B, §§60.201 – 60.211, concerning Accessibility Requirements, and adoption of Chapter 1, Subchapter B §§1.201 – 1.212, concerning Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and directing their publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Board approved the proposed repeal and new rule to be published in the *Texas Register* at the November 7, 2013, Board meeting and the public comment period has ended,

NOW, therefore, it is hereby

RESOLVED, that the Board adopts the repeal of 10 TAC Chapter 60, Compliance Administration, Subchapter B, §§60.201-60.211, concerning Accessibility Requirements, and new Chapter 1, Subchapter B §§1.201 – 1.212, concerning Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and orders that the Executive Director and his designees be and each of them are hereby authorized, empowered and directed, for and on behalf of the Department, to publish the repeal of 10 TAC Chapter 60, Compliance Administration, Subchapter B, §§60.201-60.211, and the adoption of a new Chapter 1, Subchapter B §§1.201 – 1.212, concerning Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Board approved the proposed repeal and new rule, at the November 7, 2013, Board meeting to be published in the *Texas Register* for public comment and the proposed rulemaking were published on November 29, 2013. The repeal and new rule were available for public comment from November 29, 2013, through December 30, 2013.

No comment was received during the comment period. After the close of the official comment period the Texas Apartment Association provided comment. Staff has developed reasoned responses to this comment and the proposed rule changes it would recommend in the event the Board approves reopening the comment period to receive this comment. Staff believes that reopening the comment period to allow the comment and the resulting changes to the rule will improve the rule.

Attachment 1: Preamble and proposed repeal of 10 TAC Chapter 60, Subchapter B.

The Texas Department of Housing and Community Affairs (the “Department”) adopts the repeal of 10 TAC Chapter 60, Subchapter B, §§60.201-60.211 concerning Accessibility Requirements without changes to the text as published in the November 29, 2013, issue of the *Texas Register* (38 TexReg 8494) and will not be republished.

REASONED JUSTIFICATION. The rule is being repealed to allow the adoption of new rules which will reorganize and clarify existing requirements. The adoption of a new Chapter 1, Subchapter B, §§1.201-1.212, concerning Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act, is published concurrently with this repeal in this issue of the *Texas Register*.

The Department accepted public comments between November 29, 2013, and December 30, 2013. Comments regarding the repeal were accepted in writing and by fax. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on January 23, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

§60.201.Scope.

§60.202.Definitions.

§60.203.General Requirements.

§60.204.Other Limitations Relating to Alterations.

§60.205.Substantial Alteration.

§60.206.Renovation of Elements.

§60.207.New Construction and Additions of Units.

§60.208.Public and Common Use Areas in Multifamily Housing.

§60.209.Reasonable Accommodations.

§60.210.Certifications and Effect of Non Compliance.

§60.211.Resources.

Attachment 2. Preamble, reasoned response, and new Rule.

The Texas Department of Housing and Community Affairs (the “Department”) adopts new 10 TAC Chapter 1, Subchapter B, §§1.201- 1.212 concerning Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act with changes to the proposed text as published in the November 29, 2013, issue of the *Texas Register* (38 TexReg 8494).

REASONED JUSTIFICATION. The purpose of this proposed new Subchapter is to provide guidance on applicability of and compliance with federal requirements and to provide consistency in the construction requirements for all Multifamily Housing Developments.

Section 1.201 clarifies that 504 and Fair Housing apply to all Department programs; Section 1.202 provides definitions of terms used in this Subchapter; Section 1.203 is the Department’s policy regarding nondiscrimination against persons with Disabilities; Section 1.204 is the Department’s Reasonable Accommodation Policy; Section 1.205 states that compliance with the Fair Housing Act’s design and construction requirements is HUD’s Fair Housing Act Design Manual; Section 1.206 sets out construction standards for Section 504 of the Rehabilitation Act of 1973; Section 1.207 sets out distribution requirements for Multifamily Housing Developments; Section 1.208 says that at least one of each type of amenity must be accessible; Section 1.209 provides a definition of substantial alteration that applies to all Multifamily Housing Developments that submit a full application after January 1, 2014; Section 1.210 talks about alterations to existing Multifamily Housing Developments that submit a full application before January 1, 2014; Section 1.211 states that the 5% and 2% of accessible units apply to the total number of units in the Development; Section 1.212 points the public to the Department’s website for additional information.

SUMMARY OF PUBLIC COMMENTS AND STAFF RECOMMENDATION.

Comments were accepted from November 29, 2013. through December 30, 2013, with comments received from David Mintz on behalf of the Texas Apartment Association.

1. §1.206(b)(2) and (3)

COMMENT SUMMARY: Commenter suggested that the 2010 ADA Standards should apply to tax credit and bond developments that apply for funds after the effective date of this rule rather than to tax credit and bond developments that are awarded after January 1, 2014. Similarly, the commenter suggested that the 2010 ADA Standards should apply to rehabilitation projects using HOME and NSP in the same way. Commenter expressed concern that projects in the pipeline may be adversely affected because they were designed under the Uniform Federal Accessibility Standards rather than ADA.

STAFF RESPONSE: Staff agrees that the ADA standards should not apply to developments that have already filed a full application with the Department but does not agree that the 2010 ADA standards should apply only to developments that apply for funds after the effective date of the rule because that date will be in the middle of an application cycle. Instead, staff suggests that the 2010 ADA standards should be applied to developments that submit a full application after January 1, 2014. This changes several sections of the rule including some section that the commenter did not address (§1.206 (a) and §1.206(b) §1.209(b) and §1.210(a)). Staff recommends the following:

§1.206.Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973.

(a) The following types of Multifamily Housing Developments must comply with the construction standards of §504 of the Rehabilitation Act of 1973, as further defined through the Uniform Federal Accessibility Standards (UFAS):

(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction before March 12, 2012;

(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submitted a full application for ~~awarded~~ funding before January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments that were awarded after September 1, 2001 and submitted a full application before January 1, 2014.

(b) The following types of Multifamily Housing Developments must comply with the construction requirements of 2010 ADA standards:

(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction after March 12, 2012;

(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submit a full application for ~~awarded~~ funding after January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments that submit a full application for funding ~~awarded~~ after January 1, 2014.

(c) After March 12, 2012, Recipients of Emergency Solutions Grant and Homeless Housing and Services Program funds must comply with the 2010 ADA Standards.

§1.209 (b) All Rehabilitation of Multifamily Housing Developments that submit full applications ~~awarded~~ after January 1, 2014, will be treated as substantial alteration.

§1.210. Renovation of Elements for Multifamily Housing Developments.

(a) This section is not applicable for Developments that submitted full applications ~~awarded~~ after January 1, 2014.

2. GENERAL

COMMENT SUMMARY: Commenter expressed concern about requiring tax credit and bond properties that do not receive HOME funds to comply with the 2010 ADA standards and asked for clarification if this is a policy change or required under federal law.

STAFF RESPONSE: Accessibility standards are an evolving area of law and the Department hopes that further guidance from the U.S. Department of Justice, U.S. Department of the Treasury, and the U.S. Department of Housing and Urban Development (“HUD”) will be forthcoming. At this time, requiring tax credit and tax exempt bond developments to comply with the 2010 ADA standards may be viewed as a policy change. However, this decision promotes consistency and recognizes the emerging position of federal oversight bodies that this standard applies. In 2012, in preparation for the implementation of the 2010 ADA Standards, TDHCA conducted a series of workshops around the

state. The vast majority of commenters expressed a preference that, insofar as possible, that the requirements for Multifamily Housing Developments remain the same across different programs to provide greater efficiencies for the State and greater certainty for the affected community and industry. HUD believes that the 2010 ADA Standards do apply to new construction involving federal funds administered by the Department. Hence these rules, insofar as possible, reflect consistent requirements for all Multifamily Housing Developments.

3. GENERAL

COMMENT SUMMARY: Commenter expressed an impression that there is not general awareness of what impact the new accessibility standards will have on the development process or in real terms. Commenter hopes that the Department will proactively educate developers, architects and engineers about the difference between the 2010 ADA Standards and UFAS.

STAFF RESPONSE: The Department and the Texas Apartment Association have a long history of collaborating on educating TAA members and other affordable housing professionals. The Department recognizes TAA as providing valuable member services, including industry education. The Department looks forward to partnering with TAA in this area.

The Board adopted the new rule on January 23, 2014.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The new section affects no other code, article, or statute.

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 1	ADMINISTRATION
SUBCHAPTER B	SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE FAIR HOUSING ACT

§1.201.Purpose.

(a) The purpose of this subchapter is to provide guidance regarding the requirements of §504 of the 1973 Rehabilitation Act and the Fair Housing Act by all recipients of awards from the Texas Department of Housing and Community Affairs ("the Department") including but not limited to:

- (1) Community Services Block Grant (CSBG);
- (2) Low Income Home Energy Assistance Program (LIHEAP) (including the two (2) programs utilizing this funding source: the LIHEAP Weatherization Assistance Program (LIHEAP WAP) and the Comprehensive Energy Assistance Program (CEAP));
- (3) Emergency Solutions Grant (ESG);
- (4) Housing Trust Fund (HTF);
- (5) Low Income Housing Tax Credit (LIHTC);

- (6) Multifamily Bond Programs;
- (7) Neighborhood Stabilization Program (NSP);
- (8) HOME;
- (9) Section 8;
- (10) Department of Energy Weatherization Assistance Program (DOE WAP); and
- (11) Homeless Housing and Services Program (HHSP).

(b) Unless otherwise indicated in the funding announcement, this subchapter does not apply to contracts for the procurement of goods or services by the Department.

§1.202. Definitions.

(a) The following terms are used for purposes of this subchapter:

(1) 2010 ADA Standards--The term 2010 ADA Standards refers to the 2010 ADA Standards for Accessible Design implementing Title II of the Americans with Disabilities Act of 1990, found at 28 CFR Part 35. This term includes both the Title II (28 CFR 35.151) and 2004 ADAAG (36 CFR Part 1991). If there is a conflict between 2004 ADAAG and Title II the requirements of Title II prevail.

(2) Accessible Route--A continuous unobstructed path connecting accessible elements and spaces in a facility or building that complies with the space and reach requirements of the applicable construction standard. (*Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of Accessible Route*)

(3) Alteration--Any physical change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs. It does not include normal maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems. (*Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of Alteration*)

(4) Disability--A physical or mental impairment that substantially limits one or more major life activities; or having a record of such an impairment; or being regarded as having such an impairment. Nothing in this definition requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. Included in this meaning is the term handicap as defined in the Fair Housing Act. (*Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of Individual with Handicaps. 24 CFR §100.201 and §100.202(d)*)

(5) Multifamily Housing Development--A project that includes five or more dwelling units. A project may consist of five single family homes, a single building with five or more units, or five or more units in multiple buildings each with one or more units. A project includes the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application, or which are treated as a whole for processing purposes,

whether or not located on a common site. *(Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of multifamily housing project and definition of project)*

(6) Reasonable Accommodation--An accommodation and/or modification that is an alteration, change, exception, or adjustment to a program, service, building, dwelling unit, that will allow a qualified person with a Disability to:

(A) Participate fully in a program;

(B) Take advantage of a service;

(C) Live in a dwelling; or

(D) Use and enjoy a dwelling.

(7) Recipient--Includes a Subrecipient or Administrator and means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to whom assistance or an award is extended for any program or activity directly or through another Recipient, including any successor, assignee, or transferee of a Recipient, but excluding the ultimate beneficiary of the assistance. Recipients include private entities in partnership with Recipients to own or operate a program or service. This term includes Development Owner.

(8) Replacement Cost--The total development cost for construction and equipment for a newly constructed housing facility of the size and type being altered. Construction and equipment costs do not include the cost of land, demolition, site improvements, non-dwelling facilities or administrative costs for project development activities. *(Source: 24 CFR Subtitle A Subpart A §8.4 Definitions. Definition of replacement cost)*

(b) Other capitalized words used herein have the meaning assigned in §10.3 of this title (relating to Definitions), or assigned by federal or state law.

§1.203. General Certifications and Effect of Non Compliance.

(a) No individual with a Disability shall, by reason of their Disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any Department awarded program or activity.

(b) There are additional requirements for compliance with §504 of the 1973 Rehabilitation Act; Title VI of the Civil Rights Act of 1964; the Fair Housing Act; the Americans with Disabilities Act; and other civil rights laws, regulations and Executive Orders by Recipients of Department program or activities. This subchapter addresses only the requirements relating to physical accessibility in new construction, alterations, and reasonable accommodations under §504 and the Fair Housing Act. Other disability-related requirements include but are not limited to:

(1) Operating housing that is not segregated based upon disability or type of disability, unless authorized by federal statute or executive order;

(2) Providing auxiliary aids and services necessary for effective communication with persons with disabilities; and

(3) Operating programs in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(c) Compliance with accessibility requirements, including compliance with the Fair Housing Act, the Americans with Disabilities Act, and §504 of the Rehabilitation Act of 1973, other civil rights laws, regulations and Executive Orders; and Chapters 2105 and 2306 of the Texas Government Code is the sole responsibility of the Recipient. By providing guidance and monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Recipient.

(d) Failure to comply with the provisions of this subchapter may result in the assessment of administrative penalties and/or debarment.

§1.204. Reasonable Accommodations.

(a) To show that a requested Reasonable Accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's Disability.

(b) When a resident or applicant requires an accessible unit, feature, space or element, or a policy modification, or other Reasonable Accommodation to accommodate a Disability, the Recipient must provide and pay for the requested accommodation, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden. A fundamental alteration is an accommodation that is so significant that it alters the essential nature of the Recipient's operations. A Recipient that owns a LIHTC or Multifamily Bond Development with no federal or state funds awarded before September 1, 2001 must allow but need not pay for the Reasonable Accommodation, unless the accommodation requested should have been made as part of the original design and construction requirements under the Fair Housing Act.

(c) A Recipient may not charge a fee or place conditions on a resident or applicant in exchange for making the accommodation. For example, while housing providers may require applicants or residents to pay a pet deposit they may not require applicants and residents to pay a deposit for a service/assistance animal.

(d) A Reasonable Accommodation request of an individual with a Disability that amounts to an alteration should be made to meet the needs of the individual with a Disability, rather than any particular accessible code specification.

(1) Recipients are not required to make structural changes where other methods, which may not cost as much, are effective in making federally assisted housing programs or activities readily accessible to and usable by persons with Disabilities.

(2) In choosing among available methods for meeting the requirements of this section, the Recipient shall give priority to those methods that offer programs and activities to qualified individuals with Disabilities in the most integrated setting appropriate.

(3) Undue burden.

(A) The determination of undue financial and administrative burden will be made by the Department on a case-by-case basis, involving various factors, such as the cost of the reasonable accommodation, the financial resources of the Development, the benefits the accommodation would provide to the requester, and the availability of alternative accommodations that would adequately meet the requester's Disability-related needs. *(For more examples of undue financial and administrative burden, see HUD Handbook 4350.3, Exhibit 2-6.)*

(B) In considering whether an expense would constitute an undue burden:

(i) Payment for alterations from operating funds, residual receipts accounts, or reserve replacement accounts must be sought using appropriate approval procedures.

(ii) The approved amount must normally be able to be replenished through property rental income within one year without a corresponding raise in rental rates.

(iii) A projected inability to replenish an operating fund account or the reserve for replacement account within one year for funds spent in providing alterations under this subchapter is some evidence that the Alteration would be an undue financial and administrative burden. *(Source: HUD Handbook 4350.3, §2-43(C), and §2-43(D, Example A))*

(C) If providing accessibility would result in an undue financial and administrative burden, the recipient must still take other reasonable steps to achieve accessibility.

(D) If a structural change would constitute an undue financial and administrative burden, and the tenant still wants that particular change to be made, the tenant must be allowed to make and pay for the accommodation. *(Source: HUD Handbook 4350.3, §2-45)*

(4) Recipients are not required to install an elevator solely for the purpose of making units accessible. *(Source: HUD Handbook 4350.3, §2-37(E))*

(5) Recipients do not have to make mechanical rooms and similar spaces accessible when, because of their intended use, they do not require accessibility by the public, by tenants, or by employees with physical disabilities. *(Source: HUD Handbook 4350.3, §2-37(D))*

(6) Recipients are not required to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member. *(Source: 24 CFR §8.32(c). HUD Handbook 4350.3, §2-37(B))*

(e) If a Recipient refuses to provide a requested accommodation because it is either an undue financial and administrative burden or would result in a fundamental alteration to the nature of the program, the Recipient must make a reasonable attempt to engage in an interactive dialogue with the requester to determine if there is an alternative accommodation that would adequately address the requester's Disability-related needs. If an alternative accommodation would meet the individual's needs and is reasonable, the Recipient must provide it.

(1) EXAMPLE: A resident requires an accessible parking space that will accommodate her wheelchair-equipped van. A Reasonable Accommodation includes relocating and enlarging an existing parking space that will serve the van.

(2) EXAMPLE: A colonia self-help center operates a tool lending program. The tools are located on the second floor of a building with no elevator. As an alternative to installing a lift or elevator, center staff may retrieve tools for residents who use wheelchairs. The aides must be available during the operating hours of the center.

(3) EXAMPLE: A family has a young child with asthma. A certain sealant used by a weatherization provider has been known to trigger asthma attacks. The weatherization provider should see if a comparable sealant could be used that would not trigger asthma.

(4) EXAMPLE: A Development has five parking spaces located outside the main entrance to the building and another parking lot with 20 spaces a half block away. All five of the parking spaces near the entrance to the building have been assigned to residents with Disabilities who need a parking space near their door because of their Disabilities. A sixth tenant with difficulty in walking long distances moves into the Development and requests a parking space near his door. The Recipient has explored the options and concluded that the only way to provide more parking spaces near the door would be to widen the parking area by purchasing valuable real estate next door. It would be an undue financial and administrative burden for the Recipient to provide the sixth tenant with a parking space near the entrance. An alternative accommodation could be to provide the sixth tenant with an assigned parking space in the lot half block away until such time as one of the five spaces near the door becomes available.

(5) EXAMPLE: A resident needs grab bars at the toilet in her bathroom. She does not require other accessible features. The Recipient must install grab bars consistent with the resident's needs in the bathroom.

(6) EXAMPLE: A resident needs a ramped entrance to her ground floor unit to accommodate her wheelchair. She does not wish to move to an accessible unit. The Recipient must provide an accessible entrance at the resident's current unit, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so.

(7) EXAMPLE: A resident uses a scooter type wheelchair which is 38 inches in width. She requests a ramp to enter her ground floor unit. The ramp which she requests must be at least 40 inches wide, it must have a slope of no more than 3%, and the landing at the front door, which opens outward, must be enlarged to provide adequate maneuvering space to enter the doorway. The changes must be provided, even though they may exceed the usual specifications for such alterations.

(8) EXAMPLE: A resident with quadriplegia requests replacement of a bathtub in his unit with a roll-in shower. Due to the location of existing plumbing in the building and the size of the existing bathroom, a plumber confirms that installation of a roll-in shower in that unit is impossible. The on-site manager should meet with the resident to explain why the roll-in shower cannot be installed and to explore alternative accommodations with the resident.

(f) Recipients must follow federal regulations regarding service/assistance animals.

§1.205. Compliance with the Fair Housing Act.

(a) Generally, housing designed and constructed for first occupancy after March 13, 1991 must comply with the Fair Housing Act.

(b) Compliance with the Fair Housing Act makes it unlawful to discriminate based on a person's disability, race, color, religion, sex, familial status, or national origin unless there is an exception in federal law.

(c) Although HUD recognizes seven safe harbors for compliance with the design and construction requirements, the Department requires compliance with HUD's Fair Housing Act Design Manual.

§1.206. Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973.

(a) The following types of Multifamily Housing Developments must comply with the construction standards of §504 of the Rehabilitation Act of 1973, as further defined through the Uniform Federal Accessibility Standards (UFAS):

(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction before March 12, 2012;

(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submitted a full application for awarded funding before January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments that were awarded after September 1, 2001 and submitted a full application before January 1, 2014.

(b) The following types of Multifamily Housing Developments must comply with the construction requirements of 2010 ADA standards:

(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction after March 12, 2012;

(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submit a full application for awarded funding after January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments that submit a full application for funding awarded after January 1, 2014.

(c) After March 12, 2012, Recipients of Emergency Solutions Grant and Homeless Housing and Services Program funds must comply with the 2010 ADA Standards.

§1.207. General Requirements for Multifamily Housing Developments.

(a) All units that are accessible to persons with mobility impairments must be on an Accessible Route. (Source: HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, §2-22(C)(4))

(b) Recipients must give priority to methods that offer housing in the most integrated setting possible (i.e., a setting that enables qualified persons with disabilities and persons without Disabilities to interact to the fullest extent possible). To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:

(1) Distributed throughout the Development and site; and

(2) Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. (*Source: 24 CFR §8.26*) EXAMPLE 207(1): A Development has 80 units with a total of 4 mobility accessible units, meeting the 5% requirement ($80 \times 5\% = 4$, always rounded up if not a whole number). The bedroom mix includes 15 one-bedroom/one bath units ($15 \times 5\% = .75$ accessible units), 25 two-bedroom/one bath units ($5\% = 1.25$ accessible units), 25 two-bedroom/two bath units ($5\% = 1.25$ accessible units) and 15 four-bedroom units/two bath ($5\% = .75$ accessible unit). The mobility accessible unit requirement is met with 4 accessible units, and the distribution requirement is met with each of the bedroom/bath types having one accessible unit. EXAMPLE 207(2): A Development has 60 units with a total of 3 mobility accessible units, meeting the 5% requirement. The bedroom mix includes 10 one-bedroom/one bath units ($5\% = .5$ units), 20 two-bedroom/two bath units ($5\% = 1$ accessible unit), 20 three-bedroom/two bath units ($5\% = 1$ accessible unit), and 10 four-bedroom/two bath units ($5\% = .5$ accessible unit). Because this development is not required to provide more than 3 mobility units, only 3 of the 4 bedroom types are required to provide 1 accessible unit. In this case, the Development provides an accessible two-bedroom and three-bedroom unit, and has the option of providing either an accessible one-bedroom or an accessible four-bedroom unit to meet the 3 unit minimum requirement. EXAMPLE 207(3): A Development with several buildings must not have all of its accessible units in one building, but, to the maximum extent feasible, the accessible units must be distributed throughout the Development.

(c) Multifamily Housing Developments covered by this subchapter and built after July 11, 1988 must have a minimum of 5% of the units that are fully accessible and an additional 2% that are accessible to persons with visual and hearing impairments. This obligation is an absolute requirement. For buildings that fall within this category, a Development Owner may not justify a failure to have met these requirements because of an undue financial and administrative burden. This requirement also applies to units that are newly constructed to replace demolished or uninhabitable units.

§1.208. Public and Common Use Areas in Multifamily Housing Developments.

(a) Development Owners must make common use facilities, or parts of facilities, and public spaces accessible to persons with Disabilities, as long as such improvements would not result in an undue financial and administrative burden. This requirement applies regardless of the date of construction of the Development. This responsibility means that Recipients must do everything feasible to make these areas accessible up to the point at which any further modifications or improvements would result in an undue financial and administrative burden. Public spaces include, but are not limited to, community rooms, laundry and trash rooms, parking spaces, entrances, sidewalks, public restrooms, and the management office.

(b) Development Owners are not required to make each location of an amenity or facility accessible to persons with mobility impairments. If only one entrance or amenity is made accessible, it must be

accessible to tenants with mobility impairments who live in any part of the Development on the same terms that the entrance or amenity is made available to persons without Disabilities.

(1) EXAMPLE: If a Development has multiple buildings with two laundry rooms located in two different central areas, only one laundry room need be made accessible.

(2) EXAMPLE: Each building has its own laundry room for use by the residents of the building. Each laundry room must be made accessible, so that tenants with mobility impairments do not have to go out in inclement weather to do their laundry, when residents without disabilities may do their laundry in their building.

(c) The Recipient must make one-of-a-kind amenities or facilities accessible and usable to persons with Disabilities.

§1.209.Substantial Alteration of Multifamily Housing Developments.

(a) When a Recipient undertakes Alterations to one or more structural elements in a Development that contains fifteen or more units, which was built before July 11, 1988 and which lacks the required minimum of 5% of units that are accessible to persons with mobility impairments, it must meet accessibility requirements. If the total cost of the alterations is 75% or more of the Replacement Cost of the completed property, then the Recipient must make a minimum of 5% of the units in the property accessible for persons with mobility impairments, and a minimum of 2% of the units accessible for persons with visual and hearing impairments. (*Source: 24 CFR §8.23-(a).*) EXAMPLE: The total development cost for a planned alteration of a 40 unit apartment building with no accessible unit amounts to \$80,000 per unit and the Replacement Cost per unit is \$100,000. Because the cost of the alterations is more than 75% of the Replacement Cost of the unit, the Recipient must make a minimum of 5% of the 40 units, or at least two, of the units accessible to persons with mobility impairments and at least 2%, or one unit, accessible to people with visual and hearing impairments.

(b) All Rehabilitation of Multifamily Housing Developments that submit full applications awarded after January 1, 2014, will be treated as substantial alteration.

§1.210.Renovation of Elements for Multifamily Housing Developments.

(a) This section is not applicable for Developments that submitted full applications awarded after January 1, 2014.

(b) When a Recipient has a Development which was built before July 11, 1988 and that contains five or more units but lacks the required 5% of units that are accessible to people with mobility impairments, when the recipient undertakes Alterations to a structural element that are not substantial as defined in §1.209 of this subchapter (relating to Substantial Alteration of Multifamily Housing Developments).

(1) Those Alterations must be accessible, to the maximum extent feasible, until at least 5% of the units are fully accessible for persons with mobility impairments. If the 5% requirement is met, no other structural Alterations are required to units except to provide reasonable accommodations to individuals with disabilities.

(2) If Alterations of single elements (such as replacement of a bathtub or a door) or spaces (such as kitchens or bathrooms) occur in a single unit and when the alterations are considered as a group amount to an alteration of the entire unit, the Recipient must make the entire dwelling unit accessible until 5% of the units are accessible to persons with mobility impairments.

(3) When the Recipient is not altering the entire unit, all of the single elements or spaces that are being altered must be made accessible unless at least 5% of the units in the project already comply fully with the UFAS, requirements for persons with mobility impairments. If at least 5% of the units comply with UFAS, no additional single elements need be made accessible except to provide Reasonable Accommodation for an individual with a Disability.

(4) Recipients are encouraged to examine existing units for compliance with UFAS and ensure that at least 5% of the units in a property are accessible. When at least 5% of the units comply with UFAS requirements for accessibility, individual elements need not comply with accessibility requirements when they are altered.

(5) Recipients are encouraged, but not required, to make at least an additional 2% of the units being altered comply with UFAS requirements for persons with hearing and vision impairments, if such units do not already exist.

(6) Completion of minor maintenance required to maintain a property in a decent, safe and sanitary condition is generally considered to be normal. (*24 CFR §8.3, Definition of Alteration*)

(A) EXAMPLE: A Development is remodeling all of the bathrooms throughout the property by replacing plumbing, fixtures, and cabinets. Remodeling the bathroom is an alteration to a space. Unless the property already has a minimum of 5% of its units that comply with UFAS to serve people with mobility impairments, 100% of the bathrooms remodeled must be made accessible until the property has a minimum of 5% of its units compliant with UFAS.

(B) EXAMPLE: A Development is remodeling all of the kitchens throughout a property by replacing stoves and refrigerators. Because this is not an alteration to a structural element, no structural elements must be made accessible.

(C) EXAMPLE: A Development is renovating its heating system by replacing furnaces, ductwork and vents. This is not an alteration that triggers compliance with this section because it is the replacement of a mechanical system.

(D) EXAMPLE: A Development has 100 units and 6 of the units are for persons with mobility impairments. They comply with UFAS and are on an Accessible Route. The property is remodeling all of the bathrooms throughout the property by replacing plumbing, fixtures, and cabinets. None of the remodeled bathrooms need be made accessible because the property already has at least 5% of its units that comply with UFAS.

(E) EXAMPLE: A Development that was built before 1988 has 100 units and none of them comply with the UFAS requirements. The Development is replacing all of the roofs as part of regularly scheduled maintenance and repair. No units are required to be made accessible because the work being performed is regular maintenance and repair. Reroofing is specifically not considered an alteration.

(F) EXAMPLE: A Development has 100 units and only three of those units (or 3%) comply with UFAS for persons with mobility impairments. The property is renovating 10 units, but the cost of renovation is only 50% of the cost of replacing the completed property, so this is not a substantial alteration. Because the entire unit is being renovated, two of the renovated units must comply with UFAS in order to provide a minimum of 5% of the total number of units that are accessible to people with mobility impairments.

§1.211.Additions of Units to Existing Multifamily Housing Developments.

A Development consisting of existing multifamily housing units, together with one or more newly constructed multifamily housing units that are structurally attached to the existing housing, shall be designed and constructed to provide accessibility to persons with Disabilities, as follows:

(1) The Development including the existing units and the newly constructed units in an addition must, when taken as a whole after the construction of the additional units, have at least 5% of units that are accessible for persons with mobility impairments and at least 2% of its units that are accessible for persons with sensory impairments.

(2) All accessible units must be on an Accessible Route, and must comply with new construction standards.

§1.212.Resources.

Materials on the Department's website are available as resources for the underlying topic of this subchapter.

1f

**BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 23, 2014**

Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2014 Emergency Solutions Grants Program (“ESG”)

RECOMMENDED ACTION

WHEREAS, ESG funds are awarded to the State of Texas by the U.S. Department of Housing and Urban Development (“HUD”);

WHEREAS, the Texas Legislature designated the Texas Department of Housing and Community Affairs (“the Department”) to administer the ESG pursuant to Texas Government Code §2306.094;

WHEREAS, eligible activities under the 2014 ESG grant were approved by the Board as part of the 2014 One Year Action Plan (“OYAP”); and,

WHEREAS, ESG funds will be made available to eligible applicants to carry out the purpose of the ESG based on a statewide competitive NOFA process;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director be granted the authority to release a Notice of Funding Availability for Fiscal Year 2014 ESG, and with the condition that all commitments made are subsequently presented to the Board for ratification.

BACKGROUND

The ESG is funded by HUD and for Program Year (PY) 2014, the Department expects to receive level funding of approximately \$6,940,000. Federal program rules require the Department to commit all funds within 60 days of receipt of an award letter from HUD and the Department anticipates receipt of this letter by Summer 2014. The Department’s contract period for PY2014 ESG will run from October 1, 2014, through September 30, 2015.

The ESG Program focuses on assisting people to regain stability quickly in permanent housing after experiencing a housing crisis and/or homelessness and also assists persons who are at-risk of homelessness. ESG funds can be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless; the payment of certain expenses related to operating emergency

shelters; essential services related to emergency shelters and street outreach for the homeless; and homelessness prevention and rapid re-housing assistance.

Allocations

The NOFA will reflect an allocation of funds as follows:

- ESG funds will be reserved for each of the HUD-designated 2014 Continuum of Care (“CoC”) Regions using a combination of the region’s proportionate share of the state’s population of persons in poverty and the region’s proportionate share of the state’s population of homeless persons. This is a departure from prior years in which funds were reserved (or regional allocation) utilizing the Uniform State Service regions. In an effort to ensure greater synchronicity with state and HUD homeless efforts, the CoC regions are now utilized.
- Eligible Applications will be ranked by score within the CoC region in which they are geographically located. ESG funds reserved for each region will be obligated starting with the Applicant with the highest score until all regional funds have been awarded.
- Within each CoC region, Applicants may request no less than \$125,000 unless the initial amount available in the CoC region is less than \$125,000. In those cases, Applicants may request an amount up to the available allocation for that region. The purpose of this minimum is twofold: first, to ensure that administrative funds at the state and local level are used more efficiently through the oversight of fewer contracts, and second to more fully encourage local collaboration within the CoC.
- Remaining funds from each region will be pooled together and utilized to fully fund Applications that were partially funded during the first distribution, in an effort to fully fund their request.
- Any funds still remaining will then be pooled together and distributed to unfunded eligible Applications in rank order by score within the region with the greatest proportional share of the state’s homeless population.
- As a final distribution option, if there are not enough eligible Applicants to be funded in a region, and there are still funds remaining, the Department may award recommended Applicants in that region with an award amount in excess of the funds requested and above the award amount limits identified in the NOFA.

If, subsequent to announcement of awards made under the FY2014 NOFA, additional ESG funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will be used to make additional awards to compliant TDHCA ESG Subrecipients with a current contract. The minimum amount of an additional award will be \$25,000.

1g

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 23, 2014

Presentation, Discussion, and Possible Action on Authorization to Release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2014 Community Services Block Grant Discretionary Funds (“CSBG-D”)

RECOMMENDED ACTION

WHEREAS, CSBG funds are awarded to the State of Texas by the U.S. Department of Health and Human Services (“HHS”); and

WHEREAS, when the Department receives the State’s annual award of CSBG funds, it reserves ninety percent (90%) of the allotment for CSBG Eligible Entities to provide services/assistance to the low-income population in all 254 counties; five percent (5%) for state administration expenses; and the remaining five percent (5%) for state discretionary use (“CSBG-D”); and

WHEREAS, in January 2013 the Board approved the programming of CSBG-D for a two year period to have a focus on improved outcomes for designated special needs groups;

WHEREAS, 2013 and 2014 CSBG-D funds were to be used on issues of homelessness and other identified Community Affairs Division needs; and

WHEREAS, one or more Notices of Funding Availability (“NOFA”), Requests for Proposals (“RFP”), and/or an Interagency Agreement will be utilized to make most of these funds available;

NOW, therefore, it is hereby

RESOLVED, the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of the Department, to cause one or more NOFAs, RFPs and/or Interagency Agreement to be issued or entered into for some or all of the 5% state discretionary (CSBG-D) funds, consistent with the policy direction presented to and adopted by this Board and

FURTHER RESOLVED, that should one or more respondents or applicants for funds require federal approvals, staff is authorized to make submission to those appropriate federal entities of those selected respondents prior to presentation to the Board, with the condition that all commitments made with CSBG-D funds must be presented to the Board for award.

BACKGROUND

The Department has set aside approximately \$1.6 million or five percent (5%) of its 2014 annual CSBG allocation for state discretionary use including homelessness projects, Community Affairs training resources, assistance to Section 8 local operators, and disaster response contingencies. The state's allocation has not been finalized by HHS at the time of Board posting so all figures are estimates.

Historically, from the annual allocation the Department has released one or more CSBG-D NOFAs totaling approximately \$900,000 in the aggregate for services that included: (1) employment and education programs for migrant and seasonal farm workers and Native Americans, and other innovative projects (approximately \$200,000); (2) statewide projects to provide intensive training and technical assistance to CSBG eligible entities (approximately \$200,000); and (3) statewide projects that provide training and technical assistance to homelessness services providers (approximately \$500,000). Other uses of CSBG-D not utilized in NOFAs and approved by the Board include some staff costs for administration of the Section 8 Housing Choice Voucher Program, Disaster Relief, and for this year the addition of comprehensive training on the Results Oriented Management and Accountability ("ROMA") model for Community Action Agencies.

As state and federal resources continue to be constrained it is incumbent upon the Department to creatively identify how to continue to serve critical populations and essentially do more with less. Federal funds are generally quite restrictive with regard to their eligible uses. Flexible funds, such as CSBG discretionary funds, are often the only funds that may be used for addressing special projects and populations and Department needs.

New Objective for CSBG-D

At the Board's January 2013 Strategic Planning & Budgeting Committee meeting, staff suggested that the focus for the 2013-2014 biennium be homelessness prevention and services, with an emphasis on state and/or local coordination of systems that emphasize a long term impact for that population. This focus was selected for several reasons: 1) to follow on the positive synergy created through the release of the 2012 Pathways Home report by the Texas Interagency Council for the Homeless ("TICH"); and 2) to follow and continue the positive steps created by the Homeless Housing and Services Program ("HHSP") and the Recovery Act Homelessness Prevention and Rapid Re-housing Program ("HPRP"). With the 2014 CSBG Discretionary funds staff suggests programming funds to provide resources needed by TICH to address that council's statutory charge as described below and as further depicted in the table.

In 1995, the 74th Texas Legislature established the TICH. Legislation requires TICH to coordinate the state's resources and services to address homelessness. TICH serves as an advisory committee to the Department. Representatives from eleven state agencies sit on the council along with members appointed by the Governor, Lieutenant Governor, and Speaker of

the House of Representatives. The Council’s duties found in the Texas Government Code, §2306.905 include, among other things:

- To survey current resources for services for the homeless in the state;
- Assist in coordinating and providing statewide services for all homeless individuals in this state;
- Increase the flow of information among separate providers and appropriate authorities;
- Provide technical assistance to the Department in assessing the need for housing for individuals with special needs in different localities; and
- Maintain a central resource and information center for homeless services.

CSBG-D NOFAs and/or RFPs

The Department will issue a NOFA and/or RFP in the sum of \$200,000 targeted to Migrant and Seasonal Farmworker populations and Native American populations

The Department will issue a NOFA and/or RFP not to exceed \$200,000 targeted to providing intensive community action agencies support.

The Department will issue one or more NOFAs and/or RFP totaling \$500,000 targeted to Homeless Initiatives

The Department will issue a NOFA and/or RFP not to exceed \$100,000 targeted to providing support needed by the TICH in meeting its specific statutory duties.

Other uses of CSBG-D

As is historically the case, approximately \$150,000 will be held to support the Section 8 Program. We are cautiously optimistic that as this program stabilizes some or all of these funds can be brought back for re-programming.

As is historically the case, approximately \$150,000 will be held as a contingency fund for supporting disaster response efforts.

This year \$300,000 will be utilized to support the Department’s effort to provide Results Oriented Management and Accountability (“ROMA”) training to CSBG eligible entities. ROMA was created in 1994 by an ongoing task force of Federal, state, and local community action officials – the Monitoring and Assessment Task Force. Based upon principles contained in the Government Performance and Results Act of 1993, ROMA provides a framework for continuous growth and improvement among more than 1000 local community action agencies and a basis for state leadership and assistance toward those ends.

Transitional Funds for Migrant Seasonal Farmworker and Native American populations	\$200,000
Intensive CAA Support	\$200,000
Homeless Initiatives (1 or more NOFAs)	\$500,000

Section 8 Administration/Local Operator Support	\$150,000
Results Oriented Management and Accountability Training Reserve	\$300,000
Texas Interagency Council for the Homeless Goals Initiative	\$100,000
Disaster Recovery Reserve	\$150,000
Total CSBG Discretionary Estimate	\$1,600,000

If approved by the Board, one or more NOFA(s), Interagency Agreement(s) and/or RFP(s) will be released with applications estimated to be due in March 2014. It is anticipated that final award recommendations under these NOFAs or RFPs will be presented to the Board in May or June of 2014.

In the event that the Department deobligates funds from an award, receives competitive proposals that provide cost savings, receives additional federal funds, or should uncommitted disaster response funds remain, staff may need to bring such balances back to this Board for approval of reprogramming and possible award.

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**To Be Posted
three days
prior to the meeting**

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 23, 2014

Presentation, Discussion, and Possible Action on approval to release and subsequently award a Request for Applications (“RFA”) for qualified firms to develop a Utility Allowance (“UA”) Schedule for use in the Section 8 Housing Programs

RECOMMENDED ACTION

WHEREAS, the Department is designated as a Public Housing Authority (“PHA”); and,

WHEREAS, 42 U.S.C §1437(c-1) (a) and (b) requires PHAs to establish UA schedule annually;

NOW, therefore, it is hereby

RESOLVED, that the Department publish a RFA for a comprehensive study on UA, and the development of a UA schedule; and,

FURTHER RESOLVED, that the Department select a qualified firm in accordance with the RFA, and to advise the Board of any firms selected.

BACKGROUND

The Department is requesting to procure a firm to provide a comprehensive housing study developing a UA schedule based on the typical cost associated with the utilities used in the Section 8 program. HUD requires Section 8 programs to review UA schedules annually. If there has been a change of 10 percent or more in the utility rate since the last time the UA schedule was revised, the Department must revise the allowance.

UAs are based on current utility rates and normal consumption patterns for the community. Unit size, unit type, and fuel type are major variables that are considered when establishing a UA schedule. Depending on the housing supply in the Department’s jurisdiction, separate UAs should be established for units such as Apartments, Row House, Townhouse, Single family detached, and Manufactured homes.

When a family locates a unit, the household is required to submit a Request for Tenancy. The Department must consider not only the contract rent that is paid but also the anticipated cost of any utilities that the tenant is required to pay. The UA is intended to enable participating households to pay typical costs for utilities and services paid by households occupying units similar in size and type in the same location. Gross rent is determined by using the units UA to compute the household’s portion of rent. Gross rent is the total household payment minus the UA.

Once a firm has been selected, the Department will provide a report of the chosen firm to the Board.

1j

BOARD ACTION REQUEST

COMMUNITY AFFAIRS

JANUARY 23, 2014

Presentation, Discussion, and Possible Action on Approval of the Draft FFY 2014 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) State Plan for Public Comment

RECOMMENDED ACTION

WHEREAS, the Department develops and submits a State Plan to the DOE each year to administer the WAP; and

WHEREAS, in anticipation of grant guidance from DOE, the Community Affairs Division has prepared the Draft FFY 2014 DOE WAP State Plan for public comment;

NOW, therefore, it is hereby

RESOLVED, that the Draft FFY 2014 DOE WAP State Plan, in the form presented to this meeting, is hereby approved for public comment and public hearing; and

FURTHER RESOLVED, that if no substantive public comment or substantive federal guidance is received, the plan will be submitted, without further Board approval, to DOE.

BACKGROUND

The 2014 DOE WAP budget is estimated at \$4,289,956, based on level FFY 2013 funding. The funding provides for the installation of weatherization measures to increase energy efficiency of a home including caulking, weather-stripping, adding ceiling, wall, and floor insulation, patching holes in the building envelope, duct work, and repair or replacement of energy inefficient heating and cooling systems. Additionally, the funds allow for subrecipients to complete financial audits, household energy audits, outreach and engagement activities, and program administration. Further, funding provides for state administration and state training and technical assistance activities. To the extent the awarded funds are greater or less than the amount in the draft plan, proposed activities will be proportionally adjusted.

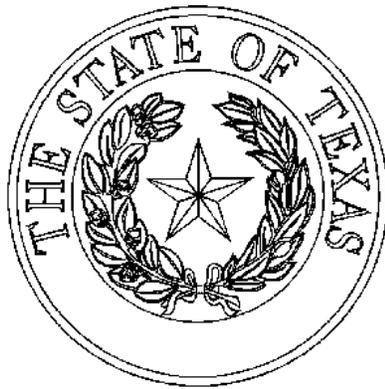
The Draft plan and public hearing announcement will be posted on the Department’s website on Friday, January 24, 2014. Further, an announcement of the public hearing and the availability of the draft plan will be published in the *Texas Register* on Friday, February 7, 2014. The Department will conduct a public hearing for the draft plan on Monday, February 10, 2014, at Department headquarters.

DOE regulations require a Weatherization Policy Advisory Council be designated in the Plan in order to provide guidance and comment on the plan. The Policy Advisory Council is comprised of six individuals appointed by the Department. The Council meeting is scheduled to occur after the conclusion of the Public Hearing and after all public comment has been received. Should substantive public comment or substantive federal guidance necessitate a change in the draft plan, staff will provide a Board update at the February 20, 2014, meeting.

2014 DOE WAP STATE PLAN

DRAFT

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS



PY 2013 STATE PLAN & APPLICATION
FOR
WEATHERIZATION ASSISTANCE PROGRAM
FOR LOW-INCOME PERSONS

January 2014

APPLICATION FOR FEDERAL ASSISTANCE SF-424

DRAFT 2014

Version 02

9. Type of Applicant:

A State Government

10. Name of Federal Agency:

U. S. Department of Energy

11. Catalog of Federal Domestic Assistance Number:

81.042

CFDA Title:

Weatherization Assistance for Low-Income Persons

12. Funding Opportunity Number:

DE-FOA-0000835

Title:

Weatherization Assistance for Low-Income Persons

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Statewide

15. Descriptive Title of Applicant's Project:

Statewide Weatherization Assistance Program

APPLICATION FOR FEDERAL ASSISTANCE SF-424

DRAFT 2014

Version 02

16. Congressional District Of:

a. Applicant: Texas Congressional District 01

b. Program/Project: TX-Statewide

Attach an additional list of Program/Project Congressional Districts if needed:

17. Proposed Project:

a. Start Date: 04/01/2014

b. End Date: 03/31/2015

18. Estimated Funding (\$):

a. Federal	4,289,956.00
b. Applicant	0.00
c. State	0.00
d. Local	0.00
e. Other	0.00
f. Program Income	0.00
g. TOTAL	4,289,956.00

19. Is Application subject to Review By State Under Executive Order 12372 Process?:

- a. This application was made available to the State under the Executive Order 12372 Process for review on:
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E.O. 12372

20. Is the applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation)

No

21. By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code Title 218, Section 1001)**

I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr First Name: Timothy

Middle Name: K.

Last Name: Irvine

Suffix:

Title: Executive Director

Telephone Number: 5124753296

Fax Number: 5124753858

Email: tim.irvine@tdhca.state.tx.us

Signature of Authorized Representative: Signed Electronically

Date Signed: 07/25/2013

Authorized for Local Reproduction

**DRAFT 2014
BUDGET INFORMATION - Non-Construction Programs**

OMB Approval No. 0348-0044

1. Program/Project Identification No. EE0006186		2. Program/Project Title The Weatherization Assistance Program enables low-income families to permanently reduce their energy bills by making their homes more energy efficient. During the last 32 years, the U.S. Department of Energy's (DOE) Weatherization Assistance Program has provided weatherization services to more than 6.2 million low-income families.	
3. Name and Address STATE OF TEXAS P.O. BOX 13941 AUSTIN TX 787113941		4. Program/Project Start Date 04/01/2014	5. Completion Date 03/31/2015

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. DOE	81.042	\$ 0.00		\$ 4,289,956.00		\$ 4,289,956.00
2. STATE			\$ 0.00		\$ 0.00	\$ 0.00
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 4,289,956.00	\$ 0.00	\$ 4,289,956.00

SECTION B - BUDGET CATEGORIES					
6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1) GRANTEE ADMINISTRATION	(2) SUBGRANTEE ADMINISTRATION	(3) GRANTEE T&TA	(4) SUBGRANTEE T&TA	
a. Personnel	\$ 103,177.00	\$ 0.00	\$ 95,389.00	\$ 0.00	\$ 198,566.00
b. Benefits	\$ 25,794.00	\$ 0.00	\$ 23,847.00	\$ 0.00	\$ 49,641.00
c. Travel	\$ 21,164.00	\$ 0.00	\$ 23,604.00	\$ 0.00	\$ 44,768.00
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
e. Supplies	\$ 3,000.00	\$ 0.00	\$ 2,000.00	\$ 0.00	\$ 5,000.00
f. Contract	\$ 0.00	\$ 364,658.00	\$ 0.00	\$ 229,970.00	\$ 3,876,554.00
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
h. Other	\$ 18,029.00	\$ 0.00	\$ 14,000.00	\$ 0.00	\$ 32,029.00
i. Total Direct Charges	\$ 171,164.00	\$ 364,658.00	\$ 158,840.00	\$ 229,970.00	\$ 4,206,558.00
j. Indirect	\$ 43,335.00	\$ 0.00	\$ 40,063.00	\$ 0.00	\$ 83,398.00
k. Totals	\$ 214,499.00	\$ 364,658.00	\$ 198,903.00	\$ 229,970.00	\$ 4,289,956.00
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

**DRAFT 2014
BUDGET INFORMATION - Non-Construction Programs**

OMB Approval No. 0348-0044

1. Program/Project Identification No. EE0006186		2. Program/Project Title The Weatherization Assistance Program enables low-income families to permanently reduce their energy bills by making their homes more energy efficient. During the last 32 years, the U.S. Department of Energy's (DOE) Weatherization Assistance Program has provided weatherization services to more than 6.2 million low-income families.	
3. Name and Address STATE OF TEXAS P.O. BOX 13941 AUSTIN TX 787113941		4. Program/Project Start Date 04/01/2014	5. Completion Date 03/31/2015

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.						
2.						
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 4,289,956.00	\$ 0.00	\$ 4,289,956.00

SECTION B - BUDGET CATEGORIES						
6. Object Class Categories	Grant Program, Function or Activity				Total (5)	
	(1) PROGRAM OPERATIONS	(2) HEALTH AND SAFETY	(3) LIABILITY INSURANCE	(4) FINANCIAL AUDITS		
a. Personnel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 198,566.00	
b. Benefits	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 49,641.00	
c. Travel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 44,768.00	
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
e. Supplies	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 5,000.00	
f. Contract	\$ 2,479,634.00	\$ 619,908.00	\$ 161,584.00	\$ 20,800.00	\$ 3,876,554.00	
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
h. Other	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 32,029.00	
i. Total Direct Charges	\$ 2,479,634.00	\$ 619,908.00	\$ 161,584.00	\$ 20,800.00	\$ 4,206,558.00	
j. Indirect	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 83,398.00	
k. Totals	\$ 2,479,634.00	\$ 619,908.00	\$ 161,584.00	\$ 20,800.00	\$ 4,289,956.00	
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	

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IV.1 Subgrantees

Subgrantee (City)	Planned Funds/Units
Alamo Area Council of Governments (San Antonio)	\$324,701.00 32
Big Bend Community Action Council (Marfa)	\$59,715.00 5
Brazos Valley Community Action Agency (College Station)	\$133,220.00 13
Cameron-Willacy Counties Community Projects (Brownsville)	\$123,401.00 12
Combined Community Action Agency (Giddings)	\$89,193.00 8
Community Action Committee of Victoria Texas (Victoria)	\$121,024.00 11
Community Action Corporation of South Texas (Alice)	\$325,623.00 32
Community Services Agency of South Texas (Carrizo Springs)	\$82,139.00 7
Community Services, Inc. (Corsicana)	\$229,233.00 22
Concho Valley CAA (San Angelo)	\$75,210.00 7
Dallas County Health & Human Services (Dallas)	\$313,042.00 31
El Paso Community Action Program, Project Bravo (El Paso)	\$180,710.00 17
EOAC of Planning Region XI (Waco)	\$79,327.00 7
Fort Worth, City of (Fort Worth)	\$193,845.00 19
Greater East Texas Community Action Program (Nacogdoches)	\$116,702.00 11
Hill Country Community Action Agency, Inc. (San Saba)	\$109,108.00 10
Nueces County Community Action Agency (Corpus Christi)	\$68,022.00 6
Panhandle Community Services, Inc. (Amarillo)	\$111,038.00 10
Programs for Human Services (Orange)	\$119,496.00 11
Rolling Plains Management Corp. (Crowell)	\$149,289.00 14
Sheltering Arms Senior Services, Inc. (Houston)	\$349,999.00 34
South Plains Community Action Agency (Levelland)	\$101,189.00 9
Texoma Council of Governments (Sherman)	\$119,422.00 11
Travis County Health & Human Services Dept. (Austin)	\$121,806.00 11

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Ti-County Community Action Agency (Center)	\$70,186.00 6
West Texas Opportunities, Inc. (Lamesa)	\$109,914.00 10
Total:	\$3,876,554.00 366

IV.2 WAP Production Schedule

Weatherization Plans	Units
Total Units (excluding reweatherized)	366
Reweatherized Units	0

Note: Planned units by quarter or category are no longer required, no information required for persons.

Average Unit Costs, Units subject to DOE Project Rules		
VEHICLE & EQUIPMENT AVERAGE COST PER DWELLING UNIT (DOE RULES)		
A	Total Vehicles & Equipment (\$5,000 or more) Budget	\$0.00
B	Total Units Weatherized	366
C	Total Units Reweatherized	00
D	Total Dwelling Units to be Weatherized and Reweatherized (B + C)	366
E	Average Vehicles & Equipment Acquisition Cost per Unit (A divided by D)	\$0.00
AVERAGE COST PER DWELLING UNIT (DOE RULES)		
F	Total Funds for Program Operations	\$2,479,634.00
G	Total Dwelling Units to be Weatherized and Reweatherized (from line D)	366
H	Average Program Operations Costs per Unit (F divided by G)	\$6,774.96
I	Average Vehicles & Equipment Acquisition Cost per Unit (from line E)	\$0.00
J	Total Average Cost per Dwelling (H plus I)	\$6,774.96

IV.3 Energy Savings

Method used to calculate savings: WAP algorithm Other (describe below)

Method used to calculate savings description:

The PY 2014 energy saving calculations methodology was developed by the Department using the most recent Metaevaluation of the National Weatherization Assistance Program (ORNL/CON-493). This methodology estimates annual savings of 30.5 MBtu according to DOE's PY 2005 Application Instructions and Forms for PY 2006. The 2014 Plan is estimated according to funding allocation and adjusted average expenditure limit per unit allowed to weatherize a home. The total number of units projected to be weatherized in PY 2013 is 366 for a total of annual estimated energy savings of 11,163 MBtu.

This year estimated energy savings (MBtus):

Prior year estimated energy savings (MBtus): **Actual:**

IV.4 DOE-Funded Leveraging Activities

N/A

IV.5 Policy Advisory Council Members

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☞ Check if an existing state council or commission serves in this category and add name below

Combined Community Action Inc.	Type of organization: Non-profit (not a financial institution) Contact Name: Kelly Franke Phone: (979)540-2985 Email: KJFranke@ccaction.com
Greater East Texas Community Action Program	Type of organization: Non-profit (not a financial institution) Contact Name: Karen Swenson, Executive Director Phone: (936)564-2491 Email: kswenson@sbcglobal.net
Railroad Commission of Texas, Alt. Fuels Div.	Type of organization: Unit of State Government Contact Name: Heather Ball, Dir. Marketing & Public Education Phone: (512)463-7359 Email: heather.ball@rrc.state.tx.us
Texas Department of Aging and Disability Services	Type of organization: Unit of State Government Contact Name: Toni Packard Phone: (512)438-4290 Email: toni.packard@dads.state.tx.us
Ysleta del Sur Pueblo Housing Department	Type of organization: Indian Tribe Contact Name: Al Joseph Phone: (915)859-9196 Email: ajoseph@ydsp-nsn.gov

IV.6 State Plan Hearings (Note: attach notes and transcripts to the SF-424)

Date Held	Newspapers that publicized the hearings and the dates the notice ran
01/23/2014	Draft FFY2014 Plan was presented at the TDHCA Board of Directors meeting on January 23, 2014, approving release of the Draft plan for public comment.
01/24/2014	Draft plan and notice of public hearing will be posted on the Department's website on January 24, 2014.
02/07/2014	Notice of Public Hearing for the Texas 2014 WAP Plan will be posted in the February 7, 2014 edition of the Texas Register.
02/10/2014	Public Hearing for the Texas 2014 WAP Plan is scheduled for February 10, 2014.
02/11/2014	The WAP Policy Advisory Council meeting will be scheduled for February 11, 2014.
02/20/2014	Final FFY2014 Plan will be presented at the TDHCA Board of Directors meeting on February 20, 2014, approving submission of the Final plan to DOE.

IV.7 Miscellaneous

<p>Policy Advisory Council</p> <p>The Policy Advisory Council (PAC) is broadly representative of organizations and agencies and provides balance, background, and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems. Historically, the PAC has met annually after the public hearing for the DOE plan.</p> <p>The low-income elderly population is represented by the PAC members from Combined Community Action and the Greater East Texas Community Action Association. The low-income handicapped population is represented by the PAC member from the Texas Department of Aging and Disability Services. The low-income Native American population is represented by the PAC member from the Ysleta del Sur Pueblo Housing Department.</p> <p>Liability Insurance</p> <p>The liability insurance separate line item was increased to enable Subrecipients to purchase pollution occurrence insurance in addition to the general liability insurance. Most regular liability insurance policies do not provide coverage for pollution occurrence. Subrecipients should review existing policies to ensure that lead paint measures are also covered and if not, secure adequate coverage for all units to be weatherized. If Subrecipients require additional funding for liability insurance, they must first provide the Department with three price quotes. When approved, additional liability insurance costs may be paid from administrative or program support categories. The Department strongly recommends the Subrecipients require their contractors to carry pollution occurrence insurance to avoid being liable for any mistakes the contractors may make. Each Subrecipient should get a legal opinion regarding the best course to take for implementing the pollution occurrence insurance coverage.</p>

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This worksheet should be completed as specified in Section III of the Weatherization Assistance Program Application Package.

V.1 Eligibility

V.1.1 Approach to Determining Client Eligibility

Provide a description of the definition of income used to determine eligibility

Household income will be up to 200% of federal poverty level or less, or contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance.

Describe what household Eligibility basis will be used in the Program

Prior to weatherizing any home, the Department will ensure that its subrecipients have determined the following eligibility criteria: Subrecipients should follow the Department's Texas Administrative Code rules, Title 10, Part 1, Chapter 5, Subchapters A, E, and F for details on eligibility and income determination criteria.

Describe the process for ensuring qualified aliens are eligible for weatherization benefits

TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM RECEIPT OF WEATHERIZATION BENEFITS:

Sections 245A and 210A of the Immigration and Nationality Act (INA), as amended, made certain aliens, legalized under the Immigration and Control Act (ICA) of 1986, temporarily ineligible for weatherization assistance. The provisions of this law have expired. The only potential implications affecting weatherization services are those individual cases that were open while this law was in effect.

The Welfare Reform Act, officially referred to as the Personal Responsibility and Work Opportunity Act of 1996, H.R. 3734, placed specific restrictions on the eligibility of aliens for "Federal means-tested public benefits" for a period of five years. As defined in a Federal Register notice dated August 26, 1997 (62 FR 45256) the Department of Health and Human Services (HHS) is interpreting "Federal means-tested public benefits" to include only those benefits provided under Federal means-tested, mandatory spending programs. HHS Information Memorandum LIHEAP-IM-25 dated August 28, 1997, states that all qualified aliens, regardless of when they entered the U.S., continue to be eligible to receive assistance and services under the Low-Income Home Energy Assistance Program (LIHEAP) if they meet other program requirements. To eliminate any possible contradiction of eligibility for weatherization services at the State and local level for qualified aliens, the definition adopted by HHS will also apply to the DOE Weatherization Assistance Program.

HHS issued Information Memorandum LIHEAP-IM-98-25 dated August 6, 1998, outlining procedures for LIHEAP and Weatherization grantees serving non-qualified aliens to implement new status verification requirements. This memorandum is based on a proposed rule issued by the Department of Justice (DOJ) on August 4, 1998. The Welfare Reform Act is a complex issue and there is some confusion on the specific application of this part of the Act. To insure Program continuity between LIHEAP and DOE Weatherization for the many subrecipients operating both programs, the DOE Weatherization Assistance Program will follow the interpretation as adopted by HHS. The primary area of confusion resides in the types of local agencies that are exempt/non-exempt from "status verification requirements." Local agencies that are both charitable and nonprofit would be exempt, which comprise about

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three-quarters of the local agency network. However, those agencies which are designated as local government agencies operating the Weatherization Program would not be exempt and, therefore, must conduct "status verification." Under the DOJ ruling, grantees subject to this ruling have 2 years to fully implement this procedure after the publication date of the final rule. The final rule has not yet been issued.

The DOE and LIHEAP WAP are in compliance with LIHEAP-IM-99-10 issued June 15, 1999 retracting any requirement that weatherization providers must do any type of certification of citizenship in multifamily buildings.

V.1.2 Approach to Determining Building Eligibility

Procedures to determine that units weatherized have eligibility documentation

Documented proof is on file that the dwelling unit is an eligible dwelling unit as defined in §440.22.

Describe Reweatherization compliance

Texas limits Reweatherization to 5% of all units weatherized. If agencies need to exceed the 5% cap, the agency should send a written request for prior approval to the Department.

Reweatherization will be allowed on units that have received limited weatherization prior to September 30, 1994. A new energy audit must be conducted on each unit reweatherized.

Describe what structures are eligible for weatherization

A dwelling unit shall be eligible for weatherization assistance if it is occupied by a family unit which contains a current household member who has received TANF or SSI at any time during the twelve month period preceding the determination of eligibility. The eligibility of dwelling units for WAP services can be found in 10 CFR §440.22.

Describe how Rental Units/Multifamily Buildings will be addressed

The Department addresses Rental Units and Multifamily units in the same manner. In accordance with §440.22(b)(3), the Department requires that Subrecipients keep on file procedures that address protection of renters' rights, to ensure:

- Written permission of the building owner or his agent before commencing work.
- Benefits of the services accrue primarily to the low-income tenants residing in such units.
- For a reasonable period of time after completion, the household will not be subjected to rent increases (unless those increases are demonstrably related to other matters other than the weatherization work performed).
- There are adequate procedures whereby the Grantee can receive tenant complaints and owners can appeal, should rental increases occur.
- No undue or excessive enhancement shall occur to the value of the dwelling unit.
- To secure the federal investment and to address issues of eviction from and sale of property, per 10 CFR 440.22(c), Grantees may seek landlord agreement to placement of a lien (or other contractual restrictions) upon the property being weatherized.

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Assessments and client file documentation for rental units and multifamily units are also detailed in the Multifamily Weatherization Best Practice posted on the Department's website at

<http://www.tdhca.state.tx.us/community-affairs/wap/docs/WAP-BP-MFWeatherization.pdf>.

Further, for Multifamily buildings, in the final rule, DOE offered flexibility by adding certain eligible types of large multifamily buildings to the list of dwellings that are exempt from the requirement that at least 66 percent of the units are to be occupied by income-eligible persons. In these large multifamily buildings, as few as 50 percent of the units would have to be certified as eligible before weatherization. This exception would apply only to those large multifamily buildings where an investment of DOE funds would result in significant energy-efficiency improvement because of the upgrades to equipment, energy systems, common space, or the building shell and when leveraged funds are available. By providing this flexibility, local agencies will be better able to select the most cost-effective investments and enhance their partnership efforts in attracting leveraged funds and/ or landlord contributions. This flexibility does not apply to any other type of multifamily unit(s).

Local agencies should use caution utilizing flexibility in this area. The key is the investment of DOE funds coupled with leveraged resources which result in significant energy savings. Absent this investment, lowering the eligibility to 50% may lead to disallowed costs. Local agencies must obtain prior written approval through the Department to use the 50% eligibility. DOE Regional Office must approve. The Department will seek DOE approval.

Describe the deferral Process

Deferral Standards Section of the Texas Health and Safety Plan:

A dwelling unit should not be weatherized where there is a potentially harmful situation that may adversely affect the occupants or agency's weatherization crew and staff. Only after the unit owner corrects the problems, shall weatherization work begin. It is not necessarily the responsibility of the weatherization agencies to correct such problems. The crew must declare their intent to defer weatherization on an eligible unit on the audit sheet. The audit form should include the client's name and address, dates of the audit/assessment and when the client was informed in writing, a clear description of the problem, conditions under which weatherization could continue, the responsibility of all parties involved, and the client(s) signature(s) indicating that they understand and have been informed of their rights and options. A copy should be given to the client and a copy sent to the state weatherization manager.

Should a client request a second opinion on a deferral or walk-away, the agency is encouraged to contact their local county health, building, electrical, or other county inspector to request an inspection of the site. Should the client refuse to have a county inspector inspect the unit, the crew will note the refusal in the client file, and no work shall be performed on the unit. If the inspector deems that work pending deferral can or should be performed, crews/contractors and contractors are encouraged to work with the inspector's suggestions to make the improvements. However, the inspector does not make the final determination on the amount, cost of work, or measures applied to the unit. Should the agency deem the suggested measures to be financially or programmatically out of the scope of weatherization, the agency may still defer the weatherization work on the unit.

Crewmembers or contractors who work on a unit that could or should be a deferral or walk-away, do so at their own risk.

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V.1.3 Definition of Children

Definition of children (below age): 6

V.1.4 Approach to Tribal Organizations

Recommend tribal organization(s) be treated as local applicant?

If YES, Recommendation. If NO, Statement that assistance to low-income tribe members and other low-income persons is equal.

The 70th Texas Legislature created the Native American Restitutionary Program (Oil Overcharge Restitutionary Act, Texas Government Code, Chapter 2305) for the purposes of providing oil overcharge restitution to the Texas Native Americans. In the Texas WAP, the Native-American Indian population is treated and served in the same manner as regular clients.

V.2 Selection of Areas to Be Served

The WAP is available to low-income households in all 254 counties of the state. The subrecipients are held responsible for all intake, eligibility, and weatherization activities. If the subrecipient's performance record is satisfactory according to both state and federal regulations, then the Department will offer to renew the contract if the subrecipient so desires.

New or additional subrecipients for counties unserved by Weatherization will be selected according to DOE regulations found in 10 CFR§440.15. A new or additional subrecipient is defined as a CAA or other public or nonprofit entity that is not currently operating a DOE Weatherization Assistance Program. At present, all Texas counties are served with a network of 34 existing subrecipients. This number is subject to change depending on the needs of the Program throughout the year.

Each proposed new or additional subrecipient must satisfy the following conditions of 10 CFR§440.15:

- (1) Each subrecipient is a CAA or other public or nonprofit entity;
- (2) Each subrecipient is selected on the basis of public comment received during a public hearing conducted pursuant to §440.14 (a) and other appropriate findings regarding:
 - a. The subrecipient's experience and performance in weatherization or housing renovation activities;
 - b. The subrecipient's experience in assisting low-income persons in the area to be served; and
 - c. The subrecipient's capacity to undertake a timely and effective weatherization program.
- (3) In selecting a subrecipient, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering an effective program under this part or under Title II of the Economic Opportunity Act of 1964. Program effectiveness will be evaluated by consideration of factors including, but not necessarily limited to the following:
 - a. The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;
 - b. The quality of work performed by the subrecipient;
 - c. The number, qualifications, and experience of the staff members of the subrecipient; and

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- d. The ability of the subrecipient to secure volunteers, training participants, and public service employment workers.

Formula Distribution

The Department updates the budget allocation proportion by county and Subrecipient based on poverty income, elderly poverty, median household income (from the 2010 U.S. Census data), and climate data (from the National Climatic Data Center, Climate Normals, 2010).

The Department allocates funds to Subrecipients by applying a formula based upon the DOE allocation for program year 2013. The allocation formulas reflect the 2010 Census data. If any carryover funds are available, they will be distributed by allocation formula and used to increase the number of units to be weatherized. The adjusted average expenditure limit per unit for program year 2013 is \$6,904. Texas limits Reweathering to 5% of all units weatherized. If agencies need to exceed the 5% cap, the agency should send a written request for prior approval to the Department.

If the Department determines it is necessary to permanently reassign a service area to a new Subrecipient, the Subrecipient will be chosen in accordance with 10 CFR §440.15 and the Department's Texas Administrative Code. The fund allocations for individual service areas are determined by a distribution formula with five (5) factors:

- (1) Number of non-elderly poverty households per county;
- (2) Number of elderly poverty households (65+) per county;
- (3) Median income variance per county;
- (4) Inverse poverty household density ratio per county; and
- (5) Heating/Cooling Degree days per county.

The Department may deobligate all or part of the funds provided under this contract, if Subrecipient has not expended funds as specified in the contract of each Subrecipient according to the expenditure rate and households served during the sixth month of the program year. Subrecipient's failure to expend the funds provided under this contract in a timely manner may also result in the Subrecipient's ineligibility to receive additional funding during the program year. Note: CFR: Code of Federal Regulation

V.3 Priorities for Service Delivery

The Department will ensure by contract that its subrecipients give priority to weatherizing units occupied by low-income elderly and/or low-income persons with disabilities. However, no specific percentage of elderly or disabled households will be required of subrecipients. Children residing in the units to be weatherized who are under 6 years of age will also be prioritized. Other prioritized clients include those households experiencing a high energy burden and high demand residential energy users. The monitoring/evaluation of the subrecipients will enable the Department to be assured the subrecipient is giving proper attention to these requirements.

V.4 Climatic Conditions

The climatic conditions for the State of Texas are imbedded in the algorithms of the Weatherization Assistant Program (WA 8.9) engineered by the Oak Ridge National Laboratory for the Department of Energy. As part of the Energy Audit modeling, the Department requires the Subrecipient Network to select the nearest weather station to the dwelling units. The Weather files imbedded in the WA 8-9 contains 30 year data of Heating and Cooling degree days for each weather station.

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As described in the report prepared by the Pacific Northwest National Laboratory & Oak Ridge National Laboratory for the Department of Energy, the state of Texas has several IECC climate zones. http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/ba_climateguide_7_1.pdf. These climate zones are used as an aid in helping subrecipients to identify the appropriate climate designation for the counties in which they are providing WAP services. In addition to prescribing appropriate mechanical equipment (example of climate specific measures would be evaporative cooling which may be prescribed in the Hot Dry climate of Texas and not in the Mixed Humid part of Texas) the IRC prescriptive thermal envelope of measures are different. The climate zones found in Texas are as follows:

Hot-Humid

A hot-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation and where one or both of the following occur:

A 67°F (19.5°C) or higher wet bulb temperature for 3,000 or more hours during the warmest six consecutive months of the year; or

A 73°F (23°C) or higher wet bulb temperature for 1,500 or more hours during the warmest six consecutive months of the year. IRC Prescriptive Thermal Envelope Measures:

Zone 2A and 2B	Zone 3A
Ceiling R 30	R30
Windows	U 0.65 U 0.50
Walls R-13	R-13
Floors R – 13	R 13
SHGC 0.30	0.30

Hot-Dry

Also see Document Library

A hot-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation and where the monthly average outdoor temperature remains above 45°F (7°C) throughout the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A and 3B

Ceiling R30
Windows U0.50
Walls R13

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Floors R 13

SHGC .030

Mixed-Humid

A mixed-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (65°F basis) or fewer, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A

Ceiling R30

Windows U 0.50

Walls R13

Floors R 13

SHGC .030

Mixed-Dry

A mixed-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (50°F basis) or less, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

Zone 4

Ceiling R38

Windows U 0.35

Walls R13

Floors R 19

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In addition to the 2009 IRC adopted by the State of Texas, several individual cities have adopted amendments to the code. Several of the largest metropolitan areas have adopted more stringent prescriptive envelope paths.

Enclosed is an example of the stricter envelop requirements for the City of Austin and Dallas as found in the report provided by the Pacific Northwest National Laboratory for the U.S. Department of Energy http://www.energycodes.gov/publications/techassist/residential/Residential_Texas.pdf

City of Austin

Component	Window to Wall area	Austin Code R value	2009 IECC R
value Ceiling	15 20 25	30 38 38	30 30 30

City of Dallas

Component	Window to Wall area	Dallas Code R value	2009 IECC R
value Ceiling	15 20 25	30 38 38	30 30 30

The adoption and amendments to the 2009 IRC will impact the WA 8-9 energy audits in that cities are required to evaluate user defined measures to meet the codes adopted by each individual City.

V.5 Type of Weatherization Work to Be Done

V.5.1 Technical Guides and Materials

The following Technical Guides and Materials are available on the Department's website (<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>):

- Material Installation Standards Manual (September 28, 2012)
- Weatherization Field Guide (May 21, 2010)
- Mechanical Systems Field Guide (October 30, 2010)
- NEAT Training Guide (October 25, 2011)

Further, the Department has several Weatherization Best Practices posted at <http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>. All work is being performed in accordance to the DOE-approved energy audit procedures and 10 CFR 440 Appendix A.

The Department shall allow subrecipients to perform the following funded Weatherization services:

Types of Work to be Done

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- A. Low Cost/No Cost: The Department shall not require any low cost/no cost services. (See §440.20)
- B. Incidental Repair: If such repairs are necessary to make the installation or preservation of weatherization materials effective, the cost of incidental repair materials shall not exceed the cost of weatherization materials. The goal of the WAP remains energy conservation, not housing rehabilitation.
- C. Expenditures of financial assistance provided under DOE funding or other resources for the WAP for labor, weatherization materials, and related matters shall not exceed the new adjusted average expenditure limit for program year per dwelling unit, without special agreement via an approved waiver from the Department. The adjusted average expenditure limit per dwelling unit for the current year is referenced in the annual file.

Labor, weatherization materials, and related matters include but are not limited to:

- (1) Weatherization materials;
 - (2) The appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;
 - (3) The cost of transporting labor, tools and materials for a dwelling unit;
 - (4) The cost of having on-site supervisory personnel;
 - (5) The cost of making WAP incidental repairs; and
 - (6) Office space, utilities, telephones and similar costs associated with program support personnel;
 - (7) les taxes (if not exempt) incurred on weatherization materials and costs associated with any locally required permits to complete weatherization work.
- D. Allowable WAP Expenditures: The Department shall allow expenditures for the following Weatherization materials which conform to standards in Appendix A of the DOE regulations: Insulation, ceiling attic, wall, floor, duct, water heater, and pipe and boiler; Weather-stripping; Caulking; Windows to replace ones which cannot be repaired in a cost effective manner (including necessary hardware such as latches);

Exterior doors to replace ones which cannot be repaired in a cost effective manner (including necessary hardware such as doorknobs and latches); Storm windows (or materials for construction of); Clock thermostats;

Items to improve attic ventilation including whole house fans;

Materials used as a patch to reduce air infiltration through the building envelope; Furnace efficiency modification, including but not limited to:

Replacement of burners, furnaces, or boilers or any combination thereof;

Devices for minimizing energy loss through heating systems, chimney, or venting devices; Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

Note: Measures must have an SIR of 1 or greater OR Subrecipient justified through the DOE approved Texas Priority List.

- (11) Water flow controllers;
- (12) Insulators for electrical outlets and switches;
- (13) Multiglazed windows and doors;

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- (14) Heat-absorbing or heat reflective windows and door materials as defined in Appendix A in the DOE regulations;
- (15) Movable insulation systems for windows;
- (16) Materials to construct vestibules;
- (17) Heat exchangers;
- (18) Thermostat control systems;
- (19) Materials used for water heater modifications which will result in improved energy efficiency;
- (20) Hot water heat pumps;
- (21) Waste heat recovery devices;
- (22) Materials used for heating and cooling system replacements, tune-ups, repairs and modifications which will result in improved energy efficiency; and materials used for boiler tune-ups, repairs and modifications which will result in improved energy efficiency; and
- (23) Allowable health and safety measures (including, but not limited to, UL approved smoke detectors).
- (24) The purchase and installation of through the door water/ ice units and stand along freezers in not allowed. All replaced units will be disposed of.
- (25) Additional items relating to water heaters, refrigerators, fluorescent lamps as listed in Appendix A of 10 CFR 440, February 1, 2002.

Storm doors are not allowable weatherization measures in the State of Texas.

- E. All expenditures on material and/or contract labor must follow the Department's procurement policy as set forth in the Department General Policy Issuance #02-10.2 for procuring goods or services.
- F. The Department will not require a minimum material expenditure ratio.
- G. The Department shall not allow subrecipients to use grant funds for any of the following purposes:

To weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State, or local program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or

To install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds under 10 CFR Part 440, except:

- (i) As provided under 10 CFR § 440.20;
- (ii) If such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance; or (iii) To implement re-weatherization, as outlined below.

Shelters

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Shelters may be weatherized. Living space (size) for purposes of determining expenditure level is to be calculated at 800 square feet per unit or each floor considered a unit.

Fuel Switching

The Department will not permit the general practice of fuel switching when replacing furnaces and water heaters. The Department will permit fuel switching on a case-by-case basis.

Electric Base Load Measures (EBL)

DOE has approved the inclusion of selected Electric Base Load (EBL) measures as part of the weatherization of eligible residential units. Currently, the approved EBL measures include replacement of refrigerators, electric water heaters, and compact fluorescent lights. All EBL measures must be determined cost effective with an SIR of 1 or greater by either audit analysis or separate DOE approved analytical tools. DOE has approved analytical tools to measure EBL. Instructions for incorporating EBL measures in to the WAP are detailed in the Texas Administrative Code. All dwelling units will be evaluated to determine the most cost effective measures to be installed in each unit weatherized and to determine the order in which measures will be installed. The evaluation of each unit must include building envelope measures, mechanical measures, and Electric Base Load measures.

Lead-Based Paint Safe Work Practices

The State of Texas provided Lead, Renovation, Repair, and Painting Program (LRRPP) training to all program monitors and Subrecipients through the Training Academy during Program Year 2011. The State will provide LRRPP training to new Subrecipient hires on an on-going case by case basis.

V.5.2 Energy Audit Procedures

Audit Procedures and Dates Most Recently Approved by DOE

Single-Family : NEAT- DOE approved March 28, 2011

Manufactured Housing : MHEA- DOE approved March 28, 2011

Multi-Family : NEAT- under 24 units NEAT (which are individually heated or cooled)- DOE approved March 28, 2011

Comments

Energy Audit Procedures

Each dwelling unit weatherized or reweatherized in Texas must be evaluated by the computerized energy audit. The Department has implemented the U.S. Department of Energy approved Priority List that identifies cost effective recurring measures that are performed.

In December 2009, the Department implemented the U.S. Department of Energy approved Priority List that identifies cost effective recurring measures that can be performed. Additionally, the NEAT and MHEA audits have been approved by DOE for use on single family dwellings, manufactured homes and multifamily buildings containing 24 or fewer units. The energy audits have not been approved for multifamily buildings containing 25 or

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more units. For buildings with 25 or more units, the Department will acquire a DOE approved energy audit, such as EA-QUIP or TREAT, or require an engineering study.

Each dwelling unit weatherized or reweatherized in Texas must be evaluated by the computerized energy audit. The Department is modifying the savings-to-investment ratio (SIR), effective April 1, 2006, by lowering the SIR to one or greater for repair/replacement of primary doors, primary windows and storm windows.

The Department will change the State blower door requirements in order to gain higher savings. The changes will be based on information provided ASHRAE, George Tsongas and Lawrence Berkley Labs, as well as information provided by Saturn Resource Management, Inc.

Advanced Energy Audit Procedures

Subrecipients shall assess the condition of each eligible dwelling and determine the measures and repairs to correct any deficiencies that are not energy efficient. Assessments shall include a Blower Door test to measure air infiltration and an assessment to determine the efficiency of each heating/cooling appliance and carbon monoxide test for Health and Safety. The measures, repair and health and safety items shall be entered into the Texas energy audit or the multifamily energy audit. These computerized audits determine the estimated savings of each measure and weigh those savings against the cost of each measure to determine that its savings-to-investment ratio (SIR) is greater than one. Accounting for the interaction between measures, the audit lists those measures according to their SIR's from the highest to the least. The total of costs of all measures with an SIR greater than one is added to the total cost of the repairs necessary to install the savings measures. This total is divided into the total savings of all the measures that have an SIR greater than one (health and safety measures are not included in this calculation). When this "Whole House SIR" is one or greater, the dwelling can be weatherized in the most cost effective manner. (If whole house SIR is less than 1, the dwelling must be considered beyond the scope of the weatherization program.)

Audit Modifications

The NEAT and MHEA audits have been approved by DOE for use on single family dwellings, manufactured homes and multifamily buildings containing 24 or fewer units. Multifamily units containing 25 or more units will require an engineering study. Texas is working towards implementation of a computerized approved audit for use in multifamily buildings containing 25 or more units.

Use of the Blower Door & Determination of Acceptable Air Changes per Hour at 50 Pascal (ACH50)

Since 1992, the Department's WAP has utilized the blower door to determine beginning air changes and to measure air changes upon completion of weatherization work. The standard for acceptable air changes for 1-4 occupants in Zone #1 is 1200-1500 CFM 50, and Zone #2 is 1500-1800 CFM 50. Following this requirement has resulted in a high rate of houses being denied weatherization services because the Desired Air Exchange (DAE) could not be achieved.

Effective April 1, 2005, the Department is proposing the implementation of a new methodology to determine acceptable Building Tightness Levels (BTL). The following steps are required:

- An initial blower door reading must be taken at 50 Pascal, (if 50 Pascal cannot be attained, the Department will provide a conversion chart to adjust lower Pascal readings to a 50 Pascal equivalent); oThe initial blower door reading at 50 Pascal is to be entered into the energy audit;

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- The square footage of the home's conditioned space must be determined; oThe number of stories (1, 1 and ½, 2, etc.) must be identified,
- A shielding factor must be determined (3 choices, shielded, normal, or exposed)
- Use the three factors above and the Department provided chart to determine the homes' acceptable Building Tightness Limit.

In order to determine the target ACH50, subrecipients will consult the "Percentage Target Air Leakage Reduction Chart." This chart will indicate the minimum required percentage reduction of air flow. The initial blower door test reading will be used in the calculation of the target ACH50. This number will be the target reading to be entered in the energy audit. The exception would be if the target is lower than the BTL. In such instances, the BTL would be the target.

Please note:

- The final CFM reading must, at a minimum, meet the Target Air Leakage Reduction Calculation (TALRC) for ACH50. Final CFM readings below the TALRC ACH50 are recommended and acceptable if the readings remain above the BTL. Final CFM readings below the BTL may result in potential health hazards and will require additional work to loosen the house. If loosening the house does not result in an acceptable blower door reading, some of the weatherization measures installed may be disallowed.
- For those units whose initial CFM reading is below the BTL, no air tightening measures shall be performed.
- If during a monitoring visit, the program officer determines that the subrecipient installed energy efficiency measures which rank with the target blower door reading and the target was not reached, the program officer will conduct a blower door test and enter the test reading as the new target. If the measure(s) rank with this new target, the cost of the measure(s) will be allowed. If the measure(s) does not rank, the cost will be disallowed.
- All air sealing work must begin in the attic, before insulation is installed and continue moving down to the floor of the unit. Following this new procedure, the Department anticipates fewer denials and increased energy savings.

V.5.3 Final Inspection

The State will perform monitoring and verification measures to ensure that no dwelling units are reported as completed prior to the installation of all prescribed weatherization measures, final inspections, and certification of completion of work in a workmanlike manner and in accordance with the priorities determined by required audit procedures. In conducting the fiscal portion of the monitoring process, the State will verify that all files reviewed and all units inspected have appropriate documentation and supporting fiscal records that demonstrate the completion of the unit prior to reporting the unit as completed. The subrecipient may not pay an independent third party for any work performed on a unit until the unit has been completed and approved during final inspection. Verification will be accomplished by review of fiscal records, including: purchase request/orders, invoices, general ledgers, check request, dates checks are issued and clearing dates.

V.6 Weatherization Analysis of Effectiveness

In order to keep an updated evaluation of each subrecipient, the Department developed a detailed management system to address this type of analysis. The subrecipients report monthly on their production and financial status. Each program officer is assigned a certain number of agencies and has the responsibility of overseeing their

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activities and arranging for the provisions of training and technical assistance when necessary. Analysis of records includes the following:

Number of homes completed; Number of applications pending; Number of homes in progress; Contract amount; Total funds expended; Balance of funds; and Special comments

The Department maintains a monitoring tracking system, which indicates the monitoring visits completed and scheduled. The Department also maintains the monitoring files, which include all the contracts and related information, from which staff can obtain a current and complete financial picture. Each subrecipient's file contains related correspondence or other information, plus the Department-generated materials. The information kept in the files provides an updated picture of how each subrecipient is meeting contractual responsibilities.

Each subrecipient will be monitored/evaluated on-site at least once during the contract year, and the Department anticipates inspecting 10% of the houses weatherized in the State each year.

Subrecipient performance is reviewed periodically and at the end of the program year. See sections regarding monitoring activities and procedures for further information on subrecipient/program effectiveness.

The State will cooperate with the U.S. Department of Energy as they implement a national evaluation project.

V.7 Health and Safety

Attached to SF-424

V.8 Program Management

V.8.1 Overview and Organization

The Texas Department of Housing and Community Affairs (the Department) is the state's lead agency responsible for affordable housing and community assistance programs. The Department annually administers funds derived from mortgage revenue bond financing and refinancing, federal grants, and federal tax credits.

In 1991, the 72nd Texas Legislature created the Department. The Department's enabling legislation combined programs from the Texas Housing Agency, the Community Development Block Grant Program from the Texas Department of Commerce, and the Texas Department of Community Affairs.

On September 1, 1992, two programs were transferred to the Department from the Texas Department of Human Services: the Low Income Home Energy Assistance Program and the Emergency Nutrition and Temporary Emergency Relief Program. Effective September 1, 1995, in accordance with House Bill 785, regulation of manufactured housing was transferred to the Department. In accordance with House Bill 7, effective September 1, 2002, the Community Development Block Grant and Local Government Services Programs were transferred to the newly created Office of Rural Community Affairs. Effective September 1, 2002, in accordance with Senate Bill 322, the Manufactured Housing Division became an independent entity administratively attached to TDHCA. As a state agency, the Department is under the authority of the Governor of the State of Texas.

The Department's services are offered through four program divisions: Office of Colonia Initiatives, Multifamily Finance Production, Single Family Finance Production, and Community Affairs, which administers the WAP.

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The Department subcontracts with a network of subgrantees that provide the WAP services. The network is comprised of community action agencies (CAAs), regional Councils of Government (COGs), and organizations in the other public or private nonprofit entity category (PPNPs). All network subgrantees are provided a draft copy of the yearly weatherization state plan, a notice of the state public hearing, and invited to participate in the public comment process.

The regular weatherization program year runs from April through March.

The Department will continue to administer the program through subgrantees in accordance with 10 CFR §440.15 provisions and State regulations. If existing subgrantees are successfully administering the Program, the Department will offer to renew the contract if the subgrantee so desires and if grant funds are available. When the Department determines that an organization is not administering the Program satisfactorily, it may take the following action:

- Correction of the problem(s) with training or technical assistance;
- Re-assignment of the service area (or service area portion) to another Department existing subgrantee; or,
- Solicitation or selection of a new or additional subgrantee in accordance with 10 CFR §440.15 provisions. A new or additional subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a DOE Weatherization Assistance Program.

Each proposed new or additional subgrantee must satisfy the following conditions of 10 CFR §440.15

1. Each subgrantee is a CAA or other public or nonprofit entity;
2. Each new subgrantee is selected on the basis of public comment received during a public hearing conducted pursuant to §440.14 (a) and other appropriate findings regarding:
 - a. The subgrantee's experience and performance in weatherization or housing renovation activities;
 - b. subgrantee's experience in assisting low-income persons in the area to be served; and
 - c. The subgrantee's capacity to undertake a timely and effective weatherization program.
3. In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under Title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to the following:
 - a. The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;
 - b. quality of work performed by the subgrantee;
 - c. The number, qualifications, and experience of the staff members of the subgrantee; and
 - d. The ability of the subgrantee to secure volunteers, training participants, and public service employment workers.

Consolidation/downsizing: Any downsizing will occur through normal attrition.

Reassignment of service areas for just cause: In the event that a service area can no longer be served by a subgrantee, the Department reserves the right to reassign services areas. If it appears necessary to permanently reassign the service area, a new subgrantee may be chosen in an open, competitive solicitation process in accordance with 10 CFR §440.15 or the reassignment may become permanent.

Client Education

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The Department will continue to require WAP Subrecipients to provide client education to each WAP client. Subrecipients will be required to provide (at a minimum) educational materials in verbal and written format. Client education will include temperature strips that indicate the temperature in the room and energy savings materials.

V.8.2 Administrative Expenditure Limits

The Department will use 5% of its grant funds for state administration. An additional 5% will be distributed for local WAP field operations under contract. Contract funds are intended for local administration, liability insurance coverage, local fiscal audit, materials, labor, program support and health and safety measures. To help ensure that subrecipients comply with the full and proper use of all the contract funds, written definitions are to be provided to subrecipients on budget categories as deemed necessary. The Department has elected to provide the maximum allowable funds for subrecipient administration to subrecipients receiving less than \$350,000, so it has not included procedures for deciding which subrecipients will receive additional funds. This decision is based on the following factors:

- Subrecipients often have to rely on other programs for WAP outreach and other administrative support;
- Subrecipients have had to adjust budgeting to keep pace with cost-of-living increases -- staff salaries, fringe benefits, rent, postage, travel, etc.
- The State of Texas is 877 miles from Northern to Southern tips, 834 miles from Eastern to Western tips, and is comprised of a total of 266,807 square miles. The extra geography that subrecipients have to cover to serve all the area's clients equitably requires additional staff, staff time, postage and phone costs, and vehicle wear and maintenance. (Source of Mileage Data: Texas Department of Transportation).
- Salaries, space, utilities, telephone, and similar costs associated with program support personnel should be charged to program support.

For subrecipients receiving over \$350,000, the administrative allowance will be 5% of each subgrant. For subrecipients receiving less than \$350,000, the administrative allowance will be 10% of each subgrant.

V.8.3 Monitoring Activities

The Texas Department of Housing and Community Affairs (the Department) plans to monitor the Weatherization Assistance Program (WAP) with the Monitoring staff included in the budget. Training and technical assistance shall be provided to the Subrecipient, whenever necessary, by the Training staff. Subrecipient is defined as an organization with whom the Department contracts and provides WAP funds.

Names and credentials of department staff dedicated to monitoring activities follow. Monitoring staff are paid out of Grantee Administration budget category.

David Escamilla - 9 years of weatherization monitoring; has attended DOE sponsored conferences and has attended BPI training

Rosy Falcon – over 5 years of weatherization monitoring, BPI certified, and has attended DOE sponsored conferences.

J.R.Mendoza–over 11 years of program management and weatherization monitoring experience, Certified Fraud Examiner, attended KBSI and HERS trainings and has attended DOE sponsored conferences.

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Walter Griner – over 10 years of weatherization monitoring experience, 9 years of weatherization assessment and inspection experience, has attended BPI training and DOE sponsored conferences.

Prior to execution of contracts with Subrecipients, the Department does not develop a monitoring schedule. When the schedule is developed, the Department will first inspect completed units. However, if there are not enough completed units to inspect, the Department may inspect units in progress.

Monitorings will be scheduled using a risk management-based assessment. Primary consideration will consist of amount of contract, previous findings, status of finding resolution, and submission of annual Single Audit. Periodic desk reviews of expenditures and production levels will be conducted during the program year. The scheduling of on-site monitoring will depend on availability of staff, minimum number of completed units, geographic and climatic considerations. The Department may utilize a desk monitoring of Subrecipients that are not high-risk entities. The schedule may vary and dates will be confirmed with each Subrecipient in advance. The Department will conduct a monitoring review of each Subrecipient at least once a year. The purpose of the onsite or desk monitoring is to ensure that program activities are completed and that funds are expended in accordance with the contract provisions and applicable State and Federal rules, regulations, policies and related Statutes. The Department will utilize this monitoring to determine the effectiveness of the Subrecipients performance and program compliance to ensure that eligible low-income families are receiving quality and appropriate weatherization of their homes.

The Department WAP program year is April 1 through March 31. Upon the Department's completion of the Monitoring process for a program year, the Department will review all monitoring findings in order to evaluate any improvements in the agencies' performances in May. The Department will submit to DOE a written summary of its monitoring findings.

Monitoring will include health and safety procedures, client eligibility, energy audit procedures, and client education procedures. In addition, Monitors will review financial management control and ensure the quality of work via established monitoring procedures.

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The Department views its role as that of a partner with subrecipients in striving to achieve the successful delivery of services to our mutual clients. The monitoring approach will be a two-fold effort, consisting of a detailed fiscal review and a detailed review of the quality and scope of work performed on dwelling units.

- Monthly desk review of all subrecipient expenditure ratios and production levels. This will serve as an indicator of potential areas of noncompliance or low production levels.
- Request copies of fiscal records/support documentation for desk review as required. This will allow for a predetermination of fiscal condition prior to monitoring or an extended post monitoring review to clarify any fiscal questions raised at the time of the monitoring.
- On-site in-depth fiscal review and provision of on-site training/technical assistance as required when fiscal staff assists with monitoring.
- Communication links between the fiscal staff and program officers will be maintained to enhance the value of the information reviewed, obtained and used as a basis for the development of the monitoring reports returned to all subrecipients.
- On-site in-depth annual programmatic review of subrecipient management, client files, and service delivery.

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- Reviews of individual NEAT Audit performed on dwelling units. Program Officers will review the hard copy of each audit to be included in the client file to assure that the scope of the work was directed by the audit.
- On-site inspection of weatherized dwellings will be performed on 10% of units weatherized state-wide. The State intends to maintain past ratios regarding the number of dwelling units reviewed with consideration of compliance to all existing installation standards and material quality guidelines established by DOE and State criteria.
- Program Officers will continue to perform financial reviews as a portion of the monitoring process.
- Findings that may be overlooked at an exit conference will be brought to the attention of the subrecipient prior to the report being issued.

Non-compliance findings are sent out in a monitoring report to our subrecipients 30 days after the monitoring occurred. The subrecipients have 30 days to respond to the monitoring report findings. If they need to provide additional response, they will be given an additional 15 days to respond. At the conclusion of this process, any unresolved compliance issues will be reported to DOE (instances of suspected fraud or serious program abuse will be reported immediately to DOE).

With a goal of improving the performance of all Subgrantee agencies participating in the Texas Weatherization Assistance Program (WAP), the Texas Department of Housing and Community Affairs (“the Department” or “TDHCA”) will incorporate the following plan when a Subgrantee has significant and lasting findings of program non-compliance. Organizations participating in a Subgrantee Improvement Plan will be identified by our Training and Technical Assistance Team using monitoring findings and information gleaned from technical assistance visits. Those organizations will be required to meet assigned milestones before they are released from the plan. Failure to meet milestones may result in contract sanctions, up to and including placement on cost reimbursement method of payment, contract suspension, or contract termination.

1. Program Oriented Management Training – Prior to continuing any weatherization-related program activity, all Subgrantee staff that performs any action related to the WAP will be required to complete Program Oriented Management Training (POM). POM will include:
 - a. Review of WAP statutes and rules
 - b. Review of state program requirements
 - c. Review of financial and administrative best practices
 - d. Review of program best practices
2. Intensive Training and Technical Assistance – Once POM is completed, Subgrantee staff will receive training on critical program components. At each stage of Intensive T&TA, TDHCA team members will provide one-on-one guidance to Subgrantee staff to ensure the correct completion of each component. At the end of Intensive T&TA, Subgrantee staff will have completed another step toward completion a weatherized unit.
 - a. Client file documentation
 - b. Payment and reimbursement documentation
 - c. Accompanied unit assessment
 - d. Accompanied Audit completion
 - e. Accompanied Interim construction walk-through
 - f. Accompanied Final inspection

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3. Staged Program Operation – When Subgrantee staff has completed Intensive T&TA, the Subgrantee will be released to complete a determined number of client intakes. Once the client intakes are completed, TDHCA team members will review the ensuing steps of the weatherization process in the following steps:
 - a. Review of the client file documentation
 - b. Review of unit assessments
 - c. Review of audit input and completion to work order
 - d. Accompanied final inspection

Once the Subgrantee has completed the determined number of units and the process and the units have passed TDHCA monitoring, the Subgrantee will be released from the Improvement Plan for the remainder of the program year. The Subgrantee will be reviewed at the end of the program year for determination of continued funding.

At some point, however, the Department may be forced to conclude that the best interests of the clients are not being served. In those few instances, the Department will initiate a process to replace those subrecipients that have a consistent record of being unable to perform satisfactorily, as defined in the Department's Criteria and Procedures for Termination or Nonrenewal of Weatherization Subrecipient Contracts. The following are conditions which may trigger this process. These conditions are listed as a guide for subrecipients to use as a tool to assist in assuring proper management of contract funds and are not intended to serve as an exclusive list of conditions which might result in termination or nonrenewal of a contract.

Production: Failure to weatherize eligible dwelling units in a timely manner often results in funding being reallocated to other portions of the state where subrecipients maintain higher production levels. Subrecipients who fail to maintain adequate production penalize the residents of their service areas by reducing the benefits available to them.

- At sole discretion of the Department, a contract may not be renewed with a subrecipient that fails to expend at least 85% of the allocation for federally supported weatherization programs (Contract for Services) during two consecutive program years or in two of three consecutive years. While the 85% production requirement applies to all sources of program funds, it does not apply to the addition of funds not listed as anticipated in the Contract for Services.

Financial Management: Proper accounting for funds received and expended is essential to successful program management.

- Failure to submit an annual financial and compliance audit, in accordance with the Single Audit Act of 1984, in a timely manner, as defined by federal law, may result in immediate suspension of payments to the subrecipient and may result in termination or nonrenewal of contracts.
- Financial audits resulting in unresolved disallowed costs, and/or unresolved reportable conditions shall result in termination or nonrenewal of contracts (Contract for Services).
- Allegations of fraud or other intentional mismanagement of weatherization funds may result in the immediate suspension of payments to the subrecipient, pending resolution of the allegations.

Documentation of such allegations will result in the termination of the contract unless the subrecipient takes immediate steps to remedy the problem and strengthen its internal controls (Contract for Services).

Program Management: Proper compliance with materials requirements and the correct installation of materials ensures that recipients receive the full benefit from weatherization services. A failure to achieve any of the following during two of three successive years may result in contract termination.

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- Effective use of blower door technology in compliance with the most current Blower Door Policy in at least 90% of feasible units completed under the weatherization program. (Feasible dwelling units are those dwelling units determined to be both income eligible for weatherization services and that will benefit from weatherization services as demonstrated by the energy audit.)
- Compliance with the Department's Texas Administrative Code rules, Title 10, Part 1, Chapter 5, Subchapters A, E, and F.
- Compliance with use of materials meeting DOE Standards in 100% of completed units (10 CFR §440.21 (b) and Appendix A).
- Compliance with record keeping requirements regarding client file forms for the units weatherized (Contract for Services).
- Compliance with final reporting requirements and corrective actions listed in monitoring reports (Contract for Services).
- Compliance with procurement standards regarding competitive solicitation of bids for materials, labor and equipment and adherence to guidelines for selection and award of sub-contracts (Contract for Services and the Department's Texas Administrative Code rules).

General Conditions. Contracts will be terminated if a subrecipient ceases to exist, becomes legally incapable of performing its responsibilities or loses its status as a nonprofit (Contract for Services).

Procedure: The Department will notify the subrecipient in writing upon becoming aware of any of the preceding areas of noncompliance which may result in termination, suspension or nonrenewal of the contract. Notification will include specific findings of noncompliance as well as a request for a Corrective Action Plan from the subrecipient to avoid termination or nonrenewal.

If such deficiencies are of a very serious and immediate nature such as evidence of fraud, the Department may take immediate action to suspend the contract until final resolution can be made.

If suspension is not required, the Department will provide training and technical assistance with the caveat that improvement must occur or the contract will have to be terminated.

If the problems of noncompliance persist as identified earlier in this document as justification for termination, the Department will notify the subrecipient in writing of its intent to terminate or not renew the contract. The subrecipient will also be notified that an appeal may be filed within 15 days of the receipt of the letter if the subrecipient has information to present which might convince the Department to delay or avoid this course of action. This notification will include to whom the appeal shall be filed, the time frames for filing the appeal and the right to have counsel. If the contract is either not renewed or terminated, the subrecipient may request a public hearing with the appeal in accordance with 10 CFR §440.15. The Department shall comply with said request.

If an appeal is filed which requests a public hearing, the Department will schedule the hearing in a location convenient for the subrecipient and provide ample opportunity for testimony from citizens concerning the proposed action.

Testimony received at the hearing will be carefully evaluated with any other evidence provided by the subrecipient to arrive at a final decision on this matter within 15 days following the conclusion of the hearing.

U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
STATE PLAN/MASTER FILE WORKSHEET
DRAFT

(Grant Number: EE0006186, State: TX, Program Year: 2014)

If a decision to replace the subrecipient has been reached, a request for proposals may be issued for the area to be served. The selection of the new subrecipient will be in accordance with the criteria in 10 CFR §440.15 (a). Prior to the Department selecting a new subrecipient, a public hearing will be held to receive public comment.

The Department will select a successful applicant, then provide a contract for the provision of weatherization services.

Close-Out: The Department shall close out a grant within a reasonable period of time. The completion date may be either the last day of a project period or the date of termination of a grant. The Department defines close-out as the process by which the Department determines that the subrecipient has performed all required work and completed all applicable administrative actions.

Final Reports: The subrecipient must submit all final financial, performance and other reports required by the terms and conditions of the contract within 60 days of the completion date.

Final Payments and Adjustments: When required or authorized by the terms and conditions of the contract, the Department may adjust the subrecipient's share of the approved budget based on the information contained in the subrecipient's final report or in any audit. The Department shall promptly pay the subrecipient for any unreimbursed allowable costs under the grant at the request of that subrecipient. The subrecipient must immediately refund, to the Department, any unobligated funds advanced to them.

Property: The subrecipient shall provide a list of property furnished by the Department or acquired with grant funds when that grant requires such a list. The subrecipient shall secure and maintain all such property until such time as it is transferred to the subrecipient's replacement.

Audit: If the Department closes out a grant without an audit or without benefit of an organization-wide or single audit covering the full period of Department support, the subrecipient must refund to the Department the full amount of any costs subsequently disallowed under the close-out grant on the basis of any applicable audit.

Later Disallowance and Adjustments: The close-out of a contract does not affect the following:

1. The Department's right to disallow costs and recover funds on the basis of a later audit or review.
2. The subrecipient's obligation to repay any funds due as a result of later refunds, corrections or other transactions.

Reference: 10 CFR §600.123, 10 CFR §600.450, 10 CFR §600.451

Terminology: The following is provided to assist with the interpretation of the above criteria and procedures:

Termination: Termination is an action that occurs during a contract period.

Nonrenewal: Nonrenewal is an action that occurs following a contract period but prior to execution of a new contract.

Suspension: Suspension is a temporary action that occurs during a contract period.

Timely manner: Timely manner as it applies to production is defined as the completion of required number of eligible dwelling units and maximum expenditure of funds during a contract period.

U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
STATE PLAN/MASTER FILE WORKSHEET
DRAFT

(Grant Number: EE0006186, State: TX, Program Year: 2014)

V.8.4 Training and Technical Assistance Approach and Activities

The Department will conduct training and technical assistance throughout the program year. Department staff may determine that additional training is needed for a particular Subrecipient or the Subrecipient may request it. The Training staff is actively conducting training and technical assistance and continually works with feedback from Monitoring and department staff to determine Subrecipients additional training needs on an on-going basis. Training will include manufactured housing, lead safe work practices, building envelope measures, energy audit, and health and safety.

The Department will provide training through a four pronged approach, to the extent financially feasible.

- A) Review of Findings entered in the Monitoring Tracking Database The training team will provide training to address specific findings in order to correct identified monitoring deficiencies.
- B) Referral by the Monitoring staff Training areas will focus on input from the referring Monitor.
- C) Online request produced by the Subrecipient The Department has created an online training and technical assistance database to track training requested by the Subrecipient network. The requestor has a menu of WAP topics to select from. The online training request form can be found on the Department's website, <http://www.tdhca.state.tx.us/community-affairs/wap/index.htm>. The Department's training staff will contact the requestor and customize the training around their needs.
- D) Management Request Management may make a specific request and dictate the type of training needed.

Evaluation of Training Activities

In order to evaluate the efficiency of its training activities, the training staff will review its training activities semi-annually and compare those to the Subrecipient monitoring reports. Additionally, Subrecipients will be given the opportunity to provide feedback through evaluation forms distributed at all training sessions.

Training staff will conduct periodic surveys to solicit input from Subrecipients as to their training needs. The Department will also utilize input from Monitors and Subrecipient monitoring reports to determine areas of additional training needed. A database of all monitoring findings provides the training group with analysis of training needs and opportunities that correlate to monitoring reports.

Training will be designed for each Agency based on the information prompting the request. Technical Assistance will be documented by using the online training and technical assistance database. Additionally, for onsite Training and Technical Assistance visits, a report will be produced indicating Subrecipient staff present, Training and Technical Assistance materials and documents presented to the Subrecipient.

The Department does not require licensing or certification of Subrecipient staff. Should a Subrecipient hire a new weatherization coordinator, the Subrecipient will be required to notify the Department in writing within 30 days of the date of hiring the coordinator and request training. The Department will contact Subrecipients within 30 days of the date of notification to arrange for training. The Department will use in-house staff and may use other program professionals to provide training. The Department will provide travel assistance to Subrecipients that receive training.

Training and Technical Assistance - Approach

U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
STATE PLAN/MASTER FILE WORKSHEET
DRAFT

(Grant Number: EE0006186, State: TX, Program Year: 2014)

The Department will utilize the Training Academy for ongoing courses throughout the Grant Period. The courses at the Academy will be available for State and Subrecipient staff, as well as Subcontractors.

The Department will assign programmatic trainers and Program Officers to conduct training and technical assistance. The trainers will be sent to subrecipients to conduct training if a Program Officer determines that the additional training is needed, or when requested by the subrecipient. In addition, the trainers will conduct training at state sponsored workshops.

The Department does not require licensing or certification of subrecipient staff at this time. However, if a subrecipient hires a new weatherization coordinator, the subrecipient will be required to contact the Department with written notification within 30 days of the date of hiring the coordinator and request training. Within 30 days of the date of notification the Department will contact the subrecipient to set a training schedule. The Department will use in-house staff as well as other subrecipient staff to provide training. The Department will provide travel assistance to subrecipients that provide training.

Both the program officers and programmatic trainers will monitor monthly performance/expenditure reports for production and compliance issues (materials, administrative ratios, per unit expenditures, etc.) to determine if additional training is needed.

The Department will conduct cluster workshops throughout the program year to continue training the subrecipients on the Texas computerized energy audit, heating and cooling systems assessments and blower door usage. The Department plans to assist subrecipients in their travel costs to the State sponsored and DOE sponsored workshops as funds permit.

In order to evaluate the efficacy of its training activities, the training staff will annually review its training activities and compare those to the subrecipient monitoring reports, the annual analysis and the results of the in-house evaluation study. Additionally, subrecipients will be given the opportunity to provide feedback through evaluation forms distributed at all training sessions.

The Department will continue to require WAP Subrecipients to provide client education to each WAP client. Subrecipients will be required to provide (at a minimum) educational materials in verbal and written format. Client education may include temperature strips that indicate the temperature in the room and energy savings materials.

V.9 Energy Crisis and Disaster Plan

n/a

1k

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 23, 2014

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

RECOMMENDED ACTION

WHEREAS, the Board approved the inducement resolution for Decatur-Angle Apartments at the September 12, 2013, Board meeting;

WHEREAS, approval of the inducement allowed staff to submit the application to the Bond Review Board (“BRB”) and a Certificate of Reservation was issued on November 14, 2013, with a bond delivery deadline of April 13, 2014; and

WHEREAS, the Executive Award and Review Advisory Committee recommends the issuance of Multifamily Housing Revenue Bonds Series 2014 and the issuance of a Determination Notice for the Decatur-Angle Apartments;

NOW, therefore, it is hereby

RESOLVED, that the issuance of up to \$23,000,000 in tax-exempt Multifamily Housing Revenue Bonds Series 2014 for the Decatur-Angle Apartments, Resolution #14-011 is hereby approved in the form presented to this meeting;

FURTHER RESOLVED, the issuance of a Determination Notice of \$1,459,496 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website is hereby approved in the form presented to this meeting; and,

FURTHER RESOLVED, that staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

BACKGROUND

General Information: The Bonds will be issued under Chapter 1371, Texas Government Code, as amended, and under Chapter 2306, Texas Government Code, as amended, the Department’s Enabling Statute (the “Statute”), which authorizes the Department to issue revenue bonds for its public purposes, as defined therein. *(The Statute provides that the Department’s revenue bonds are solely obligations of the Department, and do not create an obligation, debt or liability of the State of Texas or a pledge or loan of faith, credit or taxing power of the State of Texas.)*

The Decatur-Angle Apartments consist of the construction of 302 units targeted to a general population in Fort Worth, Tarrant County and the site is currently zoned for such development. The Certificate of Reservation from the Bond Review Board was issued under the Priority 3 designation which does not have a prescribed restriction on the percentage of Area Median Family Income (“AMFI”) that must be served. Of the 302 total residential units, 16 units will be rent and income restricted at 50% AMFI to meet the requirements of the HOME funding from the City of Fort Worth, and the remaining 286 units will be rent and income restricted at 60% AMFI.

Organizational Structure and Previous Participation: The Borrower is Decatur-Angle Ltd. and the General Partner is Decatur-Angle GP, LLC, the sole member of which is the Fort Worth Housing Finance Corporation and is comprised of the following Board members: Salvador Espino, Danny Scarth, W. B. Zimmerman, Jungus Jordan, Dennis Shingleton, Kelly Allen Gray, Joel Burns, Betsy Price, Gyna Bivens, James Mauldin, TM Higgins and Jesus J. Chapa. The Compliance Status Summary completed on October 22, 2013, reveals that the principals of the general partner have received 54 multifamily awards. There were no identified issues relating to material noncompliance.

Public Hearing: A public hearing for the proposed development was conducted by the Department on November 13, 2013. There were approximately six people in attendance with none speaking on the record. Two of the six individuals indicated they were in support of the proposed development as they signed in; while the remaining four indicated they were neutral. While no one in attendance spoke on the record, Lake Worth ISD Board of Trustees President, Armando Velazquez, had some general questions regarding the proposed income and rent limits, tenant screening process as well as a timeframe on when the development is expected to start leasing. A copy of the hearing transcript is included behind this write-up.

Public Comment: The Department received a letter of support from State Senator Wendy R. Davis, State Representative Lon Burnam, and City Council Member Salvador Espino. The Department has not received any letters of opposition.

Census Demographics: The development is to be located at approximately the northeast corner of Old Decatur Road and Angle Ave. in Fort Worth. Demographics for the census tract (1003.00) include an AMFI of \$33,477; the total population is 4,690; the percent of population that is minority is 95.07%; the percent of the population that is below the poverty line is 28.47%; the number of owner occupied units is 739 and the number of renter units is 569. (Census information from FFIEC Geocoding for 2013).

Summary of Financial Structure

The applicant is requesting the Department’s approval and issuance of fixed rate tax-exempt bonds in an amount not to exceed \$23,000,000. Bank of America will issue a Letter of Credit during the construction phase with a 30-month term followed by one six-month extension subject to conditions outlined in the Letter of Credit. The construction and lease-up period will be up to 36 months during which payment terms will be interest only. The term and amortization of the Bonds will be 40 years, with a balloon payment option in Year 15. The Bonds will be unrated and privately placed with America First Multifamily Investors, LP with a bond interest rate of 5.75%.

In addition to the tax-exempt bond financing, there will be a permanent HOME loan from the City of Fort Worth in the amount of \$1,000,000. The loan will have a 20-year term and a 1% interest rate or the Applicable Federal Rate, whichever is less.

The development expects to apply and receive an Ad Valorem tax exemption under Chapter 394 of the Texas Local Government Code and has received a pre-determination letter of eligibility from the Tarrant Appraisal District.

RESOLUTION NO. 14-011

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (DECATUR-ANGLE APARTMENTS) SERIES 2014; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development, construction and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Board has determined to authorize the issuance of its Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Decatur-Angle Apartments), Series 2014 (the "Bonds") pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") between the Department and Wilmington Trust, National Association, as trustee (the "Trustee"), for the purpose of obtaining funds to finance the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund a mortgage loan to Decatur-Angle Ltd., a Texas limited partnership (the "Borrower") in order to finance the cost of acquisition, construction and equipping of a qualified residential rental development described in Exhibit A attached hereto (the "Development") located within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on September 12, 2013, declared its intent to issue its revenue bonds to provide financing for the Development; and

WHEREAS, the Borrower has requested and received a reservation of private activity bond allocation from the State of Texas;

WHEREAS, it is anticipated that the Department and the Borrower will execute and deliver a Loan Agreement (the "Loan Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Bonds (the "Loan") to the Borrower to enable the Borrower to finance the cost of acquisition, construction and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a promissory note (the "Note") in an original principal amount equal to

the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds and to pay other costs described in the Loan Agreement; and

WHEREAS, it is anticipated that the Note will be secured by a Leasehold Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "Bond Mortgage") from the Borrower for the benefit of the Department and assigned to the Trustee; and

WHEREAS, the Department's rights (except for certain unassigned rights) under the Loan Agreement, the Note and the Bond Mortgage will be assigned to the Trustee pursuant to an Assignment of Deed of Trust Documents (the "Assignment") from the Department to the Trustee; and

WHEREAS, the Borrower will obtain a letter of credit from Bank of America, N.A. (the "Letter of Credit Bank") and the Letter of Credit Bank has requested that the Department enter into an Intercreditor Agreement (the "Intercreditor Agreement"); and

WHEREAS, the Board has determined that the Department, the Trustee, the Fort Worth Housing Finance Corporation or a related entity, as fee owner (the "Fee Owner"), and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") with respect to the Development, which will be filed of record in the real property records of Tarrant County, Texas; and

WHEREAS, the Board has further determined that America First Multifamily Investors, L.P. (the "Purchaser") will purchase the Bonds from the Department; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Loan Agreement, the Regulatory Agreement, the Assignment and the Intercreditor Agreement (collectively, the "Issuer Documents"), all of which are attached to and comprise a part of this Resolution and (b) the Bond Mortgage and the Note; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Article I, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Bond Mortgage and the Note and the taking of such other actions as may be necessary or convenient in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE 1

ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to or upon the order of the Purchaser.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That (i) the Bonds shall bear interest at the rate of 5.75% per annum (subject to adjustment as provided in the Indenture); provided that, in no event shall the interest rate (including any default rate) on the Bonds exceed the maximum interest rate permitted by applicable law; (ii) the aggregate principal amount of the Bonds shall be \$23,000,000; (iii) the

final maturity of the Bonds shall occur not later than January 1, 2054; and (d) the price at which the Bonds are sold to the Purchaser shall be the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Loan Agreement. That the form and substance of the Loan Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Loan Agreement, and to deliver the Loan Agreement to the Borrower.

Section 1.5 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower, the Fee Owner and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Tarrant County, Texas.

Section 1.6 Sale of the Bonds. That the sale of the Bonds to the Purchaser is hereby authorized and approved.

Section 1.7 Approval, Execution and Delivery of the Intercreditor Agreement. That the form and substance of the Intercreditor Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Intercreditor Agreement, and to deliver the Intercreditor Agreement to the Letter of Credit Bank, the Trustee, America First Multifamily Investors, L.P., in its capacity as Significant Bondholder and America First Real Estate Group, LLC, as Servicer.

Section 1.8 Acceptance of the Note and the Bond Mortgage. That the form and substance of the Note and the Bond Mortgage are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Note to the order of the Trustee without recourse.

Section 1.9 Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Assignment, and to deliver the Assignment to the Trustee.

Section 1.10 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.11 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell & Giuliani LLP and Bates & Coleman, P.C., Co-Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.12 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Intercreditor Agreement
- Exhibit F - Note
- Exhibit G - Bond Mortgage
- Exhibit H - Assignment

Section 1.13 Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article I: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Bond Finance of the Department, the Director of Multifamily Finance of the Department, the Director of Texas Homeownership of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the “Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by the Department’s Co-Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.4 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and to enter into any agreements relating thereto only to the extent permitted by the Indenture.

Section 2.5 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the requirements of Co-Bond Counsel to the Department, provided such engagement is done in accordance with applicable law of the State.

Section 2.6 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Development are hereby ratified and confirmed.

ARTICLE 3

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development by the Department, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Loan Agreement and the Regulatory Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing developer that: (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Loan Agreement and the Regulatory Agreement, which require, among other things, that the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That the Board hereby finds and determines that the interest rate on the Loan established pursuant to the Loan Agreement will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. Each Bond shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

[Execution page follows]

PASSED AND APPROVED this 23rd day of January, 2014.

[SEAL]

J. Paul Oxer, Chair

ATTEST:

Secretary

EXHIBIT A

Description of Development

Borrower: Decatur-Angle Ltd., a Texas limited partnership

Development: The Development is a 302-unit 100% affordable multifamily community to be known as Decatur-Angle Apartments, to be located at the northeast corner of Old Decatur Road and Angle Avenue in Fort Worth, Tarrant County, Texas 76106. It will consist of five 2-story residential buildings and twelve 3-story residential buildings with approximately 303,834 net rentable square feet. The unit mix will consist of:

6	one-bedroom/one-bath units
138	two-bedroom/two-bath units
138	three-bedroom/two-bath units
20	four-bedroom/two-bath units
302	Total Units

Unit sizes will range from approximately 656 square feet to approximately 1,441 square feet.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Multifamily Housing Mortgage Revenue Bonds
(Decatur-Angle Apartments)
Series 2014 Bonds
January 2014

Introduction

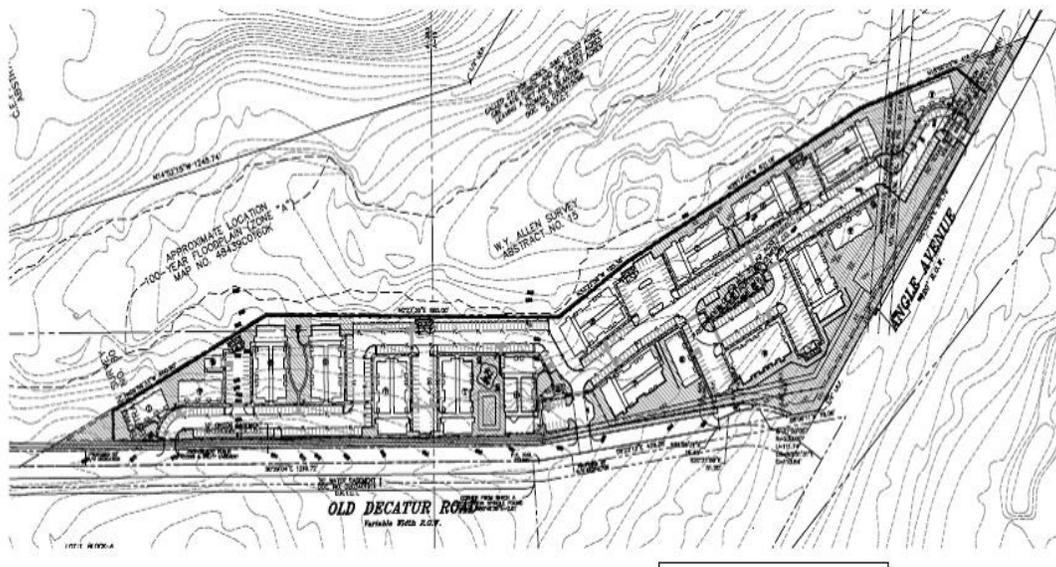
Texas Department of Housing and Community Affairs (“TDHCA”) approved the bond inducement resolution for the issuance of Multifamily Housing Mortgage Revenue Bonds (Decatur-Angle Apartments) Series 2013 during the September 12, 2013 Board Meeting. The application was filed by Decatur-Angle, Ltd. (the “Applicant”).

Summary of the Project

The Project is a low-income family housing project per the application provided to us by the Texas Department of Housing and Community Affairs (“TDHCA”).

- The Project will consist of new construction of 302 affordable housing units for low-income families contained in seventeen buildings and the underlying land located in Fort Worth, Texas.
- The Project is expected to receive a preliminary reservation in 2014 of 4% Federal Low-income Housing Tax Credits totaling \$14,040,750 from the Texas Department of Housing and Community Affairs.
- The Transaction is expected to close on or about January 30, 2014

Project Rendering



Borrower / Ownership

The ownership of the Decatur-Angle apartments is described as follows:

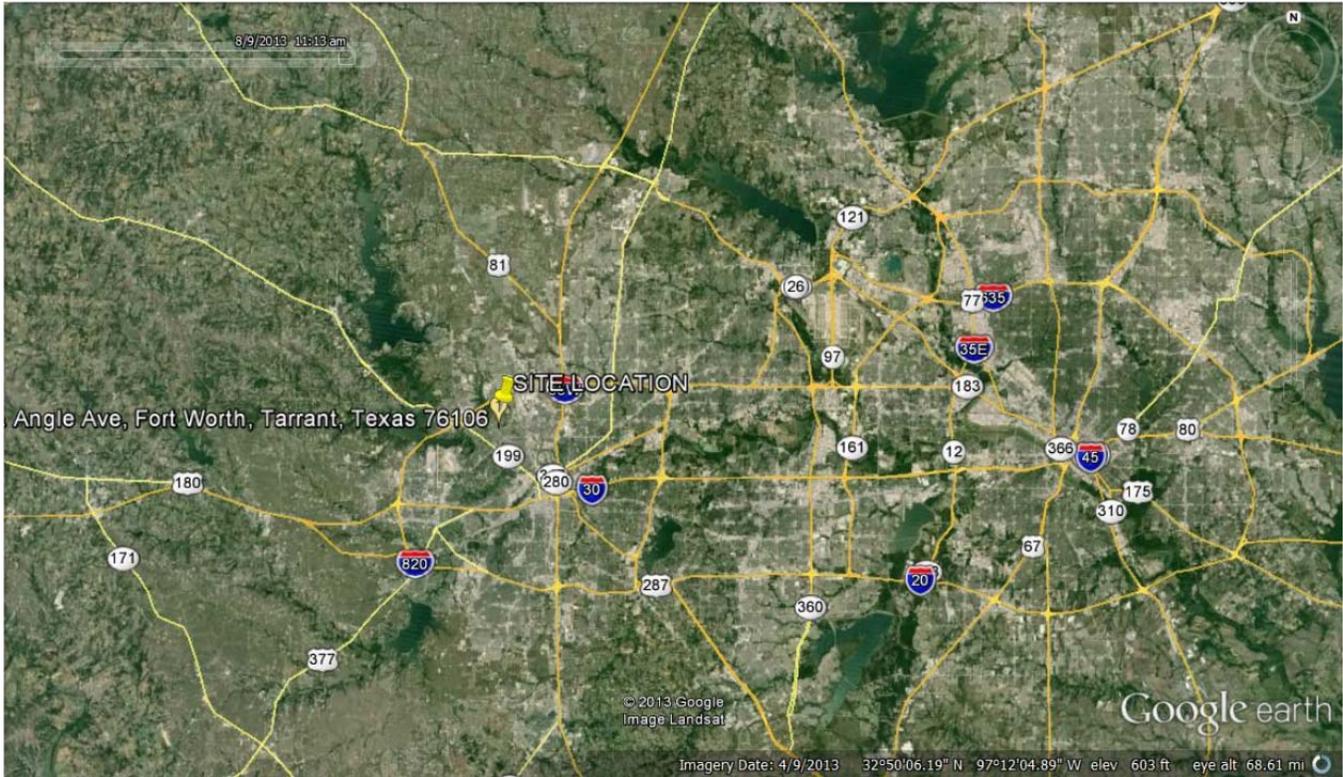
1. The Borrower is Decatur-Angle Ltd., a Texas limited partnership organized under the laws of the State of Texas;
2. The General Partner is Decatur-Angle GP, LLC, a Texas limited liability company whose sole member is Fort Worth Housing Finance Corporation, a Texas housing finance corporation ("General Partner");
3. NRP Decatur-Angle SLP, LLC is a class B limited partner ("Class B Limited Partner"); and
4. Investor as Investor and an affiliate of Investor as Special Limited Partner.

General Partner, Class B Limited Partner, Investor, and Special Limited Partner will enter into a Partnership Agreement (the "Partnership Agreement"). General Partner will own a 0.01% interest in the Partnership, the Class B Limited Partner will own a 0.01% interest in the partnership, and Investor will own a 99.98% interest in the Partnership as Investor (the "Percentage Interests").

Location of Property:

NE corner of Old Decatur Road and Angle Avenue in Fort Worth, Tarrant County, Texas.





Description of the Property

The development will be comprised of 302 units of which 94.7% or 286 units will target households incomes at or below 60% of the area's median income and 5.3% or 16 units will target households with incomes at or below 50% of the area's median income. Unit mix includes (6) one bedroom/one bathroom units, (138) two bedroom/two bathroom units, three bedroom/two bathroom units, and (20) four bedroom/ two bathroom units.

Total	1 BR (1 bath)	2 BR (2 baths)	3 BR (2 baths)	4 BR (2 baths)
302	6	138	138	20
Mkt	30%	40%	50%	60%
0	0	0	16	286

The Decatur-Angle Apartments are designed to cater to the needs of families and will feature the following community amenities within the community center building and throughout the development:

- Community Room
- Fitness Center
- Business Center
- Community Laundry
- Swimming Pool
- Community Kitchen
- Activity Room
- On-Site Management/Leasing Office
- Playgrounds and Picnic Areas
- Controlled Site Access

The Management Company

The NRP Management Website states: *“NRP Management, LLC manages approximately 12,500 units nationally and growing each month, with 2,500 more units planned over the next 18 months. NRP Management provides superior service to all of our properties, fostering a strong sense of community among our residents and team members.”*

NRP Management states: *“We incorporate our values into the day-to-day operations through selective staffing, customized training, management involvement, active and timely reporting, and accessibility to real-time data for decision making.”*

NRP Management Company also states: *“NRP Management outperforms other management companies in initial lease-ups, on-going operations, market analysis, maintenance and training. In addition, our on-site property management staffs provide first-rate service with the ultimate goal of making each resident’s stay pleasant, amiable and rewarding.”*

Source: Website of NRP Management, LLC – nrpgroup.com/management

Sources & Uses of Funds:

THE NRP GROUP LLC Project Statistics:
Decatur-Angle Apartments, Ft. Worth, TX
Scenario: 4% LIHTC

Sources & Uses	Sources & Uses	
	ATAX Bond Purchase / BofA LC / BofA Equity	
	Construction	Permanent
Sources of Funds:		
Construction: 5.75% interest only	\$23,000,000	
Permanent: 5.75% for 40 Years		\$23,000,000
Tax Credit Equity - Federal	11,812,931	13,897,566
Tax Credit Equity - State		
Income during Construction Period		
Soft Loan #1: CofFW - HOME 1.00% for 20 years	970,000	1,000,000
Soft Loan #2: FHLB - AHP 1.00% for 30 years		
GIC Interest		
Deferred Development Fee		1,948,910
	<u>35,782,931</u>	<u>39,846,476</u>
Uses of Funds:		
Acquisition Costs	2,040,000	2,040,000
Construction / Demo Costs	25,050,743	25,050,743
Architect/Engineering	580,200	580,200
Permits & Fees	975,000	975,000
Title & Survey	220,000	220,000
Construction Period Expenses	336,606	336,606
Financing Costs	3,777,900	4,067,350
Professional Services	379,400	434,400
Tax Credit Fees	107,574	131,734
Development Fee	800,000	4,321,000
Reserves & Other	662,100	1,689,443
	<u>34,929,523</u>	<u>39,846,476</u>
Surplus (Deficit) Cash	<u>\$853,408</u>	<u>-</u>
Source Paid Developer Fees	\$800,000	\$2,372,090
15-Year Cash Flow after 1st Mortgage DS	7,488,416	7,488,416
Deferred Developer/GC Fee		1,948,910
15-Year Cash Flow available for Def Developer Fee		7,326,425

Project Statistics:	
Units	302
5th Year Cash-Flow	\$328,771
Construction Cost/Unit	\$79,500
Source Paid Dev Fees	\$2,372,090
Market Rate	0%

65.40% depreciable basis plus land

15% of Eligible Basis

Prevailing Wage Required:	No
Sales Tax Exemption	Yes
Construction Start Date	2/1/2014
Club House Delivery Date	1/1/2015
Construction Completion Date	8/1/2015
Stabilization/Perm Conversion	8/1/2016

Source: The NRP Group LLC – 01/06/2014

Plan of Finance:

The General Partner contemplates that the Partnership will obtain the following loans:

- A construction period letter of credit to back tax-exempt bonds (the "Bonds") in an estimated amount of \$23,000,000 provided by Bank of America on terms approved by Investor.
- The Bonds are fixed-rate and are secured by a first mortgage loan amortizing over forty years with a final maturity date of 1/1/2054. The Bonds are expected to be optionally redeemed after 15 years.
- Bank of America is providing a Letter of Credit for the Bonds for 36 months.

- After the initial construction period, the Bonds are amortized on a level basis over 40 years, with an expected redemption after 15 years. The interest rate is fixed at 5.75%.

<u>Year</u> <u>End</u>	<u>Remaining</u> <u>Balance</u>	<u>Year</u> <u>End</u>	<u>Remaining</u> <u>Balance</u>
1/1/2017	\$22,860,782	1/1/2025	\$21,278,099
1/1/2018	\$22,700,322	1/1/2026	\$21,024,197
1/1/2019	\$22,530,389	1/1/2027	\$20,755,306
1/1/2020	\$22,350,423	1/1/2028	\$20,470,539
1/1/2021	\$22,159,831	1/1/2029	\$20,168,959
1/1/2022	\$21,957,987	1/1/2030	\$19,849,575
1/1/2023	\$21,744,227	1/1/2031	\$19,511,333
1/1/2024	\$21,517,845		
**Projected Net Operating Income 1/1/2031:			\$2,279,405
Capitalization Rate at 8.0%:			\$28,492,563
Remaining Bond Balance:			\$19,511,333
Projected Loan to Value:			68.48%
Projected Value in Excess of Balance:			\$8,981,229
** Projected NOI from NRG Updated Proforma Dated 12/05/2013			

- The following permanent loans (the “Permanent Loans”) are anticipated to be made to the Partnership:
 1. The Bonds in an estimated amount of \$23,000,000 will be purchased by America First Real Estate Group, LLC and the proceeds used to make a loan to the Partnership.
 2. A permanent HOME Loan in the estimated amount of \$1,000,000 provided by the City of Fort Worth and will be funded at closing.
- Capital Contributions:
 1. Investor will make a total capital contribution equal to \$.99 for each \$1.00 of Federal Tax Credits to which it is entitled to as a limited partner.
 2. Based on the Projected Federal Credits for the Partnership this would amount to a total Capital Contribution \$14,070,750.

Contact List (see attached)

Evaluation of Pro Forma

Decatur-Angle Apartments

INCOME	LEASE-UP	YEAR 1	YEAR 2	YEAR 3
Income Growth Rate	2.0%			
Vacancy Rate	7.5%			
Expense Growth Rate	3.0%			
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$3,097,550	\$3,159,501	\$3,222,691	\$3,287,145
Secondary Income	45,739	46,654	47,587	48,539
POTENTIAL GROSS ANNUAL INCOME	\$3,143,289	\$3,206,155	\$3,270,278	\$3,335,683
Provision for Vacancy & Collection Loss	(232,316)	(236,963)	(241,702)	(246,536)
Rental Concessions				
EFFECTIVE GROSS ANNUAL INCOME	\$2,910,973	\$2,969,192	\$3,028,576	\$3,089,148
EXPENSES				
Management Fees	145,549	148,460	151,429	154,458
Payroll	360,441	371,254	382,392	393,864
Administrative	100,924	103,952	107,070	110,282
Marketing	32,039	33,000	33,990	35,010
Cleaning & Decorating	15,546	16,012	16,493	16,988
Utilities	128,157	132,002	135,962	140,041
Contract Services	16,020	16,501	16,996	17,505
Repairs & Maintenance	186,560	192,157	197,922	203,859
Supportive Services & Coordination	32,039	33,000	33,990	35,010
Compliance Monitoring (302 x \$40.00)	12,080	12,080	12,080	12,080
TDHCA Issuer Compliance Fees (302 x \$25.00)	7,550	7,550	7,550	7,550
Issuer Admini & Trustee Fee (10 bp + Trustee)	26,500	26,361	26,200	26,030
Insurance	85,506	88,071	90,713	93,435
TOTAL ANNUAL EXPENSES	\$1,148,911	\$1,180,400	\$1,212,787	\$1,246,111
NET OPERATING INCOME	\$1,762,062	\$1,788,792	\$1,815,789	\$1,843,036
DEBT SERVICE ***	\$1,488,757	\$1,501,113	\$1,501,113	\$1,501,113
	\$273,305	\$287,680	\$314,676	\$341,924
NET CASH FLOW	1.18	1.19	1.21	1.23
Debt Coverage Ratio				

*** Includes Debt Service on \$1,000,000 HOME Loan

Source : Provided by Applicant

We have reviewed the pro forma cash flow statement for the Project's first three years of occupancy provided by the Applicant.

Gross rental income provided in the pro forma in the application states that \$3,159,501, \$3,222,691 and \$3,287,145 are produced in the first three years respectively. Rents are assumed to grow at a rate of 2% annually and expenses to grow at a rate of 3%, as provided by the Applicant. Gross operating income is reduced by an assumed 7.5% on-going vacancy rate.

Projected bottom-line income is sufficient to cover estimated expenses and debt service. Debt service coverage in the first three years is 1.19x, 1.21x, and 1.23x based on annual debt service of approximately \$1,501,113. The projected first year stabilized debt service coverage ratio is 1.19 times which is greater than the minimum allowable 1.15x under TDHCA's 2013 Real Estate Analysis Rules * [page 5, (4)(D)].

The applicant has provided a market study to support its projections used in the pro-forma. George K. Baum & Company is not providing an independent verification of the projections.

Recommendation/Conclusion

We have reviewed the information supplied by Applicant, including the market study and have observed the following:

- The project has a projected Debt Coverage Ratio ("DCR") of 1.19 times (which is greater than the minimum allowable DCR of 1.15 times under TDHCA's Real Estate Analysis Rules);
- Expense ratio of 40% and break-even occupancy of 85% are favorable when compared to a 95% overall occupancy reported for the market area; and
- The Applicant is a related party to the management company which is an experienced owner and operator of real estate properties. They currently manage approximately 12,500 units nationally.

A summary of the market summary mentions:

- Subject's units are needed and will serve the southeastern Fort Worth market with a stock of new "affordable" units;
- LIHTC projects tend to derive most of their demand from households already living in the area.
- According to market participants, the market in this area is strong and the level of demand for quality "affordable" housing is growing;
- According to the Applicant, 100% of the units will be set aside for tenants making at or below 60% of the area median gross income;

- The level of rent to be charged is comparable with newer "affordable" rental communities found in and around the PMA;
- Additional new quality projects are readily accepted in the assessed areas; and
- The level of rent to be charged is comparable with newer "affordable" rental communities found in and around the PMA.

Based on our review of the information provided by the applicant, we recommend to the Texas Department of Housing and Community Affairs ("TDHCA") to issue bonds on this project. George K. Baum and Company has relied upon the information provided to us and TDHCA by the Applicant as the basis for our review. Users of this report should recognize that cash flow projections are based upon hypothetical assumptions, the reasonableness of which we have not examined, with respect to revenues and expenses. This report makes no attestation to the ability of the indenture to meet its financial obligation to bond holders.

Applicant Evaluation

Project ID # **13608**

Name **Decatur-Angle Apts**

City: **Fort Worth**

HTC 9% HTC 4% HOME BOND HTF NSP ESG Other

No Previous Participation in Texas Members of the development team have been disbarred by HUD

Compliance

Total # of MF awards monitored:	52	Projects in Material Noncompliance Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Projects grouped by score	0-9: 40	10-19: 9
Total # of MF awards not yet monitored or pending review:	2	Unresolved Audit Findings Identified w/ Contract(s) <input type="checkbox"/>		20-29: 3	
SF Contract Experience <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Total # of MF Projects in Material Noncompliance: <u>0</u>	Total monitored with a score 0-29:	<u>52</u>	
Total # of SF Contracts:	<u>0</u>				

Completed by: James Roper Reviewer: Patricia Murphy

Date: 10/16/2013 Date: 10/22/2013

Comments (if applicable):

Single Audit

Single audit review not applicable Late single audit certification form (see comments)
 Single audit requirements current Past due single audit or unresolved single audit issue (see comments)

Reviewer: Rosy Falcon Date: 10/22/2013

Comments (if applicable):

Loan Servicing

No delinquencies found Delinquencies found (see comments)

Reviewer: Sandra Molina Date: 10/29/2013

Comments (if applicable):

Financial Services

No delinquencies found Delinquencies found (See Comments)

Reviewer: Monica Guerra Date: 10/24/2013

Comments (if applicable):

Community Affairs

No identified issues Identified Issues (see comments)

Reviewer: Cathy Collingsworth Date: 10/25/2013

Comments (if applicable):

Decatur-Angle Support Letters



SENATOR WENDY R DAVIS
District 10

The Senate of The State of Texas

COMMITTEES
Economic Development
Open Government, Vice-Chair
Transportation
Veteran Affairs & Military Installations

July 25, 2013

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

Re: Angle/Decatur Letter of Support

Dear Mr. Irvine,

I am pleased to notify you of my support for the NRP Group's 4% Tax Credit Application to develop a 302 unit mixed-income apartment community on approximately 15.2 acres of property located at Old Decatur Rd and Angle Avenue in north Fort Worth. This proposed development is located within the boundaries of State Senate District 10.

It is important to note that the NRP Group has worked with the Far Greater Northside Historical Neighborhood Association, the Inter-District 2 Alliance, the City of Fort Worth, District 2 City Councilman Sal Espino, and city staff to make area road improvements as a gesture of long-term commitment to the community. Creating innovative opportunities for collaboration between the business community, neighborhoods, and the City will benefit Senate District 10.

I recognize the need for affordable housing throughout the State of Texas, and I am happy to lend my support to this development which will serve the constituents in my District.

Sincerely,

A handwritten signature in black ink that reads "Wendy R. Davis".

Wendy R. Davis,
State Senator, District 10

P.O. Box 12068
Austin, Texas 78711
(512) 463-0110
FAX: (512) 475-3745
Dial 711 For Relay Calls

707 W. Vickery Blvd., Suite 102
Fort Worth, Texas 76104
(817) 332-3338
FAX: (817) 332-1230

E-Mail: wendy.davis@senate.state.tx.us

TEXAS HOUSE OF REPRESENTATIVES

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0740

DISTRICT OFFICE:
1067 W. MAGNOLIA
FORT WORTH, TEXAS 76104
817-924-1997

EMAIL: LON.BURNAM@HOUSE.STATE.TX.US



LEGISLATIVE STUDY GROUP, VICE-CHAIR
MEXICAN-AMERICAN LEGISLATIVE CAUCUS
ENVIRONMENTAL LEGISLATIVE CAUCUS
WOMEN'S HEALTH CAUCUS

LON BURNAM
DISTRICT 90 • FORT WORTH

July 29, 2013

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

Re: Angle/Decatur Letter of Support

Dear Mr. Irvine,

Please accept this letter as evidence of my support for the proposed 4% Tax Credit Application to develop a 302 unit mixed-income apartment community on approximately 15.2 acres of property located at Old Decatur Rd and Angle Ave. This proposed development is located within the boundaries of District 90, which I represent.

It is important to note that the NRP Group has worked with the Far Greater Northside Historical Neighborhood Association, the Inter-District 2 Alliance, the City of Fort Worth, and District 2 City Councilman Sal Espino to make area road improvements as a gesture of long-term commitment to the community. Creating innovative opportunities for collaboration between the business community, neighborhoods, and the City will benefit District 90.

I recognize the need for affordable housing throughout the State of Texas, and applaud the efforts of the development group, which has a good reputation for developing, building, and managing properties of the highest quality with great amenities and services that are specifically tailored to meet the needs of Texas families. I am pleased to lend my support to this Development which will serve the constituents in my District.

Best regards,

A handwritten signature in cursive script that reads "Lon Burnam".

Lon Burnam



August 20, 2013

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

Re: Angle/Decatur Letter of Support

Dear Mr. Irvine,

Please accept this letter as evidence of my support for the proposed 4% Tax Credit Application to develop a 302 unit mixed-income apartment community on approximately 15.2 acres of property located at Old Decatur Rd and Angle Ave. This proposed development is located within the boundaries of Fort Worth City Council District 2, which I represent.

It is important to note that the NRP Group has worked with the Far Greater Northside Historical Neighborhood Association, the Inter-District 2 Alliance, the City of Fort Worth, and myself to make area road improvements as a gesture of long-term commitment to the community. Creating innovative opportunities for collaboration between the business community, neighborhoods, and the City will benefit Council District 2.

I recognize the need for affordable housing throughout the State of Texas, and applaud the efforts of the development group, which has a good reputation for developing, building, and managing properties of the highest quality with great amenities and services that are specifically tailored to meet the needs of Texas families. I am pleased to lend my support to this Development which will serve the constituents in my District.

Sincerely,

SALVADOR ESPINO

CITY COUNCIL - DISTRICT 2

Decatur-Angle
Public Hearing
Transcript

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

PUBLIC HEARING
ON
ISSUANCE OF TAX-EXEMPT MULTIFAMILY REVENUE BONDS
RELATING TO
DECATUR-ANGLE APARTMENTS

Marine Creek Elementary School
4801 Huffines Blvd.
Fort Worth, Texas

Wednesday,
November 15, 2013
6:00 p.m.

BEFORE: SHANNON ROTH

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>SPEAKER</u>	<u>PAGE</u>
Shannon Roth	3
Jason Arechiga	8
Shannon Roth	12
Mr. Velazquez	14

P R O C E E D I N G S

1
2 MS. ROTH: Good evening. My name is Shannon
3 Roth, and I'm a housing specialist for the Texas
4 Department of Housing and Community Affairs. The format
5 of this evening's hearing will be as follows:

6 First I'll present the programs the developer
7 has applied for. Second, a member of the development team
8 will give a presentation on the specifics of the
9 development, and then lastly I will read a speech required
10 by the Internal Revenue Service. And then at the
11 conclusion of the speech, we will open up the floor for
12 public comment.

13 There are handouts on the table. We have the
14 multifamily affordable rental housing handout; a couple of
15 handouts regarding development specifics, which include
16 income levels; a handout containing deadlines for input
17 and how to submit input.

18 We have a handout regarding an email list serve
19 subscription which allows you the opportunity to sign up
20 to receive emails on applications we receive for funding;
21 a handout regarding fair housing basics; and then business
22 cards with our contact information.

23 If you'd like to speak, there are witness
24 affirmation forms available. Please fill them out and
25 just hand them to me prior to speaking. There's a sign-up

1 sheet also on the table; please be sure you sign in. It's
2 the only way of knowing exactly how many people are in
3 attendance.

4 Also, there are columns for you to check on the
5 far right-hand side to indicate whether you are in support
6 or opposition of the development. If neither box is
7 checked, then we will consider your opinion as being
8 neutral.

9 The entire hearing and all the comments made
10 this evening will be transcribed by a court reporter. It
11 is important that you make comments at the microphone so
12 she can record the comments. Any comments or questions
13 made from the audience may not be picked up on the record.

14 To allow everyone the opportunity to speak, we
15 will answer any questions or concerns that are raised at
16 the end, after all public comment has been made.

17 I spoke to the developer earlier and asked him
18 to keep a list of any questions that come up as it relates
19 to the development, and I will keep a list of any
20 questions as it relates to the department and our role.

21 According to the IRS Code, the department is
22 required to hold a public hearing and take public comment.

23 The mission of the department is to help Texans achieve
24 an improved quality of life through the development of
25 better communities.

1 The two programs the developer has applied for
2 include the Private Activity Bond Program and the Housing
3 Tax Credit Program.

4 Both programs were created the federal
5 government to encourage private industry to build quality
6 housing that is affordable to individuals and families
7 with lower-than-average income.

8 The Private Activity Bond Program refers to the
9 issuance of tax-exempt bonds. The tax exemption is not an
10 exemption of property tax but rather an exemption to the
11 purchaser of the bonds. The bond purchaser does not have
12 to pay taxes on their investment for the income they make
13 on the investment.

14 The bond purchaser accepts a lower rate of
15 return; therefore, the lender that is involved will charge
16 a lower interest rate for the mortgage that will be placed
17 on the property to the developer. Therefore the developer
18 can build a market-rate property at a lower cost to the
19 development.

20 The Housing Tax Credit Program is another
21 program that goes along with the bond program. The
22 Housing Tax Credit Program was created as a result of the
23 Tax Reform Act of 1986. The housing tax credit is a
24 credit or reduction in tax liability each year for 10
25 years for investors in affordable rental housing.

1 By providing a credit against the tax
2 liability, the housing tax credit is an incentive for
3 individuals and corporations to invest in the construction
4 or rehabilitation of housing for low-income families.

5 The housing tax credit provides additional
6 financing to the development and lowers building costs,
7 which allows the developer to provide lower rents for
8 affordable tenants.

9 In conclusion, with both of these programs, the
10 tax benefit goes to the investor, to help finance the
11 development. The two programs result in the development
12 being able to bring something of high quality to your
13 area, and all of these properties are privately owned and
14 privately managed.

15 There are ongoing oversight responsibilities
16 between affordable housing developments and the
17 department. This includes regular monitoring to ensure
18 the development is complying with the rules of the Housing
19 Tax Credit and the Private Activity Bond programs.

20 The term that the development will be monitored
21 is for the greater of 30 years or as long as the bonds are
22 outstanding. Oversight responsibilities include units
23 that are occupied by eligible households, physical
24 appearance, rents are capped at appropriate levels, and
25 repair and reserve accounts are established and funding.

1 Tenant background checks -- credit and
2 criminal, et cetera -- are established by the developer
3 and would apply to all tenants equally.

4 The developer can establish procedures up to
5 and including eviction for various reasons, consistent
6 with state eviction laws that would be applicable to any
7 other apartment complex. TDHCA does not set these
8 requirements.

9 The State's compliance division monitors these
10 developments every two years. Desk reviews are done
11 either quarterly or annually by the department, and a
12 modified version of an onsite visit. The department
13 verifies that the set-asides are met and that units are
14 income and rent restricted.

15 After [indiscernible-179] a survey is usually
16 done to determine the tenant profile and the types of
17 services that would be of interest to the tenants. These
18 services can include tutoring or honor-roll programs,
19 computer access, educational classes, after-school
20 activities, summer companies, health fair screening,
21 immunizations for school children, ESL or GED classes,
22 financial planning, and credit counseling, or down-payment
23 assistance.

24 It's important to note that all or most
25 individuals begin their multifamily housing as the first

1 step towards home ownership. Therefore, some developers
2 could choose to provide down-payment assistance classes to
3 help education tenants on the steps they can take towards
4 home ownership.

5 So now I'm going to open up for the developer
6 to go ahead and give a presentation on some of the
7 development specifics.

8 THE REPORTER: Please come to the mic.

9 MS. ROTH: And please state your name.

10 MR. ARECHIGA: My name is Jason Arechiga. I'm
11 the project manager with the NRP Group, specifically for
12 the Decatur-Angle Apartments that you have in front of
13 you.

14 Let me -- if you don't mind my asking, if they
15 have any questions, it has to wait to the end. Right? We
16 can't have like a --

17 MS. ROTH: No. Can we just do it at the end?

18 MR. ARECHIGA: That's fine. I didn't know as
19 it came along, so I guess just write down whatever you
20 have, and I'll be happy to answer them at the very end.

21 The Decatur-Angle Apartments is 302 units. If
22 you notice, there's a unit mix breakdown on there: six
23 one-bedrooms, 136 twos, 136 threes, and 20 four-bedrooms.
24 It is geared towards families.

25 And that being said -- you know what? Actually

1 let me give you a little bit of background on the NRP
2 Group before I start into the actual apartments
3 themselves.

4 The NRP Group has been creating workforce
5 housing, or affordable housing, for the last 20 years, and
6 we've done over 17,000 units nationwide.

7 What's important to note about us is we don't
8 just build and then eventually turn them over to somebody
9 else. In some cases -- in these cases we'd be restricted
10 from doing so.

11 But we develop, we construct, and we manage
12 them, always. We have never in our entire history flipped
13 one of our projects -- one of our affordable projects over
14 to somebody else and said, Well, we can't handle it
15 anymore, or we don't want to handle it anymore. No,
16 that's our job. That's what we do. We take it very
17 seriously. We think it's a service to the community.

18 So I explained a little bit about these
19 particular apartments, Decatur-Angle, 302 units. I think
20 you guys are already familiar a little bit, since you live
21 around here, with the location -- right? -- with Decatur
22 and Angle Road? Yeah.

23 It offers -- we're going to offer a certain
24 amount of amenities. She talked about some of the social
25 services that we're able to offer, and some is a courtesy

1 officer program, exercise room, a business center -- a
2 fitness room more than an exercise room.

3 We do have an after-school program for a lot of
4 parents who work and, you know, they can't make it back by
5 the time their kids get there; the bus drops them off. So
6 we have after-school, provide some snacks, usually
7 computer activities, make sure they do their homework, and
8 just kind of make it fun for them, kind of have an
9 extension of school itself. We have a summer camp
10 program, too.

11 I think it was funny. We've talked about this
12 before; I talked about it in the last meeting. Mandatory
13 school attendance started because people said kids can't,
14 you know, work anymore; you can't have kids keep working.

15 It started in England, I guess, during the
16 Industrial Revolution, and they said, you know, you got to
17 give these kids -- you got to give them something to do.
18 Now that they're sitting on the streets, they're making a
19 lot of trouble.

20 So we kind of took that same thing when it
21 comes to summer and, hey, these kids aren't in school;
22 they need something to do, you know, so we started the
23 summer camp program, where they can go, and we get a lot
24 of kids in this one; we get a lot of kids that show up.

25 We have juice boxes, snacks; usually pretty

1 healthy snacks; you know, peanut butter sandwiches,
2 bananas, stuff like that, and then programs that will at
3 least last for a couple of hours a day, and the kids
4 really seem to enjoy that, and the parents seem to enjoy
5 it, too, so it's kind of an extension, especially with a
6 lot of working families that we usually accommodate.

7 That being said, you probably have a couple of
8 questions as to the time line, especially since most of
9 the attendance here are concerned with the school board.
10 And we really anticipate opening to our first residents in
11 January of 2015.

12 Now, it may be a little earlier, it may be a
13 little bit later. We also have a preleasing program, so
14 we could give a pretty good identity or how many students
15 and what the makeup of students is going to be that
16 affects you guys directly, probably by December of 2014.

17 So if you guys have any questions, I'll leave
18 my business cards. Just keep it around, and if you have
19 anything, just call me any time, any time throughout the
20 year.

21 You know, I don't really know exactly what to
22 address with your specific concerns. Might be
23 afterwards -- there are a few other amenities that I
24 haven't mentioned, including the fact that it is a gated
25 community.

1 We have a courtesy officer program, where it's
2 one or two officers are normally given reduced or free
3 rent to live in the complexes. We have a swimming pool, a
4 community center with the business center. We have
5 multiple playgrounds, green space, and, you know, it
6 provides a good safe quality housing for them to live.

7 Like she said earlier, they do the -- the bond
8 program's there so we can charge subsidized rents,
9 basically, to workforce families, to single mothers, to
10 people who need it to serve the community and yet at the
11 same time produce a market-rate-looking apartment complex.

12 And if you guys are familiar, too, we plan on
13 doing something fairly similar to the Providence at Marine
14 Creek, directly across the street, so same quality
15 construction, if not better, and same amenities, if not
16 more. It's a little bit larger.

17 And I guess that's it. Like I said, I'll just
18 leave my cards, and if you guys have questions beyond what
19 you might ask tonight, please don't hesitate. My cell
20 phone number is on there as well. And pick up, give me a
21 call.

22 MS. ROTH: Okay. I'm going to go ahead and
23 then read the speech required by the IRS, and then we'll
24 open the floor for public comment.

25 Good evening. My name is Shannon Roth. I

1 would like to proceed with the public hearing. Let the
2 record show that it is 6:17 p.m., Wednesday, November 13,
3 2013, and we are at the Marine Creek Elementary School,
4 located at 4801 Huffines Boulevard, Fort Worth, Texas
5 76135.

6 I'm here to conduct the public hearing on
7 behalf of the Texas Department of Housing and Community
8 Affairs with respect to an issue of tax-exempt multifamily
9 revenue bonds for a residential rental community.

10 This hearing is required by the Internal
11 Revenue Code. The sole purpose of this hearing is to
12 provide a reasonable opportunity for interested
13 individuals to express their views regarding the
14 development and the proposed bond issue.

15 No decisions regarding the development will be
16 made at this hearing. The Department's board is scheduled
17 to meet to consider this transaction on December 12, 2013.

18 In addition to providing your comments at this hearing,
19 the public is also invited to provide comment directly to
20 the board at any of their meetings. The Department staff
21 will also accept written comments from the public up to
22 5:00 p.m. on December 3, 2013.

23 The bonds will be issued as tax-exempt
24 multifamily revenue bonds in the aggregate principal
25 amount not to exceed \$23,000,000 and taxable bonds, if

1 necessary, in an amount to be determined and issued in one
2 or more series by the Texas Department of Housing and
3 Community Affairs, the Issuer.

4 The proceeds of the bonds will be loaned to the
5 Decatur-Angle, Ltd., or a related person or affiliate
6 entity thereof, to finance a portion of the cost of
7 acquiring, constructing, and equipping a multifamily
8 housing development described as follows: a 302-unit
9 multifamily residential rental development to be
10 constructed on approximately 10.5 acres of land located at
11 approximately the northeast corner of Old Decatur Road and
12 Angle Avenue, Fort Worth, Tarrant County, Texas. The
13 proposed multifamily rental housing community will be
14 initially owned and operated by the borrower or a related
15 person or affiliate thereof.

16 So now I'd like to open the floor to public
17 comment. Did anybody want to make any?

18 (No response.)

19 MS. ROTH: And seeing as though no one wants to
20 make any comments, we'll go ahead and adjourn the meeting
21 at 6:19.

22 And if you have any questions, we'll keep the
23 record rolling; that way your questions or comments will
24 be on the record as well.

25 MR. VELAZQUEZ: Jason, this shows 60 percent

1 AMI?

2 MR. ARECHIGA: Yes.

3 MR. VELAZQUEZ: Most projects are 80 percent.

4 MR. ARECHIGA: Not the bonds.

5 MS. ROTH: No, not bonds.

6 MR. ARECHIGA: The ones directly across the
7 street, those are all 60 percent AMI. Then there's a few
8 that are 50 percent --

9 (Conversation away from microphones.)

10 MS. ROTH: I don't think she can pick you up
11 sitting over there.

12 MR. ARECHIGA: Mr. Velazquez asked first one
13 question about -- hi, by the way; this is Jason.

14 He asked -- the first question was aren't most
15 units at 80 percent AMI? Some are, but typically the bond
16 projects, those serve 60 percent AMI, and 95 percent of
17 these units are at 60 percent AMI; 5 percent's at 50
18 percent AMI, so serving -- not necessarily the deepest
19 targeting, to 30 percent, but deeper targeting: 60 to 50.

20 His second question Mr. Velazquez asked was
21 concerning -- and refresh my memory -- it was concerning
22 the screening.

23 MR. VELAZQUEZ: What additional screening
24 parameters do you have for residents that are applying?

25 MR. ARECHIGA: We have a zero-tolerance policy

1 for crime. If you commit a felony, you're out, and if you
2 had a felony, you won't be allowed in.

3 You also have to have a job, and that's --
4 credit background check, criminal check, and the fact that
5 you have to have income. Those are our screening
6 requirements.

7 Other than that, we do everything mostly by the
8 Fair Housing Act.

9 MS. ROTH: Anybody have any other questions?

10 (No response.)

11 MS. ROTH: Okay. Well, we appreciate you
12 attending. I think Jason has some business cards everyone
13 can take; if they have any other questions, call him.

14 We have our business cards; feel free to call
15 us, comment in writing, come to the meetings. Thank you
16 for coming.

17 (Whereupon, at 6:23 p.m., the public hearing
18 was concluded.)

11

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 23, 2014

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

RECOMMENDED ACTION

WHEREAS, the Department received a total of thirty-two applications for HOME awards under the 2013-1 HOME Multifamily Development Program Notice of Funding Availability (“NOFA”);

WHEREAS, \$9,090,000 in HOME funds under the General Set-Aside have been awarded under the NOFA to date and \$6,602,455 remains available under the General Set-Aside to award to eligible applications; and,

WHEREAS, two applications, Oak Ridge Apartments (13118) and Sunrise Townhomes (13500), received complete reviews for compliance with program and underwriting requirements;

NOW, therefore, it is hereby

RESOLVED, that commitments of HOME funding from the 2013-1 HOME Multifamily Development Program Notice of Funding Availability for Oak Ridge Apartments and Sunrise Townhomes are hereby approved in the form presented at this meeting, and as amended by the Board for any appeals or tax credit allocation decisions previously heard and determined and

FURTHER RESOLVED, that the Board’s approval is conditioned upon satisfaction of all conditions of underwriting and completion of any other reviews required to ensure compliance with the applicable rules and requirements for HOME Multifamily Development Program funds.

BACKGROUND

On September 12, 2013, the Board approved the 2013-1 HOME Multifamily Development Program NOFA with \$21,692,455 in funds (\$15,692,455 under the General Set Aside and \$6,000,000 under the Community Housing Development Organization (“CHDO”) Set Aside). At the November 7, 2013, Board Meeting, \$7,090,000 in HOME funds under the General Set Aside was awarded to nine applications under the NOFA. At the December 12, 2013, Board Meeting, \$2,000,000 in HOME funds under the General Set Aside was awarded to two applications under the NOFA.

Staff is recommending the Board's approval of two applications for HOME awards, totaling \$2,850,000 under the General Set Aside. The recommended applications and award amounts are outlined in the attached award recommendations log.

Oak Ridge Apartments did not initially apply for HOME funds when they submitted their competitive tax credit application but has since experienced a 150 basis point increase to the interest rate on their first lien USDA 538 loan. This increase caused them to apply for \$1,000,000 in HOME funds in order to swap out some of the higher interest debt for lower interest debt so that the deal would remain financially feasible. Oak Ridge Apartments will be a new construction development in Nolanville serving a general population with eight HOME units among 48 total units. All units will target households earning 60% or less of the Area Median Income.

Sunrise Townhomes is applying for \$1,850,000 in HOME funds as its secondary source of debt. It will be a new construction development in Fredericksburg serving a general population with 16 HOME units targeting households earning 80% or less of the Area Median Income. The 20 remaining units in the 36-unit development will be market rate. It will be located adjacent to Friendship Place Apartments, a 2004 competitive tax credit awarded development.

Each of the applications has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should the recommended awards be approved, \$9,752,455 will remain available under the NOFA with \$3,752,455 under the General Set Aside and \$6,000,000 under the CHDO Set-Aside, of which, applications requesting \$4,750,000 and \$5,300,000 respectively, are still under review. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

The Application and Award Recommendations Log is attached.



2013-1 HOME Multifamily Development (MFD) Program NOFA - Application Log

Total of \$21,692,455 Available

Application Acceptance Period Ended 12/30/13 - Only applications that have been awarded/recommended or are under review are reflected

Total Set Aside Funding Level: \$ 15,692,455

Available Balance (after awarded/recommended): \$ 3,752,455

General Set-Aside

File #	Reg.	Date Received (1)	Development Name	City	Housing Activity (2)	Reqstd HOME Units	Total units	Target Population	Layering (3)	Requested Project Funds	As Underwritten	Recommended Project Funds	Status
13046	11	2/11/2013	La Esperanza Del Rio	Rio Grande City ETJ	NC	10	60	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 12/12/13
13003	3	2/25/2013	Crossing at Oak Grove	Kerens	R	26	32	General	9%	\$370,000	\$ 370,000	\$ 370,000	Approved 11/7/13
13004	4	2/25/2013	Stone Creek Apartments	Kilgore	R	17	56	General	9%	\$540,000	\$ 540,000	\$ 540,000	Approved 11/7/13
13001	4	2/27/2013	Sunset Place Apartments	Malakoff	R	11	36	General	9%	\$430,000	\$ 430,000	\$ 430,000	Approved 11/7/13
13201	7	2/27/2013	The Trails at Carmel Creek	Hutto	NC	9	61	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13213	10	2/28/2013	Bailey Square	Cuero	NC	9	56	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13232	5	3/1/2013	Pine Lake Estates	Nacogdoches	R	12	100	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13180	12	3/13/2013	Mission Village of Pecos	Pecos	NC	12	60	General	9%	\$750,000	\$ 750,000	\$ 750,000	Approved 11/7/13
13058	3	3/28/2013	Evergreen at Hebron Senior Community	Hebron	NC	8	136	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13145	3	3/28/2013	Mariposa at Elk Drive	Burleson	NC	14	180	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13051	11	5/8/2013	Royal Gardens	Rio Grande City	NC	11	80	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 12/12/13
13118	8	10/11/2013	Oak Ridge Apartments	Nolanville	NC	8	48	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	To be recommended for Award
13500	9	10/11/2013	Sunrise Townhomes	Fredericksburg	NC	16	36	General	HOME only	\$1,850,000	\$ 1,850,000	\$ 1,850,000	To be recommended for Award

13119	10	11/19/2013	Emma Finke Villas	Beeville	R	13	76	General	9%	\$1,000,000	\$1,000,000		Under review
13139	1	12/27/2013	Stonebridge of Plainview	Plainview	NC	10	80	General	9%	\$750,000			Under review
13502	3	12/30/2013	Majors Place Apartments	Greenville	NC	36	176	General	HOME only	\$3,000,000			Under review
Total General Applications			17	Unit Totals:		222	1273	Total:		\$ 16,690,000	\$ 12,940,000	\$ 11,940,000	

CHDO Set-Aside

Total Set Aside Funding Level: \$ 6,000,000
Available Balance (after recommended/awarded): \$ 6,000,000

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)	Requested Project Funds	As Underwritten	Recommended Project Funds	Status
13501	10	12/30/2013	Houston House Apartments	Victoria	R	45	50	General	HOME only	\$2,300,000			Under review
13432	7	12/30/2013	Waters at Sunrise	Round Rock	NC	31	300	General	4%	\$3,000,000			Under review
Total CHDO Applications			2	Unit Totals:		76	350	Total:		\$ 5,300,000	\$ -	\$ -	

Sorted by Date Received

1 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees were received. Time received is currently not reflected.

2 = Housing Activity: New Construction=NC, Rehabilitation=R

3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

1m

BOARD ACTION REQUEST

HOUSING RESOURCE CENTER

JANUARY 23, 2014

Presentation, Discussion, and Possible Action to Ratify withdrawal of the 2014 State of Texas Consolidated Plan: One-Year Action Plan submittal to the U.S. Department of Housing and Development

RECOMMENDED ACTION

WHEREAS, at the Board meeting of November 7, 2013, the Board approved the Executive Director and his designees to submit the 2014 State of Texas Consolidated Plan: One-Year Action Plan (“Plan”) to the U.S. Department of Housing and Urban Development (“HUD”);

WHEREAS, the Plan was submitted to HUD on December 4, 2013;

WHEREAS, HUD released Community Planning and Development (“CPD”) Notice 13-010 on December 13, 2013, which states that the Plan needs to have actual fiscal year 2014 formula allocation amounts;

WHEREAS, HUD gave the Texas Department of Housing and Community Affairs (the “Department”) the opportunity to withdraw the Plan and resubmit at a later date when the 2014 formula allocation amounts are published by HUD; and

WHEREAS, the Department withdrew the Plan from HUD on December 19, 2013;

NOW, therefore, it is hereby

RESOLVED, pursuant to the approval and authority provided by the Board, the actions taken to withdraw the Plan be and hereby are ratified and adopted as the actions of the Department.

BACKGROUND

The Department, the Texas Department of Agriculture (“TDA”), and the Department of State Health Services (“DSHS”) prepared the Plan in accordance with 24 CFR §91.320 with the Department coordinating the preparation of the State of Texas Consolidated Plan documents. The Plan covers the State’s administration of the Community Development Block Grant Program (“CDBG”) by TDA, the Housing Opportunities for Persons with AIDS Program (“HOPWA”) by DSHS, and the Emergency Solutions Grant (“ESG”) Program and the HOME Investment Partnerships (“HOME”) Program by the Department.

The Plan is due 45 days before the start of TDHCA’s Program Year (“PY”), which is February 1 to January 31. For PY 2014, 45 days before its start was December 16, 2013. For previous Plan submissions, HUD had accepted estimated 2014 allocation amounts with the understanding that the percentages of funds estimated for each activity would remain approximately level when the

actual allocation amounts were incorporated into the Plan prior to HUD's final approval. Because the 2014 allocation amounts are expected from HUD by January or February 2014, the estimated amounts were included in the Plan when it was submitted to HUD on December 4, 2013.

Guidance in the form of CPD Notice 13-010, "Guidance on submitting Consolidated Plans and Annual Action Plans for Fiscal Year (FY) 2014" was released by HUD on December 13, 2013. This guidance stated that "[a]n affected grantee may delay submission of its action plan to HUD until 60 days after the date allocations are announced, or until August 16, 2014 (whichever comes first)." HUD indicated in writing that the State was an affected grantee and, because the Plan had already been submitted, the State was given the option to (1) withdraw the submission from review by HUD and resubmit within 60 days after the allocations are announced or (2) have the Plan reviewed by HUD with the percentages of the 2014 estimated amounts. The latter option may result in disapproval by HUD because of inconsistent "contingency provision" language required by HUD which includes explicit statements that a Plan's proposed activities' budgets will be adjusted proportionally to actual allocation amounts.

After conferring with the TDA, DSHS and the Board Chair, the Department submitted a letter under the Executive Director's signature to HUD on December 19, 2013, withdrawing the Plan, with the understanding that the Plan will be resubmitted in accordance with the timeline provided for under CPD Notice 13-010.

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BOARD ACTION REQUEST
NEIGHBORHOOD STABILIZATION PROGRAM
JANUARY 23, 2014

Presentation, Discussion, and Possible approval of a proposal to utilize Neighborhood Stabilization Program One Program Income to support continued land bank programs

RECOMMENDED ACTION

WHEREAS, NSP1 subrecipients conducting land bank activities will continue to incur costs for maintenance and redevelopment of foreclosed properties, and administration of land bank programs; and,

WHEREAS, NSP will continue to receive Program Income from NSP properties that may be utilized to support land banks

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed to take appropriate actions to contract NSP1-Program Income funds to current land bank subrecipients as described in this proposal.

BACKGROUND

The Neighborhood Stabilization Program (“NSP”) is a HUD-funded program authorized by the Housing and Economic Recovery Act of 2008, as a supplemental allocation to the Community Development Block Grant (“CDBG”) Program through an amendment to the existing State of Texas 2008 CDBG Action Plan. The Neighborhood Stabilization Program 3 allocation of funds is provided under Section 1497 of the Wall Street Reform and Consumer Protection Act. The purpose of NSP1 and NSP3 is to redevelop into affordable housing, or acquire and hold, abandoned or foreclosed properties in areas that are documented to have the greatest need for stabilizing declining property values as a result of excessive foreclosures.

Land Banking is an activity unique to NSP. It is intended to assemble, manage temporarily, and dispose of foreclosed properties for the purpose of stabilizing neighborhoods and encouraging reuse or redevelopment. Six subrecipient organizations have used NSP1 funds to conduct land bank activities. The organizations generally fall into two distinct categories: those that are using land bank funds to secure properties for their own future development activities, and organizations that are operating land bank programs, which have assembled properties that are available to other groups for redevelopment activities. Properties may be currently committed to partner organizations through a ground lease, or are available for partner agencies to access through an application process for housing development or other community uses. Operation of a land bank program requires continued administration of activities, while use of land bank funds to finance property for an organization’s own use requires little administrative action until the property is sold to an eligible household.

In past actions, the Board has generally approved the use of NSP1 Program Income to support continued land bank activity, but those approvals have not addressed the methods for providing funds to subrecipients or the direct authority to contract for those funds. Due to the differing needs of the two types of land bank entities, NSP staff proposes that funds for continued support of land bank activities be provided with NSP1 Program Income and sales proceeds through two distinct structures.

Direct Land Bank Entities: For those entities that are using NSP1 funds to secure land bank properties for their own development, a change to current Program practice is proposed. NSP regulations require that homes be sold for the lesser of total cost to develop or the appraised value. For subrecipients constructing NSP homes, Texas Department of Housing and Community Affairs (“TDHCA”) has interpreted total cost to develop as the hard costs of acquisition and construction only, because administrative and soft costs are reimbursed through the program. When Direct Land Bank Entities construct homes on land bank lots using non-NSP fund sources, reimbursement of administrative or soft costs may not be available. In this instance, the NSP land bank subrecipient is acting as a developer for the redevelopment portion of the project. It is proposed that the resale requirements for these properties be changed such that total cost to develop includes soft costs and a reasonable fee to cover administrative or developer costs. The fee will reimburse costs to accept, process, and approve homebuyer applications on a per property basis. Interim reimbursement of expenses will not be available.

Organizations that will fall into this category are Affordable Homes South Texas, Inc. - Contracts 77090000108 and 77090000204, Community Development of Brownsville, Inc. - Contract 77090000150, Austin Habitat for Humanity – Contract 77090000213, and Urban Progress Community Development Corporation – Contract 77090000601.

Land Bank Program Entities: Entities that are administering Land Bank programs will incur continued costs without the opportunity for reimbursement of those costs through the homebuyer transaction. In order to assure continued progress toward completion of land bank activities, reimbursement of administrative costs will be available only upon meeting agreed milestones for redevelopment of properties. Failure to complete activities will render costs incurred during the preceding period ineligible for reimbursement. Receipt of Ground Lease payments or other fees from partner organizations will reduce the amount of administrative funds that the entity may receive. NSP1-PI administrative funds will be budgeted annually for each Land Bank Program Entity, in an amount consistent with actual land bank administrative costs for the previous year. Availability of funds will be limited by the receipt of NSP1-Program Income by TDHCA, and by TDHCA’s portion of administrative funds, such that the utilization of administrative funds by the Land Banks and TDHCA jointly will not exceed limitations established by the NSP Notice or other federal regulation. If a Land Bank Program Entity acts as a Direct Land Bank Entity to complete redevelopment of a lot with non-TDHCA NSP funds, they will be treated as a Direct Land Bank Entity for the purposes of that property only.

Land Bank Program Entities will be eligible to receive continued reimbursement of Activity Delivery costs, in accordance with the NSP1 NOFA. The availability of funds may be limited by the NSP1 Program Income received and federal requirements.

Organizations that will fall into the Land Bank Program Entity category are Texas State Affordable Housing Corporation – Contract 77090000101, and the City of Port Arthur – Contract 77090000154.

NSP will continue to prioritize redevelopment of Land Bank properties when programming uses of Program Income.

R1

TDHCA Outreach Activities, December 2013

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Multifamily Application Workshop	Austin	Dec 3	Multifamily Finance, Program Planning, Policy & Metrics	Training
Multifamily Application Workshop	Dallas	Dec 4	Multifamily Finance, Program Planning, Policy & Metrics	Training
Housing and Health Services Coordination Council (HHSCC) Work Group Meeting	Austin	Dec 4	Housing Resource Center	Participant
Multifamily Application Workshop	Houston	Dec 5	Multifamily Finance, Program Planning, Policy & Metrics	Training
HHSCC Work Group Meeting	Austin	Dec 5	Housing Resource Center	Participant
Disability Advisory Workgroup	Austin	Dec 10	Housing Resource Center	Participant
Environmental Clearance Training Webinar/Single Family Reviews	Austin	Dec 11	Program Services	Training
HHSCC Work Group Meeting	Austin	Dec 13	Housing Resource Center	Participant
HHSCC Work Group Meeting	Austin	Dec 17	Housing Resource Center	Participant

Internet Postings of Note, December 2013

A list of new or noteworthy documents posted to the Department's web site

Mortgage Credit Certificate Page Update: Issuance Fee — *announcing MCC Program fee reduction from 1 percent of mortgage loan amount to \$500 through December:*

www.tdhca.state.tx.us/homeownership/fthb/mort_cred_certificate.htm

HHSCC Committee Meeting Agendas and Materials — *updating information pertaining to committees affiliated with the Housing and Health Services Coordination Council:*

www.tdhca.state.tx.us/hhsc/committees.htm

HTC Applicable Percentages and Calculation of Underwriting Rates — *used to determine the allocation amount of tax credits, as defined in Section 42(b) of the Internal Revenue Code:*

www.tdhca.state.tx.us/rea/index.htm#tools

Program Services, Environmental Training Announcements — *regarding a webinar addressing the tiering of HUD Part 58 Environmental reviews:*

www.tdhca.state.tx.us/program-services/training.htm

Texas Compliance Rules: Utility Allowance — *detailing rules specific to the Department's compliance responsibilities regarding published rent limits which include an allowance for tenant paid utilities:*

www.tdhca.state.tx.us/pmcomp/utility-allowance.htm

2013 HOME Program Single Family Activities Application — *instructions and form by which qualifying applicants may apply for funding from the Department for HOME single family activities:*

www.tdhca.state.tx.us/home-division/applications.htm

2014 Uniform Previous Participation Form — relating to single family activities and required of each person/entity that has or will have a controlling interest or oversight of a HOME contract:

www.tdhca.state.tx.us/pmcomp/forms.htm

2013 HOME Multifamily Application Logs: 12/5/13 — providing details regarding applicants seeking multifamily HOME funding from the Department, including requested project funds, target population, city, etc:

<http://www.tdhca.state.tx.us/multifamily/home/index.htm>

2013 Single Family HOME Application/Funding Allocation Plan Training: 12/3/13 — providing PowerPoint material outlining program basics, answers to questions most often asked by applicants seeking HOME funding for single family activities:

www.tdhca.state.tx.us/home-division/home-training.htm

Income and Rent Limits — detailing maximum income and rent limits for the Department's rental development programs and including updated HOME program rent limits:

www.tdhca.state.tx.us/pmcomp/irl/index.htm

2014 Multifamily Uniform Application — by which qualifying applicants may participate in the 9% and 4% Housing Tax Credit, Bond, HOME Multifamily, NSP Multifamily, and Housing Trust Fund Multifamily programs:

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2014 Competitive HTC Multifamily Pre-Application — by which qualifying applicants may participate in the 2014 9% Housing Tax Credit pre-application cycle:

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2014 Multifamily Programs Procedures Manual — providing guidance to submission requirements under the 9% and 4% Housing Tax Credit, Bond, HOME Multifamily, NSP Multifamily, and Housing Trust Fund Multifamily programs:

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

Internal Audit: 2014 Report on the Ethics Program — evaluating the Department's ethics program and making recommendations to enhance policies and further develop the program:

www.tdhca.state.tx.us/internal-audit.htm

Emergency Solutions Grants Program: Frequently Asked Questions — providing answers to the questions most often asked by entities interested in administering the Department's ESG Program:

www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm

2014 Experience Certificate Request Form — required of principals of the developer, development owner, or general partner of a 2014 application for 4% and 9% Housing Tax Credits:

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2013 HOME Single Family Programs Reservation System NOFA — announcing availability of approximately \$12 million in funding from the HOME Investment Partnerships Program for non-development single family housing programs under a Reservation System:

www.tdhca.state.tx.us/home-division/nofas.htm

2013 HOME Regional Allocation Formula — detailing HOME single family funding reserved by formula among state service regions:

www.tdhca.state.tx.us/home-division/nofas.htm

Texas Cities with Rural/Urban Designations — reflecting the manner in which the Department categorizes communities among rural and urban designation to ensure an equitable distribution of HOME funding:

www.tdhca.state.tx.us/home-division/nofas.htm

Amy Young Barrier Removal Program: Administrators Log — listing entities currently administering the Department's AYBR Program through its Housing Trust Fund:
www.tdhca.state.tx.us/htf/single-family/amy-young.htm

HOME Rules as approved by the TDHCA Governing Board: 12/12/13 — reflecting revised language to conform the state HOME Rule with the federal HOME regulations as amended on July 24, 2013, to add clarity to the State HOME Rule:
www.tdhca.state.tx.us/home-division/manuals-rules.htm

2014 Housing Tax Credit Program Competitive Cycle: Frequently Asked Questions — providing answers to the questions most often asked by entities interested in administering the Department's HTC Program:
www.tdhca.state.tx.us/multifamily/faqs.htm

New Link: Systematic Alien Verification for Entitlements (SAVE) Program — targeting subrecipient agencies that do not have nonprofit charitable organization status administering the Department's energy assistance contracts:
www.tdhca.state.tx.us/community-affairs/ceap/index.htm; www.tdhca.state.tx.us/community-affairs/wap/index.htm

2nd and 3rd Quarter, 2013, NSP Quarterly Reports — providing an analysis of the performance of the Neighborhood Stabilization Program for NSP1 and NSP3 during the second and third quarters of 2013:
www.tdhca.state.tx.us/nsp/index.htm

Notice of Public Hearings: Patriots Crossing — regarding a public hearing to be held in Dallas January 28, 2014, with respect to an issuance of tax-exempt multifamily residential rental development revenue bonds:
www.tdhca.state.tx.us/multifamily/communities.htm

2014 Project Income and Rent Tool — allowing users to identify maximum income and rent limits for properties participating in the Housing Tax Credit, Tax Exempt Bond, HOME, Neighborhood Stabilization Program and Housing Trust Fund rental development programs:
www.tdhca.state.tx.us/pmcomp/irl/index.htm

Basic Financial Statements 2013 — for the year ended August 31, 2013, and in accordance with the requirements established by the Comptroller of Public Accounts:
www.tdhca.state.tx.us/finan.htm

2014 Electronic Document Upload User Guide — detailing steps required to submit deficiencies/forms/reports electronically when applying for Housing Tax Credits or HOME funds:
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2014 Governor Approved Qualified Allocation Plan — administering the 2014 Housing Tax Credit cycle as approved by the Governor:
www.tdhca.state.tx.us/multifamily/nofas-rules.htm

2014 Governor Approved Uniform Multifamily Rules — governing the Department's 2014 multifamily activities as approved by the Governor:
www.tdhca.state.tx.us/multifamily/nofas-rules.htm

Bond Disclosure: 8/31/13 — detailing information related to bond balances, mortgage loan balances, mortgage-backed security pool numbers, investment balances, and other relevant material:
www.tdhca.state.tx.us/bond-finance/index.htm

2014 Uniform Multifamily Application Templates — providing applicants seeking funding for multifamily rental properties templates for specific notifications, resolutions, form letters, and other required communications:
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

R2

**BOARD REPORT ITEM
SINGLE FAMILY HOME PROGRAM DIVISION
JANUARY 23, 2014**

Status Report on the HOME Program Single Family Contracts and Reservation System Participants through December 2013, Calendar Year YTD

Activity Type	<u>Funded/Awarded for December</u>		<u>Funded/Awarded for Year</u>		<u>Setups for December</u>		<u>Setups for Year</u>		<u>Draws for December</u>		<u>Draws for Year</u>	
	RSP	Contracts	RSP	Contracts	Amount	Number	Amount	Number	Amount	Number	Amount	Number
CFD	\$0	\$0	\$619,894	\$1,036,656	\$0	0	\$751,031	6	\$92,573	9	\$541,551	41
CHDO Operating	\$0	\$0	\$0	\$50,000	\$0	0	\$0	0	\$0	0	\$112,500	6
Dev SF	\$0	\$0	\$325,000	\$0	\$0	0	\$971,800	10	\$108,182	5	\$655,924	40
HBA/Rehab	\$21,500	\$0	\$2,300,751	\$0	\$21,500	1	\$2,424,751	132	\$98,515	9	\$2,568,320	218
HRA	\$0	\$0	\$20,492,815	\$0	\$259,486	3	\$28,846,667	338	\$2,817,259	129	\$29,691,544	1,404
TBRA	\$254,270	\$0	\$5,368,001	\$0	\$241,553	22	\$5,634,150	537	\$387,970	477	\$4,299,064	5,786
Sub Totals:	\$275,770	\$0	\$29,106,461	\$1,086,656	\$522,539	26	\$38,628,399	1,023	\$3,504,499	629	\$37,868,904	7,495
Totals:	\$275,770		\$30,193,117									

CFD - Contract For Deed

CHDO - Community Housing Development Organization

HRA - Homeowner Rehabilitation

HBA/Rehab - Homebuyer Assistance with Rehab

RSP - Reservation System Participant

TBRA - Tenant Based Rental Assistance

ACTION ITEMS

2a

BOARD ACTION REQUEST
INTERNAL AUDIT
JANUARY 23, 2014

Presentation, Discussion, and Possible Action on Acceptance of the Audit Results from the State Auditor's Office.

RECOMMENDED ACTION

WHEREAS, the Department is required to undergo an annual audit of its books and accounts, an annual audit of the Housing Trust Fund and to obtain audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules;

NOW, therefore, it is hereby

RESOLVED, the annual financial audit, audit of the Housing Trust Fund and audit of the Housing Finance Division and the Supplemental Bond Schedules are hereby accepted.

BACKGROUND

Audit requirements:

- 1) The Department's governing statute, Texas Govt. Code §2306.074, requires an annual audit of the Department's books and accounts.
- 2) Texas Govt. Code §2306.204 requires an annual audit of the Housing Trust Fund to determine the amount of unencumbered fund balances that is greater than the amount required for the reserve fund.
- 3) The Department's bond indentures require audited financial statements of the Housing Finance Division and the Supplemental Bond Schedules.

Results of the audits conducted by the State Auditor's Office:

FY 2013 Basic Financial Statements (SAO Report # 14-316)
Unqualified Opinion

FY 2013 Computation of Unencumbered Fund Balances (SAO Report # 14-318)
Audit results yielded no required transfer to the Housing Trust Fund

FY 2013 Revenue Bond Program Audit (SAO Report # 14-317)
Unqualified Opinion

See these reports at the following link: <http://www.tdhca.state.tx.us/finan.htm>

2b

BOARD REPORT ITEM
INTERNAL AUDIT
JANUARY 23, 2014

Report from the Audit Committee Meeting.

REPORT ITEM

Verbal report.

3a

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 23, 2014

Presentation, Discussion, and Possible Action to Ratify the Award of Competitive 9% Low Income Housing Tax Credits from the Waiting List and Consider the Application Amendment for Bella Terra Apartments (#13270)

RECOMMENDED ACTION

WHEREAS, An Application for Competitive 9% Housing Tax Credits in the amount of \$1,420,889 for Bella Terra Apartments (#13270) was submitted to the Department in the 2013 Application Round;

WHEREAS, as of December 30, 2013, the Department had \$969,396 in credit available to allocate to the last application on the Waiting List;

WHEREAS, Bella Terra Apartments (#13270), being the next eligible application on the Waiting List, received an award of 9% Housing Tax Credits in the amount of \$969,396;

WHEREAS, the original Application proposed the new construction of 120 multifamily units on 10.5 acres in Brownsville;

WHEREAS, due to the amount of award being less than initially requested at application, the Development owner is requesting to amend the application to reduce both the number of units and the size of the site, constructing a total of 80 units on 6.53 acres; and

WHEREAS, the reduction of both the number of units and the size of the site, although significant, are a direct result of the reduction in the size of the Housing Tax Credit award;

NOW, therefore, it is hereby

RESOLVED, the Award for Bella Terra Apartments (#13270) is confirmed and ratified in the amount of \$969,396 from the 2013 State Housing Credit Ceiling and conditioned upon completion of the conditions of the underwriting report, any necessary program and underwriting reviews, and any other special conditions that the Board may consider appropriate and

FURTHER RESOLVED, the amendment of the Housing Tax Credit application for Bella Terra Apartments in Brownsville is _____ as presented to this meeting and the Executive Director and his designees are hereby authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

At the July 2013 meeting, the Board approved awards for 64 applications and a total of \$57,863,635 in tax credits. This left approximately \$1,241,163 in remaining credits available from the 2013 ceiling total of \$59,104,798. Between the time of the initial awards and November 1, 2013, several events transpired affecting the awards previously made and the amount of credit available. These were explained in detail at the October and December 2013 board meetings, and as of the action taken at the December meeting, there were a total of 67 applications awarded a total of \$60,663,329 in credits and a balance of \$83,657 in credit available.

At the December 12, 2013 meeting, the Board took action regarding an Application that was awarded credits in the 2012 cycle, Memorial Apartments (#12121). That applicant had requested an extension of the 10% Test deadline to a date in January 2014. If the Board had granted that extension and all else equal, no additional awards could have been made from the 2013 Waiting List. The Board ruled that Memorial Apartments had a deadline of December 27, 2013 to submit requested documentation to the Department. During the discussion surrounding this action item, staff conveyed to the Board that there was a possibility that, should the applicant for Memorial Apartments not meet that deadline, the credits would be returned and there was a possibility that the credits could be made available to the next application on the 2013 Waiting List. While staff did discuss the issue of a possibly significant resizing of the transaction since the amount of credit available would be far less than what was requested in the next eligible application, staff did not at the time know the details surrounding that resizing.

The Applicant for Memorial Apartments (#13270) was unable to meet the 10% Test deadline of December 27, 2013, and, hence, returned their tax credit award in the amount of \$885,739. These credits, pursuant to the rule, were awarded to the next highest application in the sub-region (Urban Region 11), Bella Terra Apartments (#13270) because that sub-region was then the most underserved sub-region at approximately 8.25% underfunded. Although the application reflected a request of \$1,420,889 in credit, staff was only able to award the Applicant \$969,396, the total amount of credit remaining. Staff issued a Commitment Notice and executed a Carryover Allocation, which was conditioned upon the applicant satisfying all requirements set forth in those documents, in the IRC Section 42 and in the Department's rules, including demonstrating the financial feasibility and long-term viability of the Development. The Carryover Allocation also states that, in light of the amount allocated to the Development, the applicant may propose changes to Development configuration consistent with the allocation amount, which the Department, in its discretion, may accept, reject or require modifications with respect thereto.

Due to the significant disparity between the amount of credit requested and ultimately awarded, the applicant for Bella Terra Apartments is requesting a reduction in the size of the development, both in number of units built and site acreage. Based on the Applicant's representations, the details of the desired amendment are as follows:

- *A reduction in the number of units from 120 to a total of 80 units.* The applicant points out that this new proposal equates to 66% of the number of units in the original application, which is consistent with the award being 68% of what was originally requested. The new proposal includes the same number of one-bedroom units (12) but a reduction in two-bedroom units (from 60 to 36) and three-bedroom units (from 48 to 32). The applicant also notes that this change was made to retain a standard building configuration to avoid an increase in costs and that there are no proposed changes to development amenities.
- *A change in the building configuration in order to accommodate the reduction in units.* The applicant proposes four two-three splits (buildings that are partially two and partially three stories) instead of the originally proposed five three-story buildings. The applicant points out that although the newly proposed buildings are more costly individually, overall the reduction in units greatly reduces the total development cost.
- *A reduction in the size of the site from 10.5 acres to 6.53 acres.* This change is also proposed to reduce overall development cost which is necessary for the financial feasibility of the transaction. It should be noted that although this reduction in the size of the site did reduce the overall land costs, that the cost per acre actually increased since the applicant had to re-negotiate the purchase contract after the expiration of the original agreement.
- *A reduction in the amount of HOME funding from the City of Brownsville.* The City has reduced its funding award from \$2,000,000 to \$1,200,000. However, this represents a similar dollar amount per unit that was submitted with the original application.
- *No change in the Application's score.* The applicant also claims that the changes proposed will not affect the final score of the application and therefore the competitive position and eligibility for award from the Waiting List. Staff will verify this assertion at the completion of the underwriting review.

Due to the significant change to this Application, staff remains neutral with respect to a recommendation regarding the amendment request at this time. Staff is also in the process of completing the underwriting of this transaction and will have more detailed information to present at the time of the board meeting.

BELLA TERRA APARTMENTS

TDHCA APPLICATION #13270

DEVELOPMENT NAME: BELLA TERRA APARTMENTS
PROJECT OWNER: MDS HOUSING BROWNSVILLE, LTD.
CONTACT NAME: HENRY FLORES
ADDRESS: 6209 LEDGE MOUNTAIN DRIVE
AUSTIN, TEXAS 78731
PHONE: (512) 914-0953
FAX: (512) 900-2860
EMAIL ADDRESS: HFLORES@MAHDHOUSEDEVELOPMENT.NET

MDS HOUSING BROWNSVILLE, LTD.

January 3, 2014

Cameron Dorsey
Director of Multifamily Finance
Texas Department of Housing & Community Development
P.O. Box 13941
Austin, Texas 78711

Re: Bella Terra Apartments
TDHCA #13270

Dear Mr. Dorsey:

Please accept this correspondence as our Formal Request to amend our tax credit application, TDHCA #13270. As you know, we recently were advised that we had received a tax credit allocation of \$969,396 and we are excited about the potential of developing affordable housing in the City of Brownsville. Unfortunately, the amount of the allocation requires a few changes to the original application. In March of 2013, we requested \$1,420,889 of tax credits to develop 120 units on a 10.5 acre site. The reduced allocation provided is only 68% of the original request resulting in the following requested modifications:

- A reduction in the number of apartment units from 120 to a total of 80 units approximately 66% of the number we initially proposed. There is also a slight change in the unit "mix". Our initial application proposed 10% one-bedroom units, 50% two-bedroom units and 40% three-bedroom units. This requested modification would be based on 15% one-bedroom units, 45% two-bedroom units and 40% three-bedroom units. Note that the actual number of one-bedroom units from our original submission has not changed which is why the percentage is slightly higher. The new unit mix proposed is necessary in order to keep the "standard" building configuration of 20 unit buildings and not have any abnormal building configurations which could increase construction costs. Please note that no change is being proposed to the clubhouse, project amenities, quality or size of the units.
- The 80 unit total was determined by a multitude of factors (site constraints, building configuration, unit mix, etc.), but one of the most important elements was to ensure that the project remained financially feasible and met all of TDHCA's underwriting guidelines. For example, we would have required a tax credit allocation closer to a \$1,140,000 to develop a 96 unit project. The 96 units would have fit into a four 24 unit residential building configuration. The proposed 80 unit development actually defers slightly more developer fee than our original application. In fact, the original application deferred approximately 26% of the developer fee while the new proposed capital structure would defer approximately 28% of the developer fee. The deferred developer fee can still be repaid within the time period allowed by the Qualified Allocation Plan.
- A change in building configuration and a reduction in the number of residential buildings from five three-story buildings containing 24 units each to four two-three splits accommodating 20 units per building. Please note that two-three splits are slightly more expensive to build due to the loss of building efficiency impacting our building cost per square foot.
- A reduction in the size of the site from 10.5 acres to 6.53 acres. This reduction in the size of the site combined with a rapidly escalating real estate market in Brownsville increases our land cost per unit from \$18,150 to \$22,400 due to the expiration of our original Purchase and Sale

6209 Ledge Mountain Drive, Austin, TX 78731 • Phone – (512) 633-4037 • Fax – (512) 900-2860

henry@madhousedevlopment.net

Agreement on August 15, 2013 and the reduced efficiency of scale caused by the smaller site requirement resulting from the reduced tax credit allocation.

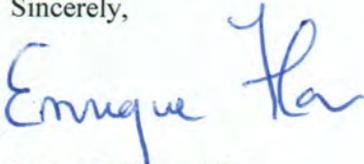
- None of the proposed changes to the amended application would result in a reduction in our competitive score. All previous points still remain intact and in fact our leveraging calculation is slightly lower allowing TDHCA to leverage additional sources of financing to help develop Bella Terra Apartments.

In addition, we have met with the City of Brownsville regarding our intent to proceed with the development of Bella Terra and the City continues to be very supportive of our efforts. However, due to the reduction in the number of units being developed, the City is making a corresponding adjustment in the amount of assistance it is proposing to provide. The City is reducing its commitment of HOME funds to \$1,200,000 or \$15,000 of subsidy per unit to comply with the scoring requirements of TDHCA's Qualified Allocation Plan ("QAP") for 2013. The City is prepared to provide the assistance as a 1% loan with a 40 year term subject to the review and approval by the HUD Area Office.

Though we are proposing a smaller site (located within the same parent tract submitted in our original application), Bella Terra Apartments will still be located near the intersection of Morrison Road and Pablo Kisel, a site within minutes of major thoroughfares and shopping centers, including Sunrise Mall, a large, up-scale, regional facility.

Please let me know if you have any questions on this subject. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Enrique Flores". The signature is stylized, with the first name "Enrique" written in a cursive script and the last name "Flores" written in a more blocky, cursive style.

Enrique "Henry" Flores

RENT SCHEDULE

Rent Schedule (Continued)

		% of LI	% of Total	
HOUSING TAX CREDITS	TC30%	10%	10%	8
	TC40%			0
	TC50%	20%	20%	16
	TC60%	70%	70%	56
	HTC LI Total			80
	EO			0
	MR			0
	MR Total			0
Total Units				80
MORTGAGE REVENUE BOND	MRB30%			0
	MRB40%			0
	MRB50%			0
	MRB60%			0
	MRB LI Total			0
	MRBMR			0
	MRBMR Total			0
	MRB Total			0

		% of LI	% of Total	
HOUSING TRUST FUND	HTF30%			0
	HTF40%			0
	HTF50%			0
	HTF60%			0
	HTF80%			0
	HTF LI Total			0
	MR			0
	MR Total			0
HTF Total				0
HOME	30%			0
	LH/50%			0
	HH/60%			0
	HH/80%			0
	HOME LI Total			0
	EO			0
	MR			0
	MR Total			0
HOME Total				0
OTHER	Total OT Units			0

BEDROOMS	0			0
	1			12
	2			36
	3			32
	4			0
	5			0

Cost Per Square Foot Table	Development is Rehabilitation			No	Cost Per Sq. Ft. =	N/A
		If No above Development is elevator served, supportive housing, or SF/Elderly			No	
	If not "Rehabilitation," select "Yes" if the Development is one of the following:					
(Building Costs)	Elevator served	Supportive Housing	Elderly or Single Family			
	No	No	No			
\$ 5,250,259	Cost Per Sq. Ft. =	Cost Per Sq. Ft. =	Cost Per Sq. Ft. =			
	N/A	N/A	N/A			
	Development is New Construction, Reconstruction, or Adaptive Reuse			Yes	Cost Per Sq. Ft. =	\$ 57.90

← If "Yes" above, these elections do not apply. See manual for instructions.

|

BELLA TERRA APARTMENTS - MAXIMUM LOW-INCOME HOUSING TAX CREDIT
RENT EXPLANATION:

The applicant is utilizing both HOME and tax credit funding and has therefore utilized the more restrictive rents required by the HOME program for a portion of the units; these specific rents are lower than the maximum housing tax credit rents allowable. Currently, there are a total of eight proposed HOME units. Two of the units will be designated as Low-HOME units and six units will be designated as High-HOME units.

----- 2013 HOME PROGRAM RENTS -----

PROGRAM	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Abilene, TX MSA							
LOW HOME RENT LIMIT	481	515	618	713	796	878	960
HIGH HOME RENT LIMIT	526	604	782	895	979	1061	1144
For Information Only:							
FAIR MARKET RENT	526	604	814	1031	1314	1511	1708
50% RENT LIMIT	481	515	618	713	796	878	960
65% RENT LIMIT	605	650	782	895	979	1061	1144
Amarillo, TX MSA							
LOW HOME RENT LIMIT	488	576	696	803	896	989	1081
HIGH HOME RENT LIMIT	488	576	757	1010	1081	1203	1299
For Information Only:							
FAIR MARKET RENT	488	576	757	1033	1081	1243	1405
50% RENT LIMIT	541	580	696	803	896	989	1081
65% RENT LIMIT	684	734	882	1010	1108	1203	1299
Austin-Round Rock-San Marcos, TX MSA							
LOW HOME RENT LIMIT	665	712	855	986	1101	1215	1328
HIGH HOME RENT LIMIT	681	834	1050	1249	1374	1497	1621
For Information Only:							
FAIR MARKET RENT	681	834	1050	1421	1723	1981	2240
50% RENT LIMIT	665	712	855	986	1101	1215	1328
65% RENT LIMIT	844	906	1089	1249	1374	1497	1621
Beaumont-Port Arthur, TX MSA							
LOW HOME RENT LIMIT	503	539	647	747	833	920	1006
HIGH HOME RENT LIMIT	513	643	797	939	1028	1116	1203
For Information Only:							
FAIR MARKET RENT	513	643	797	1045	1065	1225	1385
50% RENT LIMIT	503	539	647	747	833	920	1006
65% RENT LIMIT	635	682	821	939	1028	1116	1203
Brownsville-Harlingen, TX MSA							
LOW HOME RENT LIMIT	442	473	568	656	732	808	883
HIGH HOME RENT LIMIT	443	524	653	820	896	970	1044
For Information Only:							
FAIR MARKET RENT	443	524	653	855	950	1093	1235
50% RENT LIMIT	442	473	568	656	732	808	883
65% RENT LIMIT	555	596	718	820	896	970	1044
College Station-Bryan, TX MSA							
LOW HOME RENT LIMIT	510	546	655	756	845	931	1018
HIGH HOME RENT LIMIT	643	679	831	950	1041	1130	1219
For Information Only:							
FAIR MARKET RENT	674	679	837	1210	1451	1669	1886
50% RENT LIMIT	510	546	655	756	845	931	1018
65% RENT LIMIT	643	690	831	950	1041	1130	1219

* Adjusted Low HOME Rent or High HOME Rent corrects for last year's incorrect hold harmless rent.
 For all HOME projects, the maximum allowable rent is the HUD calculated High HOME Rent Limit and/or Low HOME Rent Limit.

OPERATING EXPENSES

ANNUAL OPERATING EXPENSES

General & Administrative Expenses			
Accounting	\$	10,500.00	
Advertising	\$	3,500.00	
Legal fees	\$	1,200.00	
Leased equipment	\$		
Postage & office supplies	\$	4,500.00	
Telephone	\$	5,000.00	
Other	\$	4,500.00	
Other	\$	500.00	
Total General & Administrative Expenses:			\$ 29,700.00
Management Fee:	Percent of Effective Gross Income:	5.00%	\$ 25,634.00
Payroll, Payroll Tax & Employee Benefits			
Management	\$	40,000.00	
Maintenance	\$	32,000.00	
Other	\$	10,000.00	
Other	\$		
Total Payroll, Payroll Tax & Employee Benefits:			\$ 82,000.00
Repairs & Maintenance			
Elevator	\$		
Exterminating	\$	1,200.00	
Grounds	\$	9,500.00	
Make-ready	\$	8,000.00	
Repairs	\$	8,500.00	
Pool	\$	800.00	
Other	\$	10,000.00	
Other	\$		
Total Repairs & Maintenance:			\$ 38,000.00
Utilities (Enter Development Owner expense)			
Electric	\$	21,600.00	
Natural gas	\$		
Trash	\$	8,500.00	
Water & sewer	\$	19,300.00	
Other	\$		
Other	\$		
Total Utilities:			\$ 49,400.00
Annual Property Insurance:	Rate per net rentable square foot:	\$ 0.30	\$ 26,800.00
Property Taxes:			
Published Capitalization Rate:	10.00%	Source:	Cameron Co. Appraisal Dist.
Annual Property Taxes:	\$	40,000.00	
Payments in Lieu of Taxes:	\$		
Other Taxes	\$		
Other Taxes	\$		
Total Property Taxes:			\$ 40,000.00
Reserve for Replacements:	Annual reserves per unit:	\$ 250.00	\$ 20,000.00
Other Expenses			
Cable TV	\$		
Supportive service contract fees	\$	11,520.00	
TDHCA Compliance fees	\$	3,200.00	
TDHCA Bond Administration Fees (TDHCA as Bond Issuer Only)	\$		
Security	\$		
Other	\$		
Other	\$		
Total Other Expenses:			\$ 14,720.00
TOTAL ANNUAL EXPENSES			Expense per unit: \$ 4078.18
			Expense to Income Ratio: 63.64%
NET OPERATING INCOME (before debt service)			\$ 186,432.80
Annual Debt Service			
1st Mortgage - Dougherty Mortgage, LLC	\$	119,143.00	
2nd Mortgage - HOME Loan	\$	36,411.00	
Describe Source	\$		
Describe Source	\$		
TOTAL ANNUAL DEBT SERVICE			Debt Coverage Ratio: 1.20
NET CASH FLOW			\$ 30,878.80

OPERATING PRO-FORMA

15 Year Rental Housing Operating Proforma

All Programs Must Complete the following:

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of rental income and expenses), and principal and interest debt service. The Department currently considers an annual growth rate of 2% for income and 3% for expenses to be reasonably conservative estimates. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	LEASE-UP	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$269,928	\$539,856	\$550,653	\$561,666	\$572,900	\$584,357	\$645,178	\$712,329
Secondary Income	1,440	\$ 14,400.00	\$ 14,688.00	\$ 14,981.76	\$ 15,281.40	\$ 15,587.02	\$ 17,209.33	\$ 19,000.49
POTENTIAL GROSS ANNUAL INCOME	\$271,368	\$554,256	\$565,341	\$576,648	\$588,181	\$599,945	\$662,387	\$731,329
Provision for Vacancy & Collection Loss	20,785	\$ 41,569.20	\$ 42,400.58	\$ 43,248.60	\$ 44,113.57	\$ 44,995.84	\$ 49,679.04	\$ 54,849.68
Rental Concessions	\$ -	-						
EFFECTIVE GROSS ANNUAL INCOME	\$292,153	\$512,687	\$522,941	\$533,399	\$544,067	\$554,949	\$612,708	\$676,479
EXPENSES								
General & Administrative Expenses	\$14,850	\$ 29,700.00	\$30,591	\$31,509	\$32,454	\$33,428	\$38,752	\$44,924
Management Fee	\$17,944	\$ 25,634.00	\$ 26,403.02	\$ 27,195.11	\$ 28,010.96	\$ 28,851.29	\$ 33,446.56	\$ 38,773.73
Payroll, Payroll Tax & Employee Benefits	\$53,300	\$ 82,000.00	\$ 84,460.00	\$ 86,993.80	\$ 89,603.61	\$ 92,291.72	\$ 106,991.40	\$ 124,032.36
Repairs & Maintenance	\$9,500	\$ 38,000.00	\$ 39,140.00	\$ 40,314.20	\$ 41,523.63	\$ 42,769.33	\$ 49,581.38	\$ 57,478.41
Electric & Gas Utilities	\$12,960	\$ 21,600.00	\$ 22,248.00	\$ 22,915.44	\$ 23,602.90	\$ 24,310.99	\$ 28,183.10	\$ 32,671.94
Water, Sewer & Trash Utilities	\$19,460	\$ 27,800.00	\$ 28,634.00	\$ 29,493.02	\$ 30,377.81	\$ 31,289.14	\$ 36,272.69	\$ 42,049.99
Annual Property Insurance Premiums	\$20,100	\$ 26,800.00	\$ 27,604.00	\$ 28,432.12	\$ 29,285.08	\$ 30,163.64	\$ 34,967.92	\$ 40,537.40
Property Tax	\$24,000	\$ 40,000.00	\$ 41,200.00	\$ 42,436.00	\$ 43,709.08	\$ 45,020.35	\$ 52,190.93	\$ 60,503.59
Reserve for Replacements	\$5,000	\$ 20,000.00	\$ 20,600.00	\$ 21,218.00	\$ 21,854.54	\$ 22,510.18	\$ 26,095.46	\$ 30,251.79
Other Expenses:	\$11,040	\$ 14,720.00	\$ 15,161.60	\$ 15,616.45	\$ 16,084.94	\$ 16,567.49	\$ 19,206.26	\$ 22,265.32
TOTAL ANNUAL EXPENSES	\$188,154	\$326,254	\$336,042	\$346,123	\$356,507	\$367,202	\$425,687	\$493,488
NET OPERATING INCOME	\$103,999	\$186,433	\$186,899	\$187,276	\$187,561	\$187,747	\$187,021	\$182,991
DEBT SERVICE								
	\$83,400	\$119,143	\$119,143	\$119,143	\$119,143	\$119,143	\$119,143	\$119,143
Second Deed of Trust Annual Loan Payment	0	36,411	36,411	36,411	36,411	36,411	36,411	36,411
Third Deed of Trust Annual Loan Payment								
Other Annual Required Payment:								
Other Annual Required Payment:								
NET CASH FLOW	\$20,599	\$30,879	\$31,345	\$31,722	\$32,007	\$32,193	\$31,467	\$27,437
Debt Coverage Ratio	1.25	1.20	1.20	1.20	1.21	1.21	1.20	1.18
Other (Describe)								
Other (Describe)								

By signing below I (we) are certifying that the above 15 Year pro forma has been reviewed and is acceptable. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

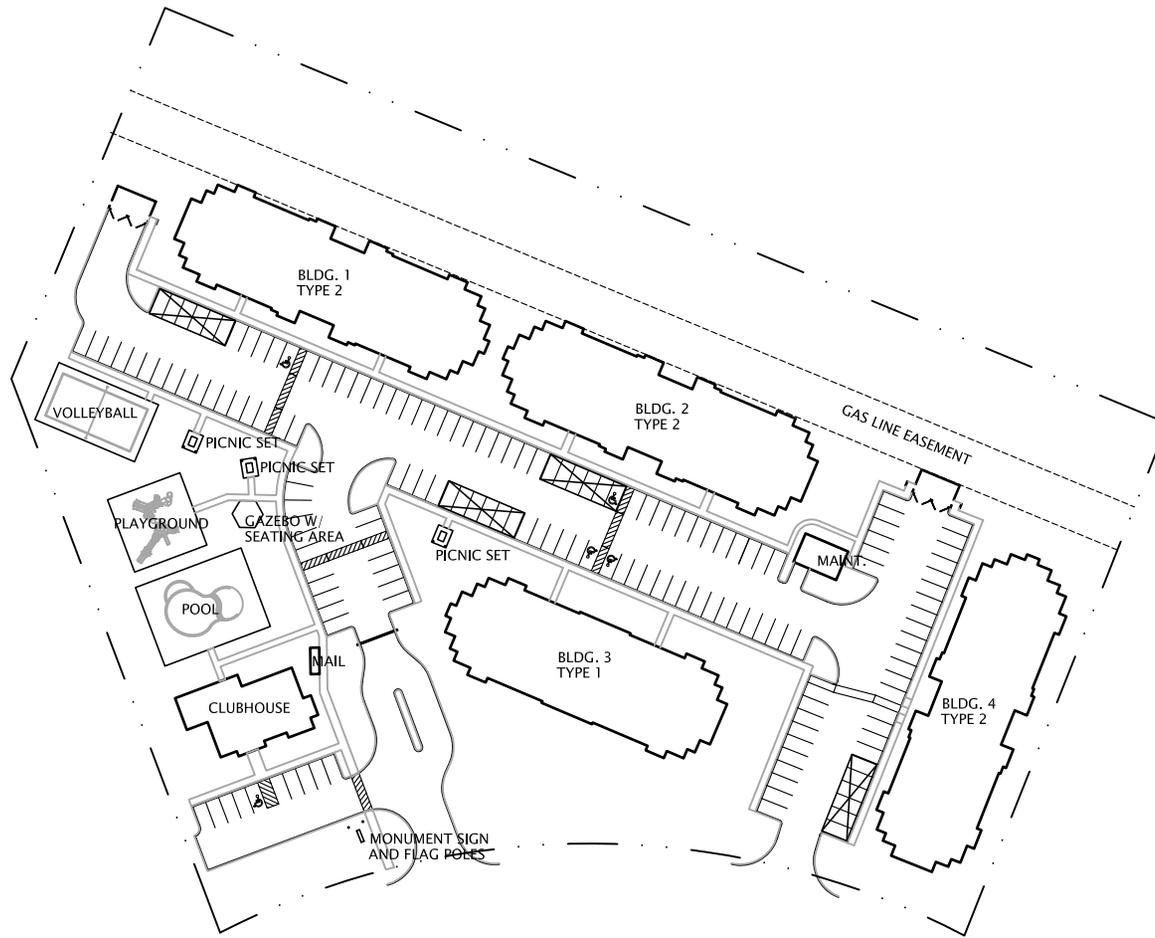
			Phone: _____
Signature, Authorized Representative, Construction or Permanent Lender	Date		Email: _____
Printed Name			

SOURCES AND USES

DEVELOPMENT COST SCHEDULE

SITE WORK COSTS

SITE PLAN



BUILDING MATRIX:

TYPE 1 – 12 1/1 AND 8 3/2 UNITS

TYPE 2 – 12 2/2 AND 8 3/2 UNITS

UNIT MIX:

12 1/1 UNITS @ 767 SQ. FT.

36 2/2 UNITS @ 1,089 SQ. FT.

32 3/3 UNITS @ 1,321 SQ. FT.



NDA

BELLA TERRA APARTMENTS

01/02/14

E1

SITE PLAN +/- 6.53 ACRES

SCALE: 1" = 120'

**DEBT AND EQUITY
COMMITMENT
LETTERS**

DOUGHERTY MORTGAGE LLC

December 31, 2013

MDS Housing Brownsville, Ltd.

By: MDS Housing Brownsville I, LLC, its GP

By: Madhouse Development Services, Inc.

By: Enrique Flores, President

Re: Bella Terra Apartments

80 Units under 221(d)(4) New Construction

Approximately 10.5 acres at SEQ of Morrison Road and Pablo Kisel Boulevard
Brownsville, TX 78526

Dear MDS Housing Brownsville, Ltd.:

The undersigned has made application to Dougherty Mortgage LLC for a loan to develop the captioned proposed rental apartments project, that would be inclusive of the construction stage for such project, and the permanent financing aspect on a long-term amortizing basis based upon the following terms and conditions.

1. LENDER: Dougherty Mortgage LLC
2. PROPOSED BORROWER: MDS Housing Brownsville, Ltd.
3. GUARANTOR OF LOAN: Secretary of Housing and Urban
Development
4. PROPERTY: Bella Terra Apartments
Brownsville, TX 78526
5. TERM/AMORTIZATION OF LOAN: 40 years, plus construction period
6. TOTAL LOAN AMOUNT: \$1,925,000 (First Lien-FHA 221d4)
(Includes Construction and Permanent Loan)

7.	ANTICIPATED INTEREST RATE:	Note Rate	4.94% (Taxable)
		MIP	<u>0.45%</u>
		Total	5.39%
			Final Note Rate to be determined at the time of HUD Commitment Issuance based on market conditions of GNMA Securities at the time of Rate Lock
8.	ANTICIPATED LOAN CONSTANT:		6.188754% (Including Non Amortizing MIP)
9.	DEBT COVERAGE RATIO:		Minimum of 1.15x on all non cash flow loans
10.	MAXIMUM LOAN TO COST:		87%
11.	OPERATING EXPENSES:		\$326,254
12.	NET OPERATING INCOME:		\$186,443
13.	DEBT SERVICE:		\$119,143 (First Lien Only including MIP)
14.	RESERVES REQUIRED Include:		
	ON-GOING ANNUAL		\$20,000 (\$250/Unit Minimum)
15.	INITIAL 1-15 YEAR DEBT COVERAGE RATIO:		Project maintains a minimum 1.15x ratio throughout Years 1-15 shown on the attached pro forma estimates.
16.	ASSESSMENT OF FEASIBILITY:		I have received and reviewed the 15 year pro forma for Bella Terra Apartments located in Brownsville, TX. The attached pro forma, which has been prepared and executed by an authorized representative of Dougherty Mortgage LLC projects total operating expenses, net operating income, and debt service for the first year of stabilized operation based on preliminary information provided by the borrower.

The attached pro forma indicates that the development would maintain no less than a 1.15 debt coverage ratio throughout the initial fifteen years. These projections, which indicate that the Development is expected to be feasible for fifteen years, are made based upon the preliminary information provided by the borrower to this point, and are subject to Dougherty Mortgage LLC due diligence review.

17. CREDIT WORTHINESS

Additionally, Dougherty Mortgage LLC has performed a preliminary review of the credit worthiness of MDS Housing Brownsville, Ltd., MDS Housing Brownsville I, LLC and Madhouse Development Services, Inc. At this time, Dougherty Mortgage LLC has no reservations with any of the Principals of the borrower.

Since the final loan amount and borrower approval is to be determined by HUD as the maximum principal amount HUD will insure, the foregoing indications of loan amount and borrower approval are subject to change.

Subject to Lender's obtaining from HUD a firm Commitment for Insurance of a Mortgage Loan, in an amount and reflecting such terms and conditions as are acceptable to Lender and to Proposed Borrower, and further subject to all terms, conditions and provisions stated herein, as executed below by Lender, this document evidences the agreement of the Lender to make a loan (the "Loan") to the Proposed Borrower, to be secured by a credit instrument and security instrument (the "Mortgage") covering real property with existing improvements thereon.

Although this document is subject to final underwriting of Dougherty Mortgage LLC and HUD, third party report verification of underwriting as well as receipt of an award of tax credits, it does represent the understanding of the parties as to the contemplated loan, and it is on the basis of this Term Letter as Proposed Lender, will proceed toward applying for a HUD commitment.

Unless otherwise agreed, there will be no personal liability for defaults in payment of interest and/or principal on the Loan.

Additional Provisions:

Documents are to be executed on such forms and are to contain such terms and provisions as Lender deems necessary or appropriate and as required by FHA.

MDS Housing Brownsville, Ltd.
12/31/2013
Page 4

This Term Letter and any related application or commitment issued by FHA are subject to current Regulations, policies and procedures of FHA and any changes thereto.

The Lender serves in no fiduciary capacity or relationship to Borrower and/or Mortgagor.

This term letter will expire on June 30, 2014.

APPROVED AND ACCEPTED THIS 2nd DAY OF JANUARY, 2014.

DOUGHERTY MORTGAGE LLC

Signature:



Printed Name: Jeffrey L. Rogers, MAI, CCIM

Title: Senior Vice President

Date: December 31, 2013.

MDS Housing Brownsville, Ltd.

Signature:



Printed Name:

Enrique Flores, IV
Member of MDS Housing
Brownsville I, LLC, its GP

Title:

Date:

January 2, 2014



January 3, 2014

Henry Flores
Vice President
Madhouse Development Services, Inc.
8311 Rockwood Lane
Austin, TX 78757

**Re: Bella Terra Apartments
Brownsville, Texas**

Dear Henry:

Thank you for providing us the opportunity to submit a proposal on Bella Terra Apartments (the "Project"). This letter serves as an indication of RBC's interest in acquiring an ownership interests in MDS Housing Brownsville Ltd., a to-be-formed Texas Limited Partnership (the "Partnership"). RBC Tax Credit Equity, LLC, its successors and assigns ("RBC") will acquire a 99.99% interest, and RBC Tax Credit Manager II, Inc. ("RBC Manager") will acquire a .001% interest (collectively, the "Interest") in the Partnership.

1. **Project and Parties Involved.**

- (a) The Project, located in the City of Brownsville, County of Cameron, State of Texas will consist of 80 apartment units. Within the Project 80 units will be occupied in compliance with the low-income housing tax credit ("LIHTC") requirements of Section 42 of the Internal Revenue Code.
- (b) The parties involved with the Project are as follows:
 - (i) **General Partner.** The MDS Housing Brownsville I, LLC, a Texas Limited Liability Company, a single purpose, taxable entity.
 - (ii) **Developer.** The Developer is MDS Housing Brownsville Development, LLC ("Developer").
 - (iii) **Guarantors.** Subject to RBC's review and approval of financial statements, the Guarantors are the General Partner, the Developer, Enrique Flores, and other entities deemed necessary by RBC, on a joint and several basis.

2. **Purchase Price.** The Interest in the Partnership will be acquired for a total capital contribution of \$9,014,481. This capital contribution is based on the Project receiving the tax credits described in Paragraph 3 and represents a price per tax credit dollar of \$0.93. The capital contribution, subject to adjustments set forth in Paragraph 5 below, will be payable to the Partnership in installments as set forth on **Exhibit A**.

3. **LIHTC.** The Project has received a reservation of 2013 LIHTC in the amount of \$969,396 annually. The total LIHTC anticipated to be delivered to the Partnership is \$9,693,960. The LIHTC will be available to the Partnership beginning in 2015.

4. **Funding Sources.** The purchase price is based upon the assumption that the Project will receive funding on the terms and conditions listed on **Exhibit B**.

5. **Adjustments.**

- (a) Downward Capital Adjustment. The amount of LIHTC to be allocated to RBC during the credit period (“Certified LIHTC”) will be determined promptly following receipt of cost certification from the accountant and Form 8609. If the Certified LIHTC is less than Projected LIHTC, RBC’s capital contributions will be reduced by an amount (the “Downward Capital Adjustment”) equal to the product of (i) \$.94 multiplied by (ii) the difference between Projected LIHTC and Certified LIHTC.
- (b) Late Delivery Adjustment. The amount of LIHTC allocated to RBC for 2015 will be determined at the time the Project is fully leased. If the amount of the LIHTC allocated to RBC for calendar year 2015 is less than the amounts shown in Paragraph 3, RBC’s capital contribution shall be reduced by an amount (the “Late Delivery Adjustment”) equal to the difference between the amount shown in Paragraph 3 (adjusted for any Downward Capital Adjustment) and the amount of the LIHTC allocated to RBC for calendar year 2015 less the present value (using a 12% discount rate) of the additional LIHTC projected to be received in 2025.
- (c) Payment by General Partner. If the Downward Capital Adjustment and the Late Delivery Adjustment exceed the total of all unfunded capital contributions, then the General Partner will make a payment to the Partnership equal to the amount of such excess, and the Partnership will immediately distribute such amount to RBC as a return of its capital contribution. Except to the extent otherwise stated herein, this payment will not give rise to any right as a loan or capital contribution or result in any increase in the General Partner’s capital account.

6. **General Partner and Guarantor Obligations**. In addition to Paragraph 5(c) above, the General Partner is responsible for items 6(a) through 6(f) below. Any amounts advanced by the General Partner will not be considered as loans or capital contributions reimbursable or repayable by the Partnership unless otherwise stated herein.

- (a) Construction Completion. The General Partner will guarantee construction completion in accordance with approved plans and specifications and will pay for any construction costs, costs to achieve permanent loan closing, repayment of all construction financing and costs necessary to fund reserves required to be funded at or before permanent loan closing.
- (b) Operating Deficits.
 - (i) Pre-Stabilization. The General Partner will guarantee funding of operating deficits until the date (the “Stabilization Date”) which is the first day of the month following a 3-month period (such 3-month period to commence after the permanent loan closing) in which the Project has maintained an average 1.15 debt service coverage; and
 - (ii) Post-Stabilization. Commencing with the Stabilization Date and continuing until the Release Date (defined below), the General Partner will guarantee funding of operating deficits in an amount equal to 6 months of operating expenses, debt service, and replacement reserves. Any funds paid by the General Partner under this Paragraph 6(b)(ii) shall be treated as an unsecured loan to the Partnership with interest at the rate of 8% per annum, to be repaid out of cash flow, refinancing, sale and liquidation proceeds as provided in Paragraph 9 hereof.

The “Release Date” is the later of:

- (A) the fifth anniversary of the Stabilization Date,
 - (B) the date the Project has achieved an average debt service coverage of 1.15 for the 12-month period immediately prior to the Release Date, and
 - (C) the date the Project has achieved a 1.15 debt service coverage for each of the 3 months immediately prior to the Release Date.
- (c) LIHTC Shortfall or Recapture Event. To the extent not already addressed by the Downward Capital Adjustment or the Late Delivery Adjustment, if the actual amount of LIHTC for any year is less than

Projected LIHTC, the General Partner will guarantee payment to RBC of an amount equal to the shortfall or recapture amount, plus related costs and expenses incurred by RBC.

- (d) Repurchase. The General Partner will repurchase RBC's interest upon the occurrence of certain events described in the Project Entity Agreement.
- (e) Environmental Indemnity. The General Partner will indemnify RBC against any losses due to environmental condition at the Project.
- (f) Developer Fee. The General Partner will guarantee payment of any developer fee remaining unpaid at the end of the LIHTC compliance period.
- (g) Guarantors. The Guarantors will guarantee all of the General Partner's obligations. Prior to the Stabilization Date, the Guarantors will maintain a net worth and liquidity level as determined by RBC after review of the Guarantors' financial statements.

7. **Reserves**.

- (a) Operating Reserves. An operating reserve in the amount of six months of operating reserves, debt service coverage and replacement reserves will be established and maintained by the General Partner concurrent with RBC's third capital contribution. Withdrawals from the operating reserve will be subject to RBC's consent. Expenditures from operating reserves will be replenished from available cash flow as described in Paragraph 9(b) below.
- (b) Replacement Reserves. The Partnership will maintain a replacement reserve, and make contributions on an annual basis equal to the greater of (i) \$250 per unit and (ii) the amount required by the permanent lender. The amount of the contribution will increase annually by 3%. Annual contributions will commence with RBC's third capital contribution.

8. **Fees and Compensation**. The following fees will be paid by the Partnership for services rendered in organizing, developing and managing the Partnership and the Project.

- (a) Developer Fee. The Developer will earn a developer fee of \$1,275,000.

The deferred portion of the developer fee shall accrue interest at 8% per annum commencing as of the date of RBC's final capital contribution. Payment of the deferred fee will be subordinate to all other Partnership debt as well as operating expense and reserve requirements
- (b) Incentive Management Fee. An incentive management fee will be payable to the General Partner on an annual basis in an amount equal to 90% of net cash flow as set forth on Paragraph 9(b) below.
- (c) Property Management Fee. The property management fee will not exceed 5% of gross rental revenues. The management agent and the terms of the property management agreement are subject to the prior approval of RBC. If the management agent is an affiliate of any Guarantor, its fee will be subordinated to payment of operating costs and required debt service and reserve payments.
- (d) Asset Management Fee. The Partnership will pay RBC Manager an annual asset management fee of \$5,000 which will increase by 3% annually.

9. **Tax Benefits and Distributions.**

- (a) **Tax Benefits.** Tax profits, tax losses, and tax credits will be allocated 99.99% to RBC, .001% to RBC Manager and .009% to the General Partner.
- (b) **Net Cash Flow Distributions.** Distributions of net cash flow (cash receipts less cash expenditures, payment of debt service, property management fee and asset management fee), will be made as follows:
 - (i) to RBC in satisfaction of any unpaid amounts due under Paragraphs 5 and 6 above and for any other amounts due and owing to RBC;
 - (ii) to RBC Manager for any unpaid asset management fees;
 - (iii) to the operating reserve to maintain the balance required in Paragraph 7(a);
 - (iv) to the payment of any unpaid developer fee;
 - (v) to the payment of any debts owed to the General Partner or its affiliates;
 - (vi) 90% of the remaining cash flow to the General Partner as an incentive management fee; and
 - (vii) the balance to the General Partner, RBC and RBC Manager in accordance with their percentage interests described in Paragraph 9(a).
- (c) **Distributions upon Sale, Liquidation or Refinance.** Net proceeds resulting from any sale, liquidation or refinance will be distributed as follows:
 - (i) to payment in full of any Partnership debts except those due to RBC, RBC Manager or the General Partner and/or their affiliates;
 - (ii) to the setting up of any required reserves for contingent liabilities or obligations of the Partnership;
 - (iii) to RBC, in satisfaction of any unpaid amounts due under Paragraphs 5 and 6 above and for any other amounts due and owing to RBC;
 - (iv) to RBC Manager for any unpaid asset management fees;
 - (v) to RBC for any excess or additional capital contributions made by it;
 - (vi) to the payment of any debts owed to the General Partner or its affiliates including any unpaid developer fee;
 - (vii) to RBC Manager, 1% of such proceeds as a capital transaction administrative fee;
 - (viii) to RBC in an amount equal to any projected federal income tax incurred as a result of the transaction giving rise to such proceeds; and
 - (ix) the balance, 80% to the General Partner, 19% to RBC and 1% to RBC Manager.

10. **Construction.** The General Partner will arrange for a fixed or guaranteed maximum price construction contract. The Contractor's obligations will be secured by a letter of credit in an amount not less than 15% of the amount of the construction contract or a payment and performance bonds in an amount not less than the amount of

the construction contract. The Project will establish a construction contingency in an amount not less than 5% of the construction costs, or such greater amount as RBC may reasonably require following its review of construction documents. RBC, may, in its sole discretion, engage a construction consultant (i) to review plans and specifications and (ii) evaluate the construction progress by providing monthly reports to the Partnership.

11. **Due Diligence, Opinions and Projections.**

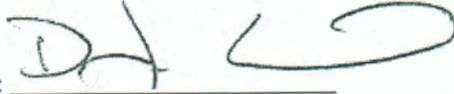
- (a) **Due Diligence.** The General Partner will provide RBC with all due diligence items set forth on its due diligence checklist, including but not limited to, financial statements for the Guarantors, schedule of real estate owned and contingent liabilities, plans and specifications, a current appraisal, a current (less than 6 months old) market study, a current (less than 6 months old) Phase I environmental report, rent and expense data from comparable properties, site/market visit and title and survey. The General Partner agrees to reasonably cooperate with RBC (including signing such consents as may be necessary) in obtaining background reports on the Developer, Guarantors and other Project entities as determined by RBC.
- (b) **Legal Opinions.** The General Partner's counsel will deliver to RBC a local law opinion satisfactory to RBC. RBC's counsel will prepare a tax opinion and the General Partner agrees to cooperate to provide all necessary documentation requested by RBC's counsel.
- (c) **Diligence Reimbursement.** The Partnership will reimburse RBC \$40,000 toward the costs incurred by RBC in conducting its due diligence review and for the costs and expenses of RBC's counsel in connection with the preparation of the tax opinion. RBC may deduct this amount from its first capital contribution.
- (d) **Projections.** The projections to be attached to the Project Entity Agreement and that support the Tax Opinion will be prepared by RBC based on projections provided by the General Partner. RBC's projections will include development sources and uses, calculation of eligible basis, operating and construction period cash flow analysis, 15-year operating projection, 30-year debt analysis and 15-year capital account analysis.

12. **Closing Contingencies.** RBC's obligation to close on the purchase of the Interest will be contingent upon RBC's receipt, review and approval of all due diligence including the items set forth on its due diligence checklist as well as the following:

- (a) **Project Entity Documents.** Preparation and execution of RBC's standard Project Entity Agreement and other fee agreements containing representations and warranties, covenants, consent rights, and indemnities, each on terms and conditions satisfactory to RBC.
- (b) **Information, Market Conditions and Laws.** No adverse change in the information you have provided to us, no adverse change in current investor market conditions and no adverse change in existing law.
- (c) **Anticipated Closing Date.** The closing occurring on or before June 1, 2014

If the foregoing is in accordance with your understanding of the terms and conditions, please indicate your acceptance on the enclosed copy and return it to the undersigned.

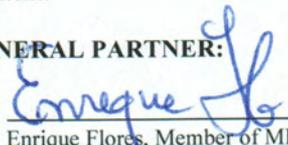
Very truly yours,



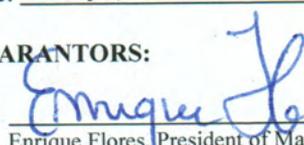
By: _____
Name: Dan Kierce
Title: Director

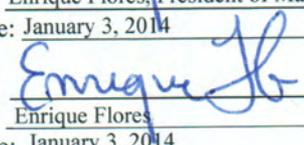
The undersigned approves and accepts the terms of this Letter of Intent.

GENERAL PARTNER:

By:  _____
Its: Enrique Flores, Member of MDS Housing Brownsville I,
LLC, its GP
Date: January 3, 2014

GUARANTORS:

By:  _____
Its: Enrique Flores, President of Madhouse Development Services, Inc.
Date: January 3, 2014

By:  _____
Its: Enrique Flores
Date: January 3, 2014

By: _____
Its: _____
Date: _____

**EXHIBIT A
 CAPITAL CONTRIBUTIONS**

<u>Conditions</u>	<u>Amount</u>	<u>Anticipated Funding Date</u>
i) 21.87% upon the later of: (a) the execution of the Partnership Agreement, (b) receipt and approval of all due diligence items on RBC's due diligence checklist, (c) closing and initial funding of financing described in Exhibit B.	\$ 1,971,250	June 1, 2014
ii) 21.87% upon the later of: (a) achievement of 25% construction completion as certified by the project architect (b) October 1, 2014	\$ 1,971,250	October 1, 2014
iii) 21.87% upon the later of: (a) achievement of 50% construction completion as certified by the project architect. (b) January 1, 2015	\$ 1,971,250	January 1, 2015
iv) 21.87% upon the later of: (a) receipt of an architect's certificate of substantial completion, (b) receipt of final Certificates of Occupancy for all of the units, (c) receipt of a preliminary Accountant's Cost Certification, and (d) June 1, 2015	\$ 1,971,250	June 1, 2015
v) 6.25% upon the later of: (a) receipt of the final cost certification from an independent certified public accountant, (b) achievement of 90 days of 90% qualified occupancy for all LIHTC units (c) achievement of 100% qualified occupancy for all LIHTC units, and (d) permanent loan conversion. (e) January 1, 2016	\$ 563,405	January 1, 2016
vi) 6.28% upon the later of: (a) receipt of IRS Form 8609, and (b) achievement of the Stabilization Date, (three consecutive months of a 1.15 DSC on all foreclosable debt such 3-month period to commence after the permanent loan conversion). (c) April 1, 2016	\$ 566,076	April 1, 2016
Total:	\$ 9,041,481	

EXHIBIT B SOURCES

Construction/Permanent Loan

- Non-recourse: Yes
- Lender: Dougherty Mortgage, LLC (or other lender acceptable to RBC)
- Amount: \$1,925,000
- Maturity: 40 years
- Interest Rate: 5.5% (fixed)
- Amortization: 40 years
- Collateral: 1st mortgage on Project (or other collateral acceptable to RBC)

City of Brownsville HOME Loan

- Source: City of Brownsville
- Amount: \$1,200,000
- Maturity: 40 years
- Interest Rate: 1.0% (fixed)
- Amortization: 40 years
- Collateral: 2nd mortgage on Project (or other collateral acceptable to RBC)

MDS HOUSING BROWNSVILLE DEVELOPMENT, LLC

FIRM COMMITMENT FROM DEVELOPER

January 3, 2014

MDS Housing Brownsville, Ltd.
Enrique Flores
6209 Ledge Mountain Drive
Austin, TX 78731

Re: **DEVELOPER NOTE – Bella Terra Apartments**

Gentlemen:

This letter will serve as a Firm Commitment to MDS Housing Brownsville, Ltd. (the "Partnership") evidencing the agreement of MDS Housing Brownsville Development, LLC, the developer of the proposed multi-family development Bella Terra Apartments, to defer a portion of its developer fee in an amount up to FOUR HUNDRED FIFTY THOUSAND AND no/100 (\$450,000.00) Dollars and in lieu thereof receive a Developer Note. The initial Developer Note Amount will be \$369,136 and the amount of the Note will be increased to the extent there is a shortfall in sources, upon consent of the Developer, which consent shall not be unreasonably withheld.

The terms of the Note will be as follows:

- 1) Term: Ten (10) years
- 2) Interest: Four Percent (4%), unless otherwise agreed by Developer
- 3) Security: Third Mortgage, if allowed, by first mortgage lender
- 4) Payments: Payments will be made annually based on eighty percent (80%) of the available cashflow after operating expenses, the establishment of a reserve for replacement, and debt service, if applicable.
- 5) Balloon Payment: All unpaid principal balance and accrued interest, if any, shall be due and payable ten years from the effective date of the Note.
- 6) Closing: Upon closing of the other sources for development.

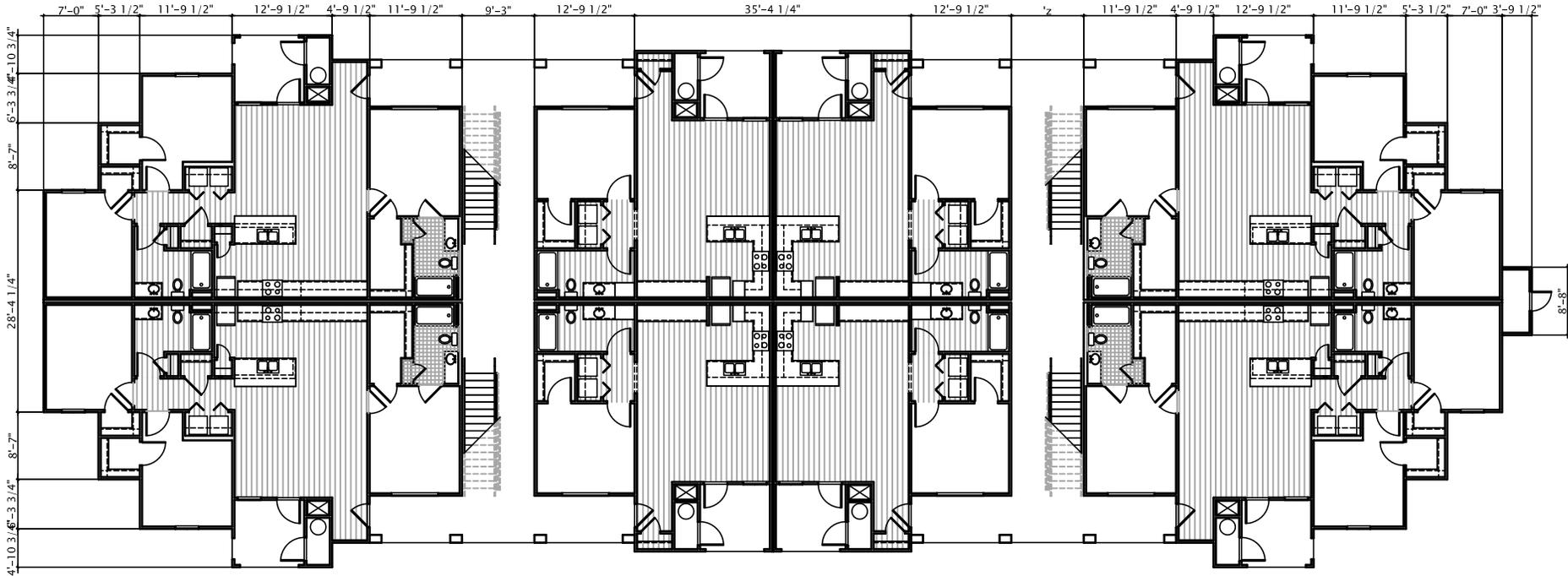
Sincerely,

MDS Housing Brownsville Development, LLC

By: Madhouse Development Services, Inc., Managing Member

By: Enrique Flores, Vice President





ALL WALLS IN UNITS ARE 8'-0" TALL

GROSS AREA PER FLOOR: FIRST AND SECOND 11,014 SQ. FT., THIRD 5,165 SQ. FT.

FIRST AND SECOND FLOORS ARE SAME, THIRD FLOOR HAS ONLY THE FOUR MIDDLE UNITS

NDA

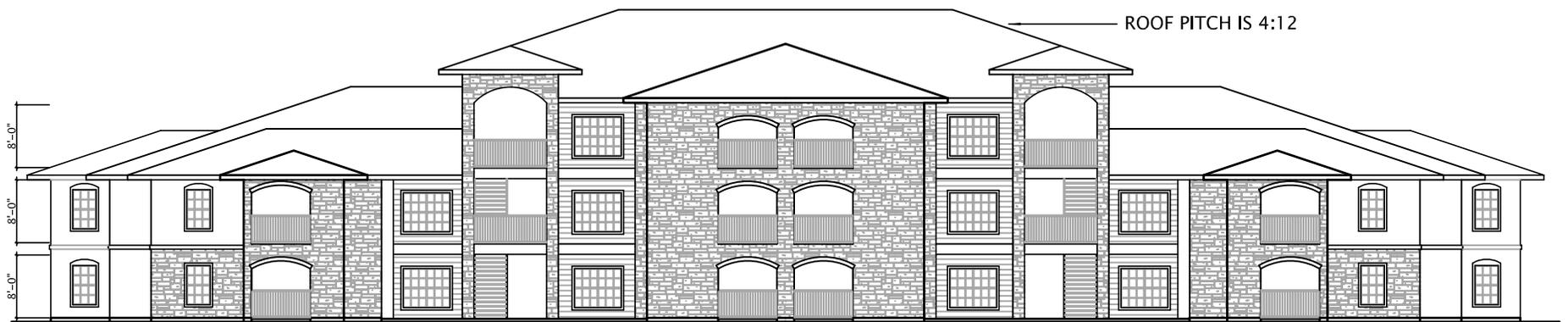
BELLA TERRA APARTMENTS

01/07/14

E5

BUILDING PLAN - TYPE 1 - 19,772 SQ. FT. NRA

SCALE: 1" = 20'



100% MASONRY EXTERIOR - 30% STONE, 40% STUCCO, 30% CEMENTITIOUS SIDING

NDA

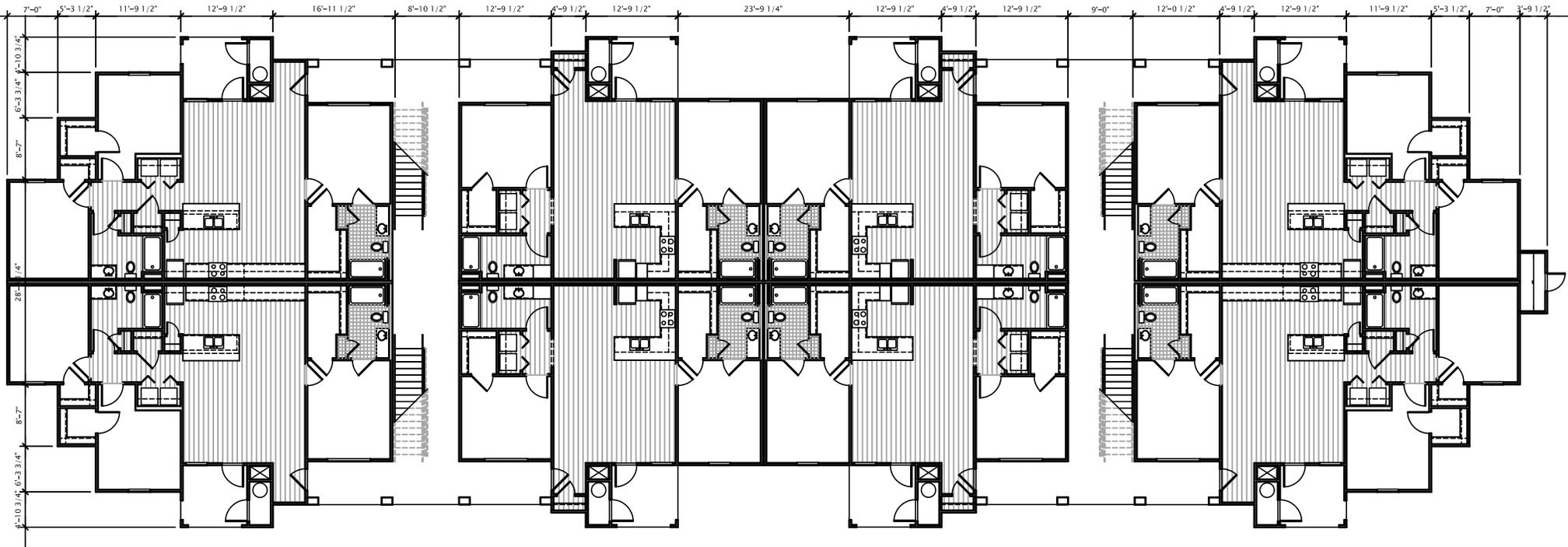
BELLA TERRA APARTMENTS

01/07/14

E6

BUILDING ELEVATION - TYPE 1

SCALE: 1" = 20'



ALL WALLS IN UNITS ARE 8'-0" TALL

GROSS AREA PER FLOOR: FIRST AND SECOND 12,314 SQ. FT., THIRD 6,464 SQ. FT.

FIRST AND SECOND FLOORS ARE SAME, THIRD FLOOR HAS ONLY FOUR MIDDLE UNITS

NDA

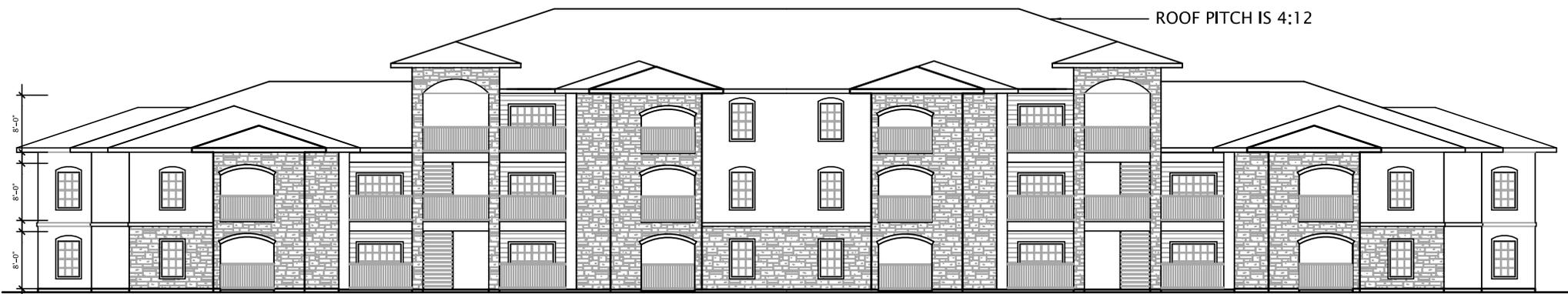
BELLA TERRA APARTMENTS

01/07/14

E7

BUILDING PLAN - TYPE 2 - 23,636 SQ. FT. NRA

SCALE: 1" = 20'



100% MASONRY EXTERIOR - 30% STONE, 40% STUCCO, 30% CEMENTITIOUS SIDING

NDA

BELLA TERRA APARTMENTS

01/07/14

E8

BUILDING ELEVATION - TYPE 2

SCALE: 1" = 20'

3b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 23, 2013

Presentation, Discussion, and Possible Action to Accept Guidance Issued by Staff in the Form of Frequently Asked Questions for the 2014 Competitive 9% Low Income Housing Tax Credit Application Round

RECOMMENDED ACTION

WHEREAS, the Board adopted and approved 10 TAC Chapter 10 Subchapters A, B, C, and G (“Uniform Multifamily Rules”) and 10 TAC Chapter 11 (“Qualified Allocation Plan” or “QAP”) on November 7, 2013;

WHEREAS, the Rules and QAP were adopted by the Governor on December 1, 2013, and subsequently published in the *Texas Register*;

WHEREAS, pursuant to §10.2(b) of the Uniform Multifamily Rules and §11.1(b) of the QAP, staff may, from time to time, make available for use by applicants information and informal guidance in the form of frequently asked questions (“FAQs”);

WHEREAS, staff posted such guidance to the Department’s website in December 2013 with updates in January 2014; and,

WHEREAS, staff seeks the Board’s acceptance of the FAQs and answers posted attached hereto;

NOW, therefore, it is hereby

RESOLVED, the Board accepts the guidance issued by staff in the form of frequently asked questions and answers, which are made available to potential applicants in the 2014 Competitive 9% Low Income Housing Tax Credit Application Round on the Department’s website, and authorizes staff to make such non-substantive technical correction as they deem necessary to effectuate the foregoing; and

FURTHER RESOLVED, that the Board reserves the right to make changes and corrections to such guidance if material additional information is brought to its attention which would affect such guidance.

BACKGROUND

Pursuant to §10.2(b) of the Uniform Multifamily Rules (“Rules”) and §11.1(b) of the 2014 QAP, staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, FAQs, and responses to specific questions. This guidance, while not formally part of the Rules and QAP, serves to supplement those documents and address specific situations that may not be addressed in great detail in the Rules and/or QAP. Since the approval of the Rules and QAP by the board in November 2013, staff has fielded hundreds of questions from possible Applicants. Of those questions, staff identified several as potentially having impact on other applicants and applications and so posted them in the form of FAQs on the Department’s website. These were posted first on December 16, 2013, and then updated on January 2, 2014, and January 10, 2014. Listserv announcements were provided periodically to ensure applicants became aware of any updates. Staff now seeks the Board’s acceptance of this guidance in order to confirm that these specific situations are being addressed in accordance with the Board’s interpretation of the Rules and QAP.

Staff recommends that the Board accept the FAQs and answers attached.



Posted:
December 16, 2014

Updated:
January 2, 2014
January 10, 2014

2014 Competitive HTC Application Cycle Frequently Asked Questions (FAQs)

Pursuant to §11.1(b) of the Qualified Allocation Plan (QAP), Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must be considered merely as an aid and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application. These rules may need to be applied to facts and circumstances not contemplated at the time of their creation and adoption. When and if such situations arise the Board will use a reasonableness standard in evaluating and addressing Applications for Housing Tax Credits.

Following is a list of questions that the Department has received with respect to the 2014 Uniform Multifamily Rules and QAP and how various provisions of the rules will be applied to Applications submitted and reviewed by the Department during the 2014 competitive cycle. Each of the questions was received via email or phone over the past several weeks and at the application workshops held in early December. Each time an update is made the most recently updated date will be added to the box at the top right of this page. The FAQ is an opportunity to provide all Applicants and the public the same information that was relayed to the individuals who asked the question.

Questions and answers are in the same order that their related sections appear in the rules. If questions and answers are added after the initial posting, the revision dates will appear at the top of this page and will be included next to each of the added questions. The Department may not send out a new listserv each time an update is made unless the update is extensive. Staff encourages interested individuals to check back periodically.

2014 Competitive Application Cycle FAQ

Chapter 10, Subchapter A – Uniform Multifamily Rules

§10.3 – Definitions and Staff Determinations

Q: Will developments that are participating in the City of Houston Permanent Supportive Housing (“PSH”) program be considered Supportive Housing under §10.3(124) of the Uniform Multifamily Rules?

A: Not necessarily. Regardless of participation in the Houston PSH Program, in order to be considered a Supportive Housing application, the proposed development must comply with the Department’s definition, meaning that the entire development is intended for occupancy by households with needs for specialized services and is debt free. Applicants should reference the entire definition to determine whether the proposed development complies and are reminded that a change in target population from pre-application to application could result in a loss of pre-application points. There is no Department rule that specifically precludes a Houston PSH development from being characterized as “general population” for the purposes of filing a 2014 tax credit application.

Q: Will the Department underwrite Applications using an applicable percentage of 9%?

A: No. Unless new legislation has actually passed (not just proposed) at the time an Application is submitted, the applicable percentage used in underwriting the Application will be 40 basis points over the current (February 2014) applicable percentage for 70% present value credits (for New Construction/Rehabilitation) in accordance with §10.3(a)(5) of the Uniform Multifamily Rules.

Chapter 10, Subchapter B – Uniform Multifamily Rules

§10.101(a)(3)-(4) – Undesirable Area Features

Q: When are requests for pre-clearance due? And what is the process for requesting pre-clearance?

A: Pre-clearance requests will be accepted prior to or concurrent with the submission of a full application. For 9% HTC applications, the request cannot be submitted prior to the beginning of the Application Acceptance Period. There is no Department template or form for a pre-clearance request - no WPDD packet as in 2013. Requests for pre-clearance for Competitive 9% HTC applications should be sent directly to Jean Latsha at jean.latsha@tdhca.state.tx.us. Requests for pre-clearance for 4% HTC/Bond applications should be sent to Teresa Morales at teresa.morales@tdhca.state.tx.us. Requests for pre-clearance for HOME only applications should be sent to Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us.

Chapter 10, Subchapter C – Uniform Multifamily Rules

§10.203 – Public Notifications and §11.8(b)(2) – Pre-Application Threshold Criteria

Q: [ADDED 1/10/14] Whom should applicants contact to obtain a list of neighborhood organizations on record with the county or state?

A: It is an applicant’s responsibility to perform the due diligence necessary to verify the existence of neighborhood organizations that would require notification or that could affect point elections for the QCP point item. The rules do not require an applicant to seek a list of neighborhood

2014 Competitive Application Cycle FAQ

organizations from state or local elected officials although an applicant may seek to do so to ensure that they have sought information from all possible sources.

§10.204(4) – Notice, Hearing, and Resolution for Tax-Exempt Bond Developments

Q: Can the TEFRA hearing be used to satisfy the requirements of this rule?

A: If the Department is the bond issuer, a separate hearing, compliant with the rule, must be held to satisfy this threshold requirement. If using another issuer, there is no requirement in the Uniform Multifamily Rules that precludes an Applicant holding a joint hearing that satisfies both purposes. However, applicants should be cautious and ensure that any such hearing independently satisfies the requirements applicable to both a TEFRA hearing and the hearing required under §10.204(4). The hearing required under Texas Government Code §2306.67071 and §10.204(4) should be hosted by the Governing Body of the city or county, while the TEFRA hearing, required by the Tax Equity and Fiscal Responsibility Act, should be hosted by the bond issuer. It may be possible for an applicant to coordinate a joint hearing.

§10.204(5) – Experience Requirement

Q: Will the Department accept Experience Certificates from previous years?

A: No. The Department is re-evaluating applicants to ensure that the current experience requirements are being met, even those who have previously obtained experience certificates. Applicants can submit documentation to evidence that the requirements are met with the full application or, for 9% HTC applications, at any time during the Application Acceptance Period. Submissions sent outside the full application should be sent to Elizabeth Henderson at elizabeth.henderson@tdhca.state.tx.us.

§10.204(8)(B) – Operating and Development Costs Documentation

Q: What methods for calculating utility allowances require Department approval? And what is the process for requesting such approval?

A: Any method other than using the applicable local housing authority's published utility allowances for the Section 8 Existing Housing Program will require Department review and approval. This includes but is not limited to written local estimates, HUD Models, Energy Consumption Models, Actual Use and a request to use an alternate PHA. Requests for review of an alternative method are required to be submitted to the Department prior to the full Application submission. While requests are typically sent to ua@tdhca.state.tx.us, requests related to Competitive 9% HTC applications should be sent directly to Stephanie Naquin at stephanie.naquin@tdhca.state.tx.us.

§10.205 – Required Third Party Reports

Q: **[ADDED 1/10/14]** When are the various third party reports due for Competitive 9% Housing Tax Credit applications?

A: The Environmental Site Assessment (ESA) and Market Analysis Summary are due with the application submission by February 28, 2014. If applicable, the Appraisal, Site Design and Development Feasibility Report, and Property Conditions Assessment (PCA) are also due with the full application by February 28, 2014. Only the full Market Analysis is due at a later date, by April 1, 2014. The originally posted procedures manual included an incorrect date for the ESA.

2014 Competitive Application Cycle FAQ

§10.207 – Waivers of Rules for Applications

Q: What is the process for requesting a waiver?

A: Requests for waivers will be accepted any time during the Application Acceptance Period but will not be accepted after a full application has been submitted. There is no Department template or form for a waiver request - no WPDD packet as in 2013. Requests for waivers for Competitive 9% HTC applications should be sent directly to Jean Latsha at jean.latsha@tdhca.state.tx.us. Requests for waivers for 4% HTC/Bond applications should be sent to Teresa Morales at teresa.morales@tdhca.state.tx.us. Requests for waivers for HOME only applications should be sent to Andrew Sinnott at Andrew.sinnott@tdhca.state.tx.us. Requests for waivers can also be submitted within a pre-application or application, in which case there is a place to indicate such on the payment receipt.

Chapter 11 – Qualified Allocation Plan

§11.3 – Housing De-Concentration Factors

Q: Does the restriction in §11.3(e) related to eligibility of Qualified Elderly Developments in certain counties and regions apply to Applications submitted in the At-Risk Set-Aside?

A: Yes. All Applications, including those submitted under the At-Risk Set-Aside, that propose a Qualified Elderly Development in an urban area of the regions/counties listed in §11.3(e) will be considered ineligible.

Q: If a Development Site is located within the ETJ of a municipality that has over twice the state average of units per capita supported by Housing Tax Credits or private activity bonds, is a resolution required for the site to be eligible?

A: No. However, if any portion of the site is located within the subject municipality a resolution is required. (If located entirely outside the municipality and if applicable, a resolution from the county would be required.)

§11.4 – Tax Credit Request and Award Limits

2014 Competitive Application Cycle FAQ

Q: If an application proposes to qualify for an increase in eligible basis (30% boost) under §11.4(c)(2)(D) by restricting 10% of the low-income units for households at or below 30% AMGI, can these same units be used to qualify for points under either §11.9(c)(1) related to Income Levels of Tenants or §11.9(c)(2) related to Rent Levels of Tenants?

A: No. The language in §11.4(c)(2)(D) reads, “Units must be in addition to Units required under any other provision of this chapter.” Therefore, the same units cannot be used to qualify for both the boost and points (whether under §11.9(c)(1) or (2)). Applicants should exercise caution in completing the application and should double check their calculations to ensure that a sufficient number of units have the appropriate rent and income levels for all elections made in the application.

Q: If an application could qualify for points under the Opportunity Index but chose not elect such points (for instance, the Applicant elected Community Revitalization Plan points instead of Opportunity Index points), could the application qualify for an increase in eligible basis (30% boost) under §11.4(c)(2)(C)?

A: Yes. The language in §11.4(c)(2)(C) which reads, “the Development meets the criteria” suggests that it is possible that an Application’s score might not include points for Opportunity Index but that the characteristics/location of the Development Site could still allow the Application to elect the 30% boost under the above cited provision of the QAP.

§11.5 – Competitive HTC Set-Asides

Q: Will applications proposing a Rental Assistance Demonstration (“RAD”) conversion be considered eligible to compete in the At-Risk Set-Aside?

A: In accordance with the Governing Board’s action at the November 7, 2013 board meeting, the Department has submitted a request to the Attorney General for a formal opinion as to whether a development exercising a RAD conversion is eligible to compete in the At-Risk Set-Aside. The opinion may or may not be received during the 2014 competitive cycle, so applicants choosing to submit an application under the At-Risk Set-Aside utilizing a RAD conversion for eligibility do so at their own risk. Applicants are also reminded that pursuant to §11.6(3)(C) of the QAP, applications electing the At-Risk Set-Aside will not be eligible to receive an award from funds made generally available within each of the sub-regions.

Q: If an application could qualify for points under the Opportunity Index but chose not elect such points (for instance, the Applicant elected Community Revitalization Plan points instead of Opportunity Index points), could the application be allowed to qualify for relocating the Development Site under the At-Risk Set-Aside pursuant to 11.5(3)(c)(iii)?

A: Yes. The language in §11.5(3)(c)(iii) which reads, “the Development Site must qualify for points,” suggests that it is possible that an Application’s score might not include points for Opportunity Index but that the characteristics/location of the Development Site could still allow the Application to relocate the site under the above cited provisions of the QAP.

§11.7 – Tie Breaker Factors

2014 Competitive Application Cycle FAQ

Q: If two applications (*e.g.* applications ‘A’ and ‘B’) have the same score and ‘A’ could have qualified for points under the Opportunity Index but the Applicant chose not elect the such points (for instance, Applicant for ‘A’ elected Community Revitalization Plan points instead of Opportunity Index points), can the Opportunity Index point level that could have been elected be used to determine whether the application wins the tie breaker for highest score on the Opportunity Index? In other words, could ‘A’ win the tie breaker under §11.7(1) using a point level that was not actually elected in the application?

A: No. The tie breaker provision is based on score. The language in §11.7(1) reads, “Applications scoring higher on the Opportunity Index,” and applications will not be awarded points that are not explicitly elected by the applicant. Therefore, if ‘B’ actually had points awarded under the Opportunity Index and ‘A’ did not, then ‘B’ would win the tie breaker. If neither application in this scenario actually had Opportunity Index points included in the application’s total score, staff would look to §11.7(2) to determine which application wins the tie breaker.

§11.9-Competitive HTC Selection Criteria

§11.9(c)(4) – Opportunity Index

Q: If a Development Site is NOT located within a census tract that has a poverty level below 15% or with income in the first or second quartile of median household income for the county or MSA as applicable, in order to qualify to elect points under §11.9(c)(4)(B), does the qualifying elementary school need to serve grades that align with TEA’s conventions for defining elementary schools (K-5 or K-6) as opposed to the qualifying school serving any number of grade levels?

A: Yes, but further explanation may be helpful. The scoring item is a two-pronged test.

First, in order for the Application to be eligible for points under the listed point options, the Development Site must pass a threshold test; it must be located in an area with the necessary median income level **OR** poverty level **OR** rating of the elementary school. If meeting the requirements of the first “prong” by way of a highly rated elementary school, the school (or schools) must serve all of the elementary grade levels, as laid out in §11.9(c)(4)(C).

Second, once the development site passes this first test, the applicant can assess whether the application qualifies for points from the menu of options based on proximity to the listed community assets. The application can qualify for points by being in within one mile of these community assets. One of those assets is a school with a Met Standard Rating, but qualifying for these points is different than passing the test discussed in the first step/prong. Instead of the school needing to serve all of the elementary grade levels, it simply must have some grade levels, whether elementary, middle, or high school grades, have a Met Standard, and be within one mile of the development site (the site must also be in the attendance zone).

As an example, a site might be located within the attendance zones of two separate schools that, combined, make up the elementary school used to pass the first prong of the test (combined the schools serve K -6th). If the site is within one mile of just one of those two schools it can elect 3 points under §11.9(c)(4)(B)(2)(i).

Q: If a Development Site is located within one linear mile of a child care center that has a child care program that serves school-age children, will the Application qualify for points under §11.9(c)(4)(B)(ii)?

2014 Competitive Application Cycle FAQ

A: Staff is aware that there are many centers that are licensed to serve school-age children that do not in fact serve them. The Department will require evidence that school-age children are actually served by the center in addition to the center maintaining the required license. "School-age children" is defined by the Department of Family and Protective Services as a child who is five years or older and who will attend school away from the center in August or September of that year. Typically, staff would expect centers qualifying for these points to serve children 5-12 years old.

Q: If a Development Site is located within one linear mile of a child care center that has a child care program that serves infants, toddlers, pre-kindergarten, and school-age children, can the Application qualify for points under BOTH §11.9(c)(4)(B)(ii) and (iv)?

A: Yes. While one center can qualify for points under both provisions, see the immediately preceding answer regarding the requirement that the center not only be licensed to serve all ages but that it in fact does so.

Q: If a Development Site is located within one linear mile of a child care center that 1) has a child care program that currently serves infants, toddlers, pre-kindergarten, 2) is licensed to serve school-age children but does not serve them, and 3) is proposing to serve school-age children in the near future, can the Application qualify for points under BOTH §11.9(c)(4)(B)(ii) and (iv)?

A: No. Staff will review the facts as they exist on February 28, 2014 in determining general eligibility as well as eligibility for points.

Q: **[ADDED 1/2/14]** If a Development Site is located within one linear mile of two separate child care centers, one of which is licensed to serve (and actually does serve) infants and one which is licensed to serve (and actually does serve) toddlers and pre-kindergarten, can the Application qualify for points under §11.9(c)(4)(B)(iv)?

A: Yes. As long as the Development Site is located within one linear mile of a center or center(s) that combined serve all three age groups, the Application can qualify for these points.

Q: **[ADDED 1/2/14]** If a Development Site is located within one linear mile of a child care home which is licensed to serve (and actually does serve) infants, toddlers and pre-kindergarten, can the Application qualify for points under §11.9(c)(4)(B)(iv)?

A: No. Only proximity to child care centers will qualify an application for points. Applicants should refer to the Department of Family and Protective Services website for the distinctions between child care centers and homes.

Q: What qualifies as a full service grocery store? A health related facility? A senior center?

A: A full service grocery store is a store in which a typical household may buy the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods. A typical convenience store would not qualify.

A health related facility should have licensed health professionals providing direct care medical services (*e.g.* hospital, urgent care facility, dental clinic, general practitioner medical offices, etc.). A pharmacy, retail/wholesale medical devices business, gym with professional trainers, or salon with massage or other health/beauty services would not qualify.

2014 Competitive Application Cycle FAQ

A senior center is a facility (not a seniors club without its own meeting space) where the primary purpose is to provide services to seniors on a regular basis, at least three times per week. The facility should have regular staff, whether paid or volunteer, and should not be a general activity center with some events and/or services for seniors (such as a YMCA). A church or other non-secular institution or club that hosts occasional events for seniors would not qualify.

Department staff welcomes written questions concerning actual examples of such facilities. Please contact Jean Latsha at jean.latsha@tdhca.state.tx.us.

§11.9(d)(2) – Commitment of Development Funding by Local Political Subdivision

Q: [ADDED 1/2/14] If a Development Site is located within the city limits of a city what local political subdivisions would be eligible entities for the purpose of scoring points?

A: The Applicant for such a site could approach the following Local Political Subdivisions for funds:

- The county government for the county in which the Development Site is located; or
- The city government for the city in which the Development Site is located; or
- A government instrumentality of the city or county in which the Development Site is located provided at least 60% of the board of the instrumentality is made up of city council members or county commissioners, as applicable; or
- A government instrumentality of the city or county in which the Development Site is located provided at least 100% of the board of the instrumentality is appointed by city or county elected officials, as applicable.

Q: [ADDED 1/2/14] If a Development Site is located within the extraterritorial jurisdiction (ETJ) of a municipality, what local political subdivisions would be eligible entities for the purpose of scoring points?

A: In most cases, where a Development Site is in the ETJ of City X, then the Place used to determine the Development Site's rural/urban designation is also City X. In these cases, the population of City X would be used to calculate the number of points for which the Application is eligible, and the Applicant could approach the following Local Political Subdivisions for funds:

- The county government for the county in which the Development Site is located; or
- The city government for City X; or
- A government instrumentality of City X or the county in which the Development Site is located provided at least 60% of the board of the instrumentality is made up of city council members or county commissioners, as applicable; or
- A government instrumentality of City X or the county in which the Development Site is located provided at least 100% of the board of the instrumentality is appointed by city or county elected officials, as applicable.

In some cases, a Development Site may be located in the ETJ of City X, but the rural/urban designation for the Development Site is derived from Place Y (*i.e.* an unincorporated Census Designated Place). In these cases, Applicants may approach City X or its government instrumentalities, but if they do so the Department will use the population of City X to determine eligibility for points. In cases where the Development Site is located within Place Y, Applicants can also approach the county or eligible instrumentalities thereof, and in those cases would use the population of that Place to calculate points. In many cases the population used to determine the amount of LPS funding can vary widely depending on which LPS is approached for funding. If

2014 Competitive Application Cycle FAQ

applicants have any questions please contact staff to ensure that the correct minimum funding amounts for points are understood.

Q: [ADDED 1/2/14] Are tax abatements and vouchers considered permanent sources with respect to an Application being eligible for the additional point under §11.9(d)(2)(D)?

A: Yes. While contracts for vouchers and tax abatements might be for less than 15 years, because these types of sources are not expected to be re-paid they are considered permanent, much like an in-kind contribution or grant.

Q: [ADDED 1/10/14] Will the Department monitor applicants who claim points under §11.9(d)(2)(D) to ensure that owners close on the permanent source of development funding and maintain the funding for its full term?

A: The Department's Asset Management Division may monitor for owners who claimed these points do not maintain the development funding for its full term. Applicants are reminded that by state statute (Sec. 2306.6720) each representation made to secure a housing tax credit allocation is enforceable by the Department. In addition, issues such as these may be taken into account as future applications undergo previous participation reviews and could result in ineligibility in the future.

Q: [ADDED 1/2/14] Can a resolution which is serving as a commitment of funds for purposes of the additional points under §11.9(d)(2)(C) include a number of options for the type of source being committed? For example, can it read that the LPS is prepared to commit X dollars in the form of either a fee waiver, tax abatement, or grant?

A: Yes. The resolution can include flexibility with respect to the type of funding being committed. However, an amount of funding should still be specified in order to assess points. In addition, if an Applicant is also seeking a point under §11.9(d)(2)(D) for a permanent source, then all of the options listed in the resolution should be permanent sources meeting the requirements for the additional point. When submitting a resolution for the additional two points, Applicants should ensure that the submitted resolution supports ALL of the elected points under this scoring item.

§11.9(d)(6) – Community Revitalization Plan

Q: Can a community revitalization plan (“CRP”) be submitted for pre-clearance as in 2013?

A: No. The provision for pre-clearance of CRPs was specifically for the 2013 competitive cycle. Applicants should submit CRPs meeting the requirements of the rule with the full Application submission. Plans will be reviewed for full compliance with the rule, and points will not be awarded if plans fail to meet those requirements.

Q: If a Development Site is located within a half mile of two separate and distinct new water service line projects (or two separate paved roadways, etc.) can the Application qualify for 4 points under just one of the subclauses (I) through (V) of clause §11.9(d)(7)(C)(ii)?

A: No. Applications are only eligible for two points per subclause, or two points per type of project.

3c

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 23, 2014

Presentation, Discussion, and Possible Action to adopt a process for receipt and review of certain HOME Multifamily Development (“MFD”) Program applications prior to execution of a 2014 grant agreement with HUD for such funds

RECOMMENDED ACTION

WHEREAS, there is sustained high demand for HOME funds for MFD and the Department’s supply of HOME funds for such activities continues to diminish;

WHEREAS, the Department anticipates that it will not have sufficient HOME funds from prior program years to create a Notice of Funding Availability (“NOFA”) sufficient enough to make HOME funds available to all potentially eligible HOME applicants who are also seeking competitive housing tax credits in the 2014 competitive housing tax credit cycle;

WHEREAS, the Department expects to receive and execute a grant agreement for additional HOME funds with HUD after March 1, 2014, but prior to July 31, 2014, and anticipates that approximately \$9.3 million in general set-aside and \$3.6 million in Community Housing Development Organization (“CHDO”) set-aside funds would be made available in a NOFA for Direct Loans for MFD applications subsequent to any grant agreement execution;

WHEREAS, the Department expects to supplement HOME funds received through the 2014 HUD grant agreement with program income from repayment of HOME loans in the estimated range of \$1 million to \$2 million annually;

WHEREAS, HOME funds can serve as an effective source of gap or primary debt financing for housing tax credit transactions; and,

WHEREAS, the Board has determined that by providing for the acceptance of certain types of applications for 2014 HOME MFD funds prior to the Department formally executing a grant agreement for the 2014 allocation of HOME funds with HUD and prior to issuance of any NOFA for such funds, competitive tax credit applicants will be given the opportunity to move forward with their larger development funding plans, subject to the stipulation that the receipt and amounts of such 2014 HOME funds, the execution of the requisite grant agreement, and the finalization of the policies that will govern the issuance of any NOFA, and the actual issuance of any such NOFA are not settled or certain at the present time and will not be settled and certain as these preliminary financing plans and applications are developed and that all actions are subject to and contingent upon availability of funds;

NOW, therefore, it is hereby,

RESOLVED, that the Board affirms its intention, based on its current knowledge that the Department will accept applications for HOME MFD funds prior to the time that it actually receives confirmation that it will receive those funds, knows the amount of those funds, and develops policies for and approves the issuance of a NOFA for such funds, pursuant to the attached process for accepting and processing HOME MFD applications layered with competitive housing tax credits attached hereto as Exhibit A and incorporated by reference;

BACKGROUND

On December 30, 2013, the acceptance period for applications under the 2013-1 HOME MFD NOFA closed. The NOFA made available over \$21 million in HOME funds for multifamily activities. The funds included 2012 and 2013 grant funds as well as funds consolidated from deobligated contracts and program income. The Department received thirty-two applications. The Department is completing the program reviews for the final applications received and expects to award these funds over the next couple of Board meetings. Staff expects less than \$1 million of these funds will remain available to carry forward to a 2014 NOFA.

The vast majority of the funds were layered with tax credit transactions, which staff believes is the most effective way to produce multifamily units with HOME funds while managing the long term risk associated with HOME funds. Staff expects the demand for HOME funds to increase with the expiration of the 9% fixed applicable percentage and the viability of tax exempt bond transactions continuing to rely on low interest sources of gap financing. However, the supply of HOME funds is diminishing. At its peak, the annual HOME allocation for the Department was just over \$42 million; meanwhile, the 2013 allocation was reduced to approximately \$24 million. Local HOME allocations have experienced similar reductions. Additionally, staff expects less reprogramming of deobligated funds as commitments and expenditures of the HOME single family activities has improved considerably under the reservation system.

For the second consecutive year, staff believes that no funds will be available to release a MFD NOFA in time for the competitive housing tax credit cycle. If the past several years are an accurate indicator, the Department will likely not receive and execute a 2014 grant agreement with HUD in order to make the 2014 HOME allocation available in a NOFA until after May 2014.

The purpose of this Board resolution is to provide a path for 2014 competitive housing tax credit applications to apply for funding that staff expects to receive prior to approval of the 2014 competitive tax credit awards in late July 2014. This path would be provided only to competitive tax credit applicants due to the unique statutory timing constraints associated with this program. Any such awards of HOME funds will be contingent upon actual receipt of the funding from HUD and will only be made under an actual NOFA provided such NOFA is developed and approved by the Board at a future date. The following is a summary of the applicable constraints for any applications received prior to the Board's approval of the actual NOFA upon execution of the HUD grant agreement.

- Only applications also applying simultaneously for competitive housing tax credits in the 2014 housing tax credit cycle will be accepted;
- The maximum request is \$1,000,000;

- All of the Department's rules related to HOME MFD funds shall apply;
- All such applications must be received by 5:00 pm Austin local time on February 28, 2014, with third party reports submitted by the applicable deadlines for the competitive tax credit program;
- All such applications must be compliant with the requirements reflected in the Multifamily Applications Procedures Manual;
- Applications will be prioritized on a first-come, first-serve basis except as follows:
 - o All such applications will be subordinate in priority to any application that:
 - is not also requesting competitive housing tax credits;
 - is received during the period that funds are regionally allocated; and
 - requests HOME funds in an amount that does not exceed the amount made available in the applicable sub-region;
- Applications will only be accepted for funding developments in non-Participating Jurisdictions consistent with Texas Government Code §2306.111(c)(1);
- Applications will only be accepted if they elect and are eligible for points on the Opportunity Index scoring item (10 TAC §11.9(c)(4)) associated with the competitive housing tax credit program;
- Due to the highly competitive nature of the tax credit program, the Board shall not entertain waivers of the Department's rules related to lien position or repayment for Direct Loans;
- Applications will be considered to have applied under the Board approved NOFA and all additional requirements reflected in the approved NOFA will apply;
- Only 25% of the requested HOME funds may be incurred before February 1, 2014; and
- All applicants must sign an acknowledgement, to be drafted by staff, in which the applicant accepts the risk associated with applying for the funds before the funding has been made available in a NOFA and understands that such funds may never materialize, and that all actions are subject to and contingent upon availability of funds.

Based on current information from HUD, staff expects to program following amounts in a 2014 MFD NOFA subject to the HOME allocation being comparable to the 2013 allocation (not including program income):

- CHDO Set-Aside: \$9.3 million
- General Set-Aside: \$3.6 million

Exhibit A

2014 HOME Multifamily Development (MFD) Program Application Acceptance and Processing Guidelines prior to Executed Grant Agreement with HUD

Pursuant to actions approved by the Texas Department of Housing and Community Affairs' (TDHCA) Governing Board, the following policy shall prescribe the process and guidelines Department staff will adhere to when accepting and processing 2014 HOME Program multifamily applications. Only applications that simultaneously apply for competitive housing tax credits in the 2014 competitive housing tax credit cycle will be accepted under the provisions of this resolution and prior to publication of any NOFAs regarding such funds; and

The Department reserves the right to append to this resolution and make funds available on a broader basis or subject to other restrictions as may be approved by the Board.

Any applicant applying in accordance with the conditions of this resolution may not, at this time, request an award that exceeds \$1,000,000 in Department HOME funds. However, the Board maintains complete authority to determine the policies and terms of any subsequent NOFA that may ultimately be issued, including the possibility, depending on the amount of HOME funding ultimately made available, that the \$1,000,000 cap may be revisited and adjusted upward or downward, as deemed appropriate.

Any applicant applying in accordance with the conditions of this resolution may only submit one application and may only apply under one set-aside.

Any applicant applying in accordance with the conditions of this resolution will be subject to all Department rules and requirements applicable to HOME MFD funds or Direct Loans including the requirements of the Multifamily Programs Application Procedures Manual.

The term NOFA as used in the rules and procedures manual shall be consistent with this resolution.

Any application applying in accordance with the conditions of this resolution must be received by February 28, 2014, with the exception that certain third party reports may be received at a later date as allowed for competitive housing tax credit applications.

Any application applying in accordance with the conditions of this resolution must elect and be eligible for points on the Opportunity Index scoring item (10 TAC §11.9(c)(4)) associated with the competitive housing tax credit program. Any application applying in accordance with the conditions of this resolution shall be subordinate in priority to any application that is not layered with competitive housing tax credits, is received during the period that funds are regionally allocated, and requests HOME funds in an amount that does not exceed the amount made available in the applicable sub-region.

The Department intends to make available up to \$3,000,000 in any such NOFA under the general set-aside to be reserved for applications not layered with competitive housing tax credits.

Any application applying in accordance with the conditions of this resolution must be for development in a non-Participating Jurisdiction to meet the 95% requirement in Texas Government Code §2306.111(c)(1).

Due to the highly competitive nature of the tax credit program and access to limited HOME funding, the Board will not entertain waivers of the Department's rules in 10 TAC §10.307 related to lien position and repayment of Direct Loans.

Applications received under this resolution will be deemed, upon approval of a 2014 MFD NOFA, to have been received under said NOFA for funds made available in said NOFA.

No Board action to approve an award to any application for HOME funds shall occur prior to execution of a grant agreement with HUD for such funds, Board approval or authorization of any NOFA for such funds, and completion of the regional allocation period of such funds.

Each applicant must acknowledge that it is solely responsible for addressing the fact that in applying for funds that may never materialize or may otherwise not be made available in a NOFA, the applicant may need to alter their financing plans if sufficient HOME funds are not available. Applicants must further acknowledge that no rights or remedies are created by this process, that the process may be changed by the Board, and that all actions are subject to and contingent upon availability of funds. Applicants must further acknowledge that any such application will be subject to all applicable environmental requirements, including prohibitions against engaging in "choice limiting activities" as described in 24 CFR §58.22, tenant relocation requirements, and other federal cross cutting requirements applicable to HOME activities.

Program staff will develop and incorporate into the application an appropriate form of acknowledgement of the contingent nature of these applications.

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ORAL PRESENTATION