

**BOARD BOOK  
OF  
April 14, 2022**



**Leo Vasquez III, Chair Paul  
Braden, Vice-Chair  
Ajay Thomas, Member  
Brandon Batch, Member  
Kenny Marchant, Member  
Anna Maria Farias, Member**

## Texas Department of Housing and Community Affairs

### PROGRAMMATIC IMPACT

Fiscal Year 2022 Reporting Period (9/1/2021 – 2/28/2022)

#### Owner Financing and Down Payment

- 30-year, fixed interest rate mortgage loans
- Mortgage credit certificates
- Down payment, closing cost assistance
- Homebuyer education

*Programs:*

- Single Family Homeownership

Expended Funds:           \$886,230,750  
Total Households Served:   4,121

#### Energy Related Assistance

- Utility bill payment assistance
- Energy consumption education
- Weatherization for energy efficiency

*Programs:*

- Comprehensive Energy Assistance Program (CEAP)
- Weatherization Assistance Program (WAP)

Expended CEAP Funds:       \$83,890,558  
Total Households Served:   88,986

#### Multifamily New Construction

- Affordable rental units financed and developed

*Programs:*

- 9% Housing Tax Credits (HTC)
- 4% Housing Tax Credits (HTC)
- Multifamily Bonds
- Multifamily Direct Loan Program\*

Expended Funds:           \$47,704,669  
Total Households Served:   4,626

#### Homelessness Services

- Shelter building rehabilitation, conversion, operations
- Essential services e.g., health services, transportation, job training, employment services

*Programs:*

- Emergency Solutions Grant Program (ESG)
- Homeless Housing and Services Program (HHSP)

Expended Funds:           \$19,481,276  
Total Individuals Served:   22,446

#### Multifamily Rehab Construction

- Affordable rental units financed and rehabilitated

*Programs:*

- 9% Housing Tax Credits (HTC)
- 4% Housing Tax Credits (HTC)
- Multifamily Bonds

Expended Funds:           \$10,573,878  
Total Households Served:   1,903

#### Supportive Services

Provides administrative support for essential services for low income individuals through Community Action Agencies

*Program:*

- Community Services Block Grant Program (CSBG)

Expended Funds:           \$17,752,129  
Total Individuals Served:   181,458

#### Owner Rehabilitation Assistance

- Home rehabilitation, reconstruction
- Manufactured housing unit replacement
- Accessibility modifications e.g., ramp, grab bar installation

*Programs:*

- Homeowner Reconstruction Assistance Program (HRA)\*
- Amy Young Barrier Removal Program

Expended Funds:           \$3,815,870  
Total Households Served:   56

#### Rental Assistance

- Short, long term rent payment help
- Assistance linked with services, Transitional assistance
- Security, utility deposits

*Programs:*

- Tenant-Based Rental Assistance (TBRA)\*
- Section 8 Housing Choice Vouchers
- Section 811

Expended Funds:           \$5,245,935  
Total Households Served:   3,977

#### Single Family Development

- Single family development, reconstruction, rehabilitation
- NSP, Do-it-yourself, "sweat equity" construction (bootstrap), rehabilitation, Contract for Deed refinance

*Programs:*

- Single Family Development Program (SFD)\*
- Contract for Deed (CFD)

Expended Funds:           \$841,500  
Total Households Served:   17

**Total Expended Funds: \$1,084,528,836**  
**Total Households Served: 308,756**

All FY2022 data as reported in TDHCA's 2022 performance measures.

*Note: Some households may have been served by more than one TDHCA program. For some programs, allocation is used as a proxy for expenditures. Because of timing of funds request, the funds expended for the quarter may be readjusted substantially by year end.*

\* Administered through the federally funded HOME Investment Partnerships Program

\*\*TBRA Funds are reported on an annual basis and are not included in the rental assistance total

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
GOVERNING BOARD MEETING**

**A G E N D A  
10:00 AM  
April 14, 2022**

**John H. Reagan Building, JHR 140  
1400 Congress Ave  
Austin, Texas 78701**

CALL TO ORDER

ROLL CALL

**Leo Vasquez, Chair**

CERTIFICATION OF QUORUM

*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.*

Resolution Recognizing May as Community Action Month

Resolution recognizing May as National Mobility Awareness Month

**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 Tex. Gov't Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

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

**EXECUTIVE**

- a) Presentation, discussion, and possible action on Board meeting minutes summary for March 10, 2022

**Beau Eccles**  
Board  
Secretary

**ASSET MANAGEMENT**

- b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

**Rosalio Banuelos**  
Director of Asset  
Management

17405 Bridge at Cameron

Austin

19094 Laurel Vista

Beaumont

**BOND FINANCE**

- c) Presentation, discussion, and possible action on Inducement Resolution No. 22-018 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority

**Teresa Morales**  
Director of  
Multifamily Bonds

This will be an open, public meeting conducted under Tex. Gov't Code, chapter 551, without COVID-19 emergency waivers. There will not be a remote online or telephone option for public participation. The meeting, however, will be streamed online for public viewing. Masks will be available for members of the public who wish to attend this public meeting.

- d) Presentation, discussion, and possible action on Resolution No. 22-019 regarding the annual approval of the Department's Interest Rate Swap Policy
- e) Presentation, discussion, and possible action on Resolution No. 22-020 regarding the annual approval of the Department's Investment Policy

**RULES**

- f) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department, an order adopting new §1.1 Reasonable Accommodation Requests to the Department, and an order directing their publication for adoption in the Texas Register
- g) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department, an order adopting new §1.2 Department Complaint Process, and an order directing their publication for adoption in the Texas Register
- h) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors, and directing its publication for readoption in the Texas Register
- i) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.6, Historically Underutilized Businesses, and directing its publication for readoption in the Texas Register
- j) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12, Negotiated Rulemaking, and directing its publication for readoption in the Texas Register
- k) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures, an order adopting new §1.13 Contested Case Hearing Procedures, and directing their publication for adoption in the Texas Register
- l) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution, and directing its publication for readoption in the Texas Register
- m) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance, an order adopting new §1.19 Reallocation of Financial Assistance, and an order directing their publication for adoption in the Texas Register
- n) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department, an order adopting new §1.22 Providing Contact Information to the Department, and an order directing their publication for adoption in the Texas Register

**COMMUNITY AFFAIRS**

- o) Presentation, discussion, and possible action on release of the draft 2023 Low Income Home Energy Assistance Program State Plan for public comment



**FINANCIAL ADMINISTRATION**

- p) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

**Joe Guevara**  
Director of Financial  
Administration

**CONSENT AGENDA REPORT ITEMS**

**ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:**

- a) Media Analysis and Outreach Report (February 2022)
- b) Report on TDHCA One-Time or Temporary Allocations – Pandemic Response and Other Initiatives
- c) Report on the Department’s 2nd Quarter Investment Report relating to funds held under Bond Trust Indentures
- d) Report on the Department’s 2nd Quarter Investment Report in accordance with the Public Funds Investment Act

**Michael Lyttle**  
Director of  
External Affairs  
**Brooke Boston**  
Deputy Director  
of Programs  
**Heather Hodnett**  
Manager of Single  
Family Finance  
**Joe Guevara**  
Director of Financial  
Administration

**ACTION ITEMS**

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions<sup>1</sup>

**Leo Vasquez**  
Chair

**ITEM 3: EXECUTIVE**

Executive Director’s Report

**Bobby Wilkinson**  
Executive Director, TDHCA

**ITEM 4: CDBG CARES**

Presentation, discussion, and possible action on the Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act Community Resiliency Program Awards

**Rudy Bentancourt**  
Director of CDBG CARES

**ITEM 5: BOND FINANCE**

- a) Presentation, discussion, and possible action on Resolution No. 22-021 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject
- b) Presentation, discussion, and possible action on Resolution No. 22-022 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2022 Series A, approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

**Heather Hodnett**  
Manager of Single  
Family Finance

**ITEM 6: HOME-ARP**

Presentation, discussion and possible action for approval of the HOME American Rescue Plan Allocation Plan as modified from the March 10, 2022, Board approval for submission to the U.S. Department of Housing and Urban Development

**Naomi Cantu**  
Director of HOME-ARP

**ITEM 7: MULTIFAMILY FINANCE**

- a) Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended
- b) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for The Commons at St. Anthony’s (#20042) in Amarillo

**Cody Campbell**  
Director of Multifamily  
Programs

<sup>1</sup> Note: the Chair is not restricted by this item, and may call for an Executive Session at any time during the posted meeting.

- c) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Lockwood South Apartments (#20077) in Houston
- d) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Connect South Apartments (#20082) in Houston
- e) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Houston 150 Bayou Apartments (#21038) in Houston
- f) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Cole Creek Estates (#22018) in Houston
- g) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Malcom's Point Scholar House Apartments (#22021) in Dallas
- h) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Kirkwood Crossing Apartments (#22023) in Houston
- i) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Heritage Estates at Edmonds (#22218) in Lewisville
- j) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.205(4) for The Warehouse Lofts at 707 (#22295)
- k) Presentation, discussion, and possible action on a timely submitted appeal related to a requested Limited Review of Weber Lofts in Corpus Christi (#22249)

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

The Board may go into Executive Session Pursuant to Tex. Gov't 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;

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;

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; including seeking legal advice in connection with a posted agenda item;

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

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.

**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 and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information. If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Kathleen Vale Castillo, 512-475-4144, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Kathleen Vale Castillo, al siguiente número 512-475-4144 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

**Texas Department of Housing and Community Affairs**  
**RESOLUTION**

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

**WHEREAS**, Community Action builds and promotes economic stability and enhances stronger communities and the opportunity to live in dignity;

**WHEREAS**, nationally Community Action has enhanced the lives of millions by providing essential, life-changing services and opportunities;

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

**WHEREAS**, Texas has a strong and vibrant network of Community Action Agencies to deliver Community Action to Texans in need, and this year has mobilized to provide needed assistance for families experiencing the impacts of the COVID-19 pandemic;

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

**WHEREAS**, the Texas Department of Housing and Community Affairs and the State of Texas support the Community Action network in Texas in working to improve communities and make Texas a better place to live not only during Community Action Month in May, but throughout the entire year;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate May 2022, as Community Action Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the hard work and dedication of Texas Community Action agencies.

Signed this fourteenth day of April 2022.

\_\_\_\_\_  
Leo Vasquez, Chair

\_\_\_\_\_  
Paul Braden, Vice Chair

\_\_\_\_\_  
Kenny Marchant, Member

\_\_\_\_\_  
Anna Maria Farias, Member

\_\_\_\_\_  
Ajay Thomas, Member

\_\_\_\_\_  
Brandon Batch, Member

\_\_\_\_\_  
Bobby Wilkinson, Executive Director



**Texas Department of Housing and Community Affairs**  
**RESOLUTION**

**WHEREAS**, May 2022 is National Mobility Awareness Month, which is dedicated to showing the community at large how Persons with Disabilities can live active, mobile lifestyles, and to raise awareness of the mobility solutions available in the local community;

**WHEREAS**, a goal of the Texas Department of Housing and Community Affairs (the Department) is to ensure that all Texans have access to safe and decent affordable housing;

**WHEREAS**, it is the policy of the Department to support fair housing opportunities in the administration of its Single Family and Multifamily Programs, especially in regards to Persons with Disabilities accessing new home construction, home rehabilitation, housing vouchers, and rental assistance programs and services;

**WHEREAS**, the Amy Young Barrier Removal Program provides one-time grants of up to \$22,500 for Persons with Disabilities, both renters and homeowners earning up to 80% of the Area Median Family Income, who need home modifications to increase accessibility and eliminate hazardous conditions in their homes;

**WHEREAS**, in 2020, the Department celebrated 10 years of offering the Amy Young Barrier Removal Program, named in honor of the late advocate for Texans with Disabilities who helped shape the state-funded program to improve the quality of life for Persons with Disabilities throughout the State of Texas;

**WHEREAS**, from 2010 to 2020, the Department through the Amy Young Barrier Removal Program completed approximately \$22.8 million worth of accessibility modifications on approximately 1,167 homes of Texans with Disabilities, such as constructing roll-in showers, installing shower wands and lever faucets, widening doorways, modifying kitchens and laundry rooms with accessible cabinetry and appliances, building ramps, and improving walkways with handrails, paving, and lighting to accommodate program participants' specific needs;

**WHEREAS**, in 2021, the Department through the Amy Young Barrier Removal Program completed approximately \$1.9 million worth of accessibility modifications on 88 homes of Texans with Disabilities;

**WHEREAS**, the Department applauds the nonprofit organizations and local governments around the state who have become Amy Young Barrier Removal Program Administrators and who advocate for their clients through quality construction, pragmatic solutions, and respectful service; and

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

**NOW, therefore, it is hereby**

**RESOLVED**, that in the pursuit of the goal and responsibility of increasing mobility opportunities of Texans with Disabilities, the Governing Board of the Texas Department of Housing and Community Affairs, does hereby celebrate May 2022 as National Mobility Awareness Month and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of National Mobility Awareness Month.

Signed this Fourteenth Day of April, 2022.



---

Leo Vasquez, Chair

---

Paul A. Braden, Vice Chair

---

Brandon Batch, Member

---

Kenny Marchant, Member

---

Ajay Thomas, Member

---

Anna Maria Farías, Member

---

Bobby Wilkinson, Executive Director

# CONSENT AGENDA

1a



**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**APRIL 14, 2022**

Presentation, discussion, and possible action on the Board meeting minutes summary for March 10, 2022

**RECOMMENDED ACTION**

Approve the Board meeting minutes summary for March 10, 2022

**RESOLVED**, that the Board meeting minutes summary for March 10, 2022, is hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board  
Board Meeting Minutes Summary  
March 10, 2022**

On Wednesday, the tenth day of March 2022, at 10:02 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or the Department) was held in Room JHR 140 of the John H. Reagan Building, 1400 Congress Avenue, Austin, Texas.

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

- Leo Vasquez, III, Chair
- Paul Braden, Vice Chair
- Brandon Batch
- Kenny Marchant
- Ajay Thomas

Mr. Vasquez served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as Secretary.

- 1) The Board unanimously approved a resolution celebrating April 2022 as Fair Housing Month in Texas.
- 2) The Board unanimously approved the Consent Agenda and Consent Agenda Report Items as presented.
- 3) Action Item 3 – Executive Director’s Report – was presented by Bobby Wilkinson, TDHCA Executive Director. The Board heard Mr. Wilkinson’s report and took no further action.
- 4) Action Item 4(a) – Report on the meeting of the Internal Audit and Finance Committee – was presented by Ajay Thomas, Chair, TDHCA Board Audit and Finance Committee. The Board heard Mr. Thomas’ report and took no further action.
- 5) Action Item 4(b) – Review and possible acceptance of the State Auditor’s Office audit of the TDHCA Financial Statements – was presented by Mr. Thomas. Following public comment (listed below), the Board unanimously approved staff recommendation to accept the financial statements audit and the audit of the TDHCA Housing Finance Division.
  - Lauren Futch, Texas State Auditor’s Office, provided information on the item
- 6) Action Item 5 – Presentation, discussion, and possible action on the proposed repeal and proposed new 10 TAC §7.1, §7.2, §7.3, §7.7, and §7.12; 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants; and 10 TAC Chapter 7, Subchapter D, Ending Homelessness Fund,

and directing their publication for public comment in the *Texas Register* – was presented by Abigail Versyp, TDHCA Director of Single Family and Homelessness Programs. The Board unanimously approved staff recommendation for the proposed repeal and proposed new sections of 10 TAC Chapter 7 for publication in the *Texas Register* for public comment, all as stated in the Board action item.

7) Action Item 6 – Report on Emergency Solutions Grants Funding under the CARES Act – was presented by Ms. Versyp with additional information from Mr. Wilkinson. The Board heard the report and took no further action.

8) Action Item 7(a) – Presentation, discussion and possible action granting authority for Emergency Rental Assistance 2 Housing Stability Service Funds to be awarded to the Texas Access to Justice Foundation for the provision of housing stability services – was presented by Cate Tracz, TDHCA Director of Housing Stability Services. The Board unanimously approved staff recommendation and unanimously adopted a motion to grant the executive director and his designees the authority to enter into an agreement with the Texas Access to Justice Foundation to continue provide eligible housing stabilization services, subject to conditions and limitations expressed in the Board action item.

9) The Board did not hear Action Item 7(b) – Presentation, discussion, and possible action on timely filed eligibility or scoring appeals under the Notice of Funding Availability for Emergency Rental Assistance 2 Housing Stability Services. It was pulled from the agenda.

10) Action Item 7(c) – Presentation, discussion and possible action on Emergency Rental Assistance 2 Housing Stability Services Awards – was presented by Ms. Tracz. The Board unanimously approved staff recommendation and unanimously approved a motion to grant the executive director and his designees the authority to enter into agreements with the 44 entities described in this action item to provide eligible housing stabilization services, subject to the conditions and limitations as expressed in the action item.

11) Action Item 8(a) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Socorro Village) Series 2022 Resolution No. 22-017, and a Determination Notice of Housing Tax Credits – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation to issue a determination notice of 4 percent housing tax credits for Socorro Village and approve Resolution No. 22-8 017 regarding the issuance of Tax Exempt Multifamily Housing Revenue Bonds Series 2022, all expressed and subject to the conditions in the action item.

12) Action Item 8(b) – Quarterly report relating to staff-issued Determination Notices for 2021 Noncompetitive 4% Housing Tax Credit applications, summary of year-end activity and 2022 Program Update – was presented by Ms. Morales. The Board heard the report and took no further action.

13) Action Item 9 – Texas Homeownership Activity Report – was presented by Lisa Johnson, Business Development Officer, TDHCA Texas Homeownership Program, with additional information from Monica Galuski, TDHCA Director of Bond Finance. The Board heard the report and took no further action.

14) Action Item 10 – Presentation, discussion and possible action for approval to submit the HOME American Rescue Plan Allocation Plan as modified based on public comment to the U.S. Department of Housing and Urban Development – was presented by Naomi Cantu, TDHCA Director of HOME-ARP, with additional information from Mr. Wilkinson. The Board unanimously approved staff recommendation, granting the executive director and his designees the authority to submit the HOME American Rescue Plan allocation plan on behalf of the Department, as expressed in the action item.

15) Action Item 11 – Presentation, discussion, and possible action on the reprogramming of Program Year 2021 Community Services Block Grant Administrative and Discretionary funds – was presented by Michael De Young, TDHCA Director of Community Affairs. The Board unanimously adopted staff recommendation to approve the reprogramming of the remaining 2021 CSBG funds and grant the executive director and his designees the authority to enter into contracts for these funds with the entities described in the action item, all subject to the conditions and limitations as expressed in the action item.

16) Action Item 12(a) – Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended – was presented by Cody Campbell, TDHCA Director of Multifamily Finance. Following public comment (listed below), the Board unanimously adopted staff recommendation to approve an award for the 2021-3 NOFA application for Connect South 16 Apartments, subject to the conditions and limitations as expressed in the action item.

- Sarah Andre, Structure Development and representing the applicant, testified in support of staff recommendation
- Richard Sciortino, Brinshore Development and the applicant, testified in support of staff recommendation

17) Action Item 12(b) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §13.8(b)(6)(A) for Balcones Terrace (#21513) – was presented by Mr. Campbell. Following public comment (listed below), the Board unanimously adopted staff recommendation, granting the requested waiver of 10 TAC Section 13.8(b)(6)(A)(I) regarding the equity requirement for application #21513 Balcones Terrace.

- Sabrina Butler, Foundation Communities, testified in support of staff recommendation

18) Action Item 12(c) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1002 of the 2022 Qualified Allocation Plan relating to the Program Calendar for Supplemental Housing Tax Credits for Canal Lofts (#20011) in Houston – was presented by Mr.

Campbell with additional information from Mr. Wilkinson; Jeanna Adams, TDHCA Director of Real Estate Analysis; and Homero Cabello, TDHCA Deputy Executive Director. Following public comment (listed below), the Board unanimously adopted staff recommendation to deny the requested waiver of 10 TAC Section 11.1002 regarding the deadline for the requirement to submit complete requests for supplemental housing tax credits for #22969 Canal Lofts

- Nathan Kelley, Blazer Residential, testified in opposition to staff recommendation

19) Action Item 12(d) – Presentation, discussion, and possible action regarding approval of Supplemental Housing Tax Credit requests for the 2022 Competitive Housing Tax Credit Application Round – was presented by Mr. Campbell. The Board unanimously adopted staff recommendation to approve the list of recommended requests for supplemental housing tax credits from the 2022 state competitive housing credit ceiling, subject to the conditions and limitations as expressed in the action item.

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 12:12 p.m. The next meeting is set for Thursday, April 14, 2022.

\_\_\_\_\_

Secretary

Approved:

\_\_\_\_\_

Chair

1b

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit Application for Bridge at Cameron (HTC #17405)

**RECOMMENDED ACTION**

**WHEREAS**, Bridge at Cameron (the Development) received an award of 4% Housing Tax Credits (HTCs) and a Multifamily Direct Loan (MFDL) in 2017 for the construction of 263 units of multifamily housing in Austin, Travis County;

**WHEREAS**, LDG Bridges at Cameron, LP (the Development Owner or Owner) is requesting approval for an increase to the parking area, which will result in a change in the original Development site acreage from 11.16 acres to 12.941 acres, an increase of 1.781 acres (15.96%), which results in a 13.76% change in residential density, going from 23.566 to 20.323 units per acre;

**WHEREAS**, Board approval is required for a modification of the residential density of at least five percent as directed in Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F), and the Owner has complied with the amendment requirements therein; and

**WHEREAS**, the requested change does not materially alter the Development in a negative manner, was not reasonably foreseeable or preventable by the Owner at the time of Application, and would not have adversely affected the selection of the Application;

**NOW, therefore, it is hereby**



**RESOLVED**, that the requested material amendment to the Application for Bridge at Cameron is approved conditioned on the Owner providing evidence of clear title for the additional land prior to issuance of IRS Forms 8609, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

**BACKGROUND**

Bridge at Cameron received an award of 4% Housing Tax Credits (HTCs) and a Multifamily Direct Loan (MFDL) in 2017 for the construction of 263 units of multifamily housing in Austin, Travis

County. The Development placed in service in 2020, and the cost certification documentation is currently under review by the Department. In a letter dated January 12, 2022, Jason Trevino, the representative for the Development Owner, submitted a request for a material amendment to the Application. The amendment is for a 13.76% decrease in the residential density from 23.566 to 20.323 units per acre, which requires Board approval under Tex. Gov't Code §2306.6712(d)(6) and 10 TAC §10.405(a)(4)(F). The Development site was originally identified as 11.16 acres at Application. However, the site acreage was reduced 0.15 acre to 11.01 acres due to a dedication of land for right-of-way when the plat was recorded on January 9, 2018. This change resulted in a 1.36% increase in the residential density and is considered Notification Item under 10 TAC 10.405(a)(2)(A). The Owner has a Ground Lease Agreement with the Housing Authority of the City of Austin (HACA) for the current Development site. The Owner now requests approval to add to the site a 1.931-acre tract adjacent to the property, increasing the total site acreage to 12.941 acres. The additional tract is currently owned by an Affiliate of the Owner but will be sold to HACA. The Owner will then enter into an amended Ground Lease Agreement to include the 1.931-acre tract that contains additional parking and a detention pond. The Owner explains that they originally had an agreement with a car share company that allowed them to reduce the City of Austin's parking requirement by 160 spaces. However, the agreement was later terminated by the car share company due to lack of use and the high operating expenses for the program. As a result, the additional tract is needed to add parking spaces for the Development to meet the City's minimum parking requirement of 502 spaces. With the additional tract, the Owner will add 142 parking spaces to the Development, increasing the total number of parking spaces from 392 to 534. The required 502 parking spaces will be free of additional charge to the tenants. However, there will be a fee for the use of the additional 32 parking spaces that consist of 16 garages and 16 carports. The Owner states that there will be a total of 22 accessible parking spaces, four of which will be van accessible. Additionally, one garage and one carport will be van accessible parking. Staff has confirmed that the proposed parking plan will continue to meet the accessibility requirements for the Development.

The following table identifies the change to the residential density and site plan:

Application	Amendment
<p>Density: 23.566 units per acre</p> 	<p>Density: 20.323 units per acre</p> 



The Owner states that there will be no cost to the Owner for the additional land, which was purchased by the developer, but the cost for the parking spaces has been included as part of the costs for the Development in the cost certification. The Owner also indicated that the amendment was not foreseeable or preventable at the time of Application.

The requested amendment does not materially alter the Development in a negative manner and would not have negatively affected the HTC award. However, the Land Use Restriction Agreements (LURAs), Contract, and loan documents will need to be amended to include the additional 1.931-acre tract in the legal description.

Staff recommends approval of the requested material amendment to the Application conditioned on the Owner providing evidence of clear title for the additional land prior to issuance of IRS Forms 8609. This will include providing a title search from the title company identifying the boundary issues, encumbrances, title exceptions and any other title issue on the additional tract, and if there are existing liens on the additional land, those prior liens must be subordinated to the MFDL lien and MFDL LURA. The final recommended HTC amount will be determined once the cost certification analysis is finalized.



**LDG**  
DEVELOPMENT

January 12, 2022

Mr. Rosalio Banuelos, Director of Multifamily Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

Re: #17405 Bridge at Cameron – Increase in Site Acreage for Parking

Mr. Banuelos:

LDG Bridges at Cameron, LP (TDHCA #17405) is hereby requesting to modify its site plan to include additional acreage to meet the parking requirements. Included with this request are the following:

- The Amendment Request Form
- Revised ALTA Survey to include the addition of 1.931 acres to the overall Development acreage
- Signed Statement of No Financial Impact

At the time of the tax credit application we had an agreement with a car share company to add 8 car share spaces within the Bridges at Cameron parking lot which allowed us to reduce the required parking by 160 parking spaces. Therefore, the number of required parking spaces at the time of application were adequate to meet the requirements. However, post-closing, the car share agreement was terminated by the company due to lack of use and the high expense to operate the car share program. This change caused our development to be short of the minimum parking requirements for the City of Austin. To mitigate this, LDG has developed additional parking spaces on an adjacent 1.931-acre tract as reflected on the attached ALTA Survey. The total acreage of Bridges at Cameron will now be 12.941 acres.

This change was not foreseeable or preventable at the time of application. Additionally, this change will not cause any financial impact to the Development.

The applicable amendment fee of \$2,500 will be delivered to TDHCA offices via UPS on 1/14/2022. A copy of the check and tracking information will be provided subsequent to this submission. If you need any additional information on the above request, please contact Jason Trevino at 512-578-8488 or via email at [jtrevino@ldgdevelopment.com](mailto:jtrevino@ldgdevelopment.com)

Sincerely,  
*Jason Trevino*

Jason Trevino  
LDG Bridges at Cameron, LP

Cc: Lee Ann Chance, Manager of Multifamily Asset Management







**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Laurel Vista (HTC #19094)

**RECOMMENDED ACTION**

**WHEREAS**, Laurel Vista (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2019 for the new construction of 69 units for the elderly population in Beaumont, Jefferson County;

**WHEREAS**, Laurel Vista Apartments, LP (the Development Owner or Owner) requests approval for a reduction in the Common Area from 13,944 to 13,433 square feet, representing a reduction of 511 square feet or 3.66% from the original design represented at Application, and also requests approval for a reduction in the Net Rentable Area (NRA) from 66,074 to 62,061 square feet, representing a reduction of 4,013 square feet or 6.07% from the original design represented at Application;

**WHEREAS**, Board approval is required for a reduction of three percent or more in the square footage of the Common Area and the NRA directed in Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D), and the Owner has complied with the amendment requirements therein; and

**WHEREAS**, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the Application, or affect the amount of the tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested amendment for Laurel Vista is approved as presented at this meeting, and the Executive Director and his designees are each hereby authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Laurel Vista received an award of 9% Housing Tax Credits in 2019 for the new construction of 69 units for the elderly population in Beaumont, Jefferson County. Construction of the Development has been completed, and the Owner is in the process of preparing the cost certification documentation. In a letter dated March 16, 2022, Sarah Andre, representative for the Owner,

requested approval for a reduction in the Common Area from 13,944 to 13,433 square feet, representing a reduction of 511 square feet or 3.66% from the original design represented at Application. In addition, the representative for the Owner also requested approval for the reduction in the NRA from 66,074 to 62,061 square feet representing a reduction in 4,013 square feet or 6.07% from the original design represented at Application.

The Owner previously identified minor changes to the site plan that were considered Notification Items under 10 TAC 10.405(a)(2)(B). The changes were the result of revisions required by the City of Beaumont that changed the parking requirements and added an additional setback from an easement and a drive aisle on the west side of the site. The Owner states it was unknown at the time that the required changes would also impact the size of the buildings, which must be reduced in order to fit on the site after incorporating the City’s requirements for the site plan. The Owner is able to keep the original unit mix, but the NRA will reduce from 66,074 to 62,061 square feet, representing a 6.07% reduction, or 4,013 square feet, and the Common Area will be reduced from 13,944 to 13,433 square feet, representing a 3.66% reduction or 511 square feet. These changes are material amendments under Tex. Gov’t Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D) and require Board approval.

The table below shows a comparison between the original and revised Unit square footage.

<b>Material Alterations as defined in Tex. Gov’t Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D) )</b>			
<b>Application</b>		<b>Amendment</b>	
<u>Units Square Footage</u>		<u>Unit Square Footage</u>	
		<b>Difference (Sq. Ft.)</b>	<b>% Change</b>
1Bed / 1 Bath: 795 x 32 = 25,440		<b>1 Bed / 1 Bath: 755 x 32 = 24,160 (40 x 32)= 1280</b>	<b>-4.9%</b>
2 Bed / 1 Bath: 1027 x 32 = 32,864		<b>2 Bed / 1 Bath: 1013 x 32 = 32,416 (14 x 32)= 448</b>	<b>-1.4%</b>
<u>2 Bed / 2 Bath: 1554 x 5 = 7,770</u>		<b><u>2 Bed / 2 Bath: 1118 x 5 = 5,590 (436 x 5)= 2180</u></b>	<b><u>-28%</u></b>
Total NRA: 66,074 Sq. Ft.		<b>Total NRA: 62,061 Sq. Ft.</b>	<b>-6.07%</b>
Common Area: 13,944 Sq. Ft.		<b>Common Area: 13,433 Sq. Ft.</b>	<b>-3.66%</b>

The Owner has stated that the common area laundry spaces have been removed, and washers and dryers have been provided in each unit at no cost to the residents. The Owner is still responsible for providing the required number of points for common amenities.

These changes do not materially alter the Development in a negative manner, and were not reasonably foreseeable or preventable by the Development Owner at the time of Application. The Owner has indicated that there was no net financial impact on the Development as a result of the proposed changes. Staff has determined that these changes do not affect the scoring of the Application or the tax credit award, and the Development will continue to meet the accessibility requirements.

Staff recommends approval of the amendment request as presented herein.



March 16, 2022

Ms. Karen Curtice  
Asset Manager, Region 5  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

*Re: Laurel Vista, TDHCA #19094, Beaumont, TX*

Dear Ms. Curtice:

Please accept this Amendment Request for changes pertaining to project 19094, Laurel Vista. We previously submitted a notification of Site Plan changes with our 10% Test documentation. This Amendment request has come about as a result of the changes made to the Site Plan as required by the City of Beaumont.

**Reason the Change is Necessary**

The changes described in the notification at 10% Test were required by the City of Beaumont. What we did not realize at the time of the 10% Test is that the changes required by the City also impacted the size of the buildings. In order to meet the City requirement, we had to make our buildings slightly smaller. This resulted in a change of more than 3% to the unit sizes and the common area.

**Good Cause for the Change & Foreseeable Nature of the Change**

As mentioned before, the changes to our Site Plan came about as a result of discussions with the City where they imposed additional requirement on our site, notably an additional setback from an easement and a drive aisle on the west side of the site. The buildings had to be smaller than originally planned in order to fit on the site and still meet the requirements of the City on the Site Plan. We were able to keep the original unit mix, but the unit sizes and common area were decreased slightly to fit into the smaller building size.

The changes to the unit sizes are described below:

Unit Description	Size at Application	Size As Built	Change
1 bed / 1 bath	795	755	-5.0%
2 bed / 1 bath	1027	1013	-1.4%
2 bed / 2 bath	1554	1118	-28%
Total NRA	66,074	62,061	-6.1%

Two of the unit sizes had only slight changes, but the 2 bed/2 bath unit had a significant change in unit size. When we learned we had to shrink the building size, much of the reconfiguration happened in the core of the building, where these larger units are located. By making these units not as wide, but deeper, we were able to shorten the building size by 24 feet, making the buildings fit on the Site with the City requirements. The majority of the space lost comes from these 2/2 units. The decision was made to take it from those units because they were already much larger than an ordinary 2/2 unit, and we could take space from those and still provide a good sized 2/2

unit for tenants. The Common Area of the development decreased slightly from 13,944 sf to 13,433 sf. This is a decrease of 3.6%.

**Amendment Documents**

The following documentation reflecting these changes is attached:

- Original Building floor plans and unit plans
- As-built floor plans and unit plans.

**Financial Impact**

There was no net financial impact on the development. Enclosed is a statement from Jeff Kittle regarding this.

We have provided a check in the amount of \$2,500 for this Amendment request. Thank you for marshalling this Amendment through the system and feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Andre", with a long horizontal flourish extending to the right.

Sarah Andre  
Consultant to the Project



1c

**BOARD ACTION REQUEST**  
**MULTIFAMILY BOND DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action on Inducement Resolution No. 22-018 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority

**RECOMMENDED ACTION**

**WHEREAS**, a bond pre-application, as further detailed below, was submitted to the Department for consideration of an inducement resolution;

**WHEREAS**, Board approval of the inducement resolution is the first step in the application process for a multifamily bond issuance by the Department; and

**WHEREAS**, approval of the inducement will allow staff to submit an application to the Bond Review Board (BRB) for the issuance of a Certificate of Reservation associated with the Development;

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 22-018 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for the pre-applications listed herein, is hereby approved in the form presented to this meeting.

**BACKGROUND**

**General Information:** The BRB administers the annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 180 days to close on the private activity bonds.

During the 180-day process, the Department will review the complete application for compliance with the Department's Rules, including, but not limited to, site eligibility and threshold, as well as previous participation as it relates to developments previously funded through the Department. During the review of the full application, staff will also underwrite the transaction and determine financial feasibility in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing, and the complete application, including a transcript from the hearing, will then be presented to

the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development.

This inducement resolution would reserve approximately \$50 million in private activity bond volume cap. Staff notes that the Department's set-aside for the 2022 program year is \$170,523,859 and has been reserved with applications submitted as part of the 2022 Lottery. The pre-application listed below will be added to the Department's waiting list for a bond reservation.

**22616 – The Terrace at Highland Hills**

New construction of 300 units is proposed for this multifamily development to be located at approximately 3100 Persimmon Road, Dallas, Dallas County. This transaction is proposed to be Priority 3, and will serve the general population. The development proposes 300 units, 270 of which will be rent and income restricted at 60% of Area Median Family Income, with the remaining 30 units being market rate. The Department has received no letters of support or opposition for the proposed development.

Bond Inducement Amount: \$50,000,000

## RESOLUTION NO. 22-018

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS OR NOTES WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENTS; AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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 and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low, very low and extremely low income and families of moderate income (all as defined in the Act); 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 persons 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 or notes 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 or notes; 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 or notes; and

WHEREAS, it is proposed that the Department issue its revenue bonds or notes in one or more series for the purpose of providing financing for the multifamily residential rental developments (the "Developments") more fully described in Exhibit A attached hereto. The ownership of the Developments as more fully described in Exhibit A will consist of the applicable ownership entity and its principals or a related person (the "Owners") within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Owners have made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation of the Developments and expect to make additional payments in the future and desire that they be reimbursed for such payments and other costs associated with the Developments from the proceeds of tax-exempt and taxable, as applicable, obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owners have indicated their willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that the requirements of the Act and the Department will be satisfied and that the Developments will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owners for some or all of the costs associated with the Developments listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable, as applicable, obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owners, the Department reasonably expects to incur debt in the form of tax-exempt and taxable, as applicable, obligations for purposes of paying the costs of the Developments described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Developments one or more Applications for Allocation of Private Activity Bonds or Applications for Carryforward for Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the State to issue private activity bonds; and

WHEREAS, the Governing Board of the Department (the "Board") has determined to declare its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Developments on the terms and conditions hereinafter set forth; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

## ARTICLE 1

### OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements

regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the “Attorney General”); (v) satisfaction of the Board that the respective Development meets the Department’s public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

Section 1.2. Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds or notes in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 1.3. Reimbursement. The Department reasonably expects to reimburse the Owners for all or a portion of the costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction, reconstruction or renovation, as applicable, of its Development and listed on Exhibit A attached hereto (“Costs of the Developments”) from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation and equipping of its Development, including reimbursing the applicable Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Developments; (b) to fund certain reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 1.4. Principal Amount. Based on representations of the Owners, the Department reasonably expects that the maximum aggregate principal amount of debt issued to reimburse the Owners for the Costs of the Developments will not exceed the amount set forth in Exhibit A which corresponds to the applicable Development.

Section 1.5. Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Developments, which Developments will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 1.6. The Developments. Substantially all of the proceeds of the Bonds shall be used to finance the Developments, which are to be occupied entirely by Eligible Tenants, as determined by the Department, and which are to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 1.7. Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owners for costs of its Development.

Section 1.8. Costs of Developments. The Costs of the Developments may include any cost of acquiring, constructing, rehabilitating, or reconstructing, as applicable, improving, equipping, installing and expanding the Developments. Without limiting the generality of the foregoing, the Costs of the Developments shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Developments, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Developments, the placing of the Developments in operation and that satisfy the Code and the Act. The Owners shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 1.9. No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 1.10. Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owners and the Department of contractual arrangements, on terms agreed to by the parties, providing assurance satisfactory to the Department that all requirements of the Act will be satisfied and that the Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds or notes); (b) the receipt of an opinion from Bracewell LLP or other nationally recognized bond counsel acceptable to the Department (“Bond Counsel”), substantially to the effect that the interest on the tax-exempt Bonds is excludable

from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 1.11. Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Developments' necessary review and legal documentation for the filing of one or more Applications and the issuance of the Bonds, subject to satisfaction of the conditions specified in this Resolution. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner.

Section 1.12. Related Persons. The Department acknowledges that financing of all or any part of the Developments may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owners.

Section 1.13. Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of the Developments which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Developments may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications, certificates, documents, instruments, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.15. Authorized Representatives. 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 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Manager of Single Family Finance 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

### CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1. Certain Findings Regarding Developments and Owners. The Board finds that:

(a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;

(b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;

(c) the Owners are financially responsible;

(d) the financing of the Developments is a public purpose and will provide a public benefit; and

(e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds. The Bonds will be a special limited obligation of the Department payable solely from amounts pledged for that purpose under the financing documents.

Section 2.3. Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Developments will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

## ARTICLE 3

### GENERAL PROVISIONS

Section 3.1. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14<sup>th</sup> day of April, 2022.

**EXHIBIT "A"**

Descriptions of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
The Terrace at Highland Hills	LDG The Terrace at Highland Hills, LP, a to-be-formed Texas limited partnership	General Partner: LDG The Terrace at Highland Hills GP, LLC, a to-be-formed Texas limited liability company	\$50,000,000
Costs: Acquisition/construction of a 300-unit affordable, multifamily housing development to be known as The Terrace at Highland Hills, to be located at approximately 3100 Persimmon Road, Dallas, Dallas County, Texas 75241.			

1d

BOARD ACTION REQUEST  
BOND FINANCE DIVISION  
APRIL 14, 2022

Presentation, discussion, and possible action on Resolution No. 22-019 regarding the annual approval of the Department's Interest Rate Swap Policy

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

The Department adopted an Interest Rate Swap Policy (the Swap Policy) on September 9, 2004, to establish guidelines for the use and administration of interest rate management agreements, including but not limited to, interest rate swaps, caps, collars, and floors acquired in connection with the issuance of debt obligations. The Swap Policy is reviewed and approved annually. It underwent substantial changes in 2009, and has had minor edits since.

Staff, in conjunction with the Department's Swap Advisor and Bond Counsel, has reviewed the proposed Swap Policy and recommends approval and adoption of Resolution 22-019.

The proposed Swap Policy, blacklined against the prior policy, contains minor edits, and updates pursuant to state law.

**RESOLUTION NO. 22-019**

**RESOLUTION OF THE GOVERNING BOARD APPROVING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INTEREST RATE SWAP POLICY**

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the “Department”), was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (together with other laws of the State applicable to the Department, collectively, the “Act”); and

WHEREAS, the Governing Board of the Department (the “Governing Board”) desires to approve the Department’s Interest Rate Swap Policy in the form presented to the Governing Board;

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

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of the Department’s Interest Rate Swap Policy. The Interest Rate Swap Policy in the form presented to the Governing Board is hereby authorized and approved.

Section 1.2 ISDA Dodd-Frank Protocols. Each Authorized Representative is hereby severally authorized to take such actions as are necessary or desirable to enable the Board to adhere to any protocols promulgated by the International Swaps and Derivatives Association, Inc. (“ISDA”) in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act, which adherence may (i) include the use of documents intended to address the subject matter of any such protocol but not using forms promulgated by ISDA, and (ii) be with respect to such counterparties as an Authorized Representative determines in his or her judgment are appropriate.

Section 1.3 Authorized Representatives. 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 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Manager of Single Family Finance 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

### GENERAL PROVISIONS

Section 2.1 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.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14th day of April, 2022.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

As presented to the Board on April 14, 2022

# 2022

April 14, 2022



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INTEREST RATE SWAP POLICY

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 (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford.

The Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

### I. Introduction

The purpose of this Interest Rate Swap Policy ("Policy") of the Texas Department of Housing and Community Affairs (the "Department") is to establish guidelines for the use and management of all interest rate management agreements, including, but not limited to, interest rate swaps, swaptions, caps, collars and floors (collectively "Swaps" or "Agreements") incurred in connection with the issuance of debt obligations. This Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

### II. Authority

The Department is authorized by Sections 1371.056 and 2306.351 of the Texas Government Code to enter into Swaps from time to time to better manage assets and liabilities and take advantage of market conditions to lower overall costs and reduce interest rate risk.

This Policy shall govern the Department's use and management of all Swaps. While adherence to this Policy is required in applicable circumstances, the Department recognizes that changes in the capital markets, agency programs, and other unforeseen circumstances may from time to time produce situations that are not covered by this Policy and will require modifications or exceptions approved or authorized by the Governing Board to achieve policy goals.

The Director of Administration and the Director of Bond Finance are the designated administrators of the Department's Policy. The Bond Finance Division shall have the day-to-day responsibility for

structuring, implementing, and managing Swaps, which includes, with the approval of the Executive Director, the execution of the Department's right to optional termination of Swaps to avoid being overswapped (having a higher notional amount of swap outstanding than par amount of related bonds), for economic benefit to the Department, or to achieve other goals of the Department.

The Department shall be authorized to enter into Swaps only with qualified Swap counterparties as defined herein. The Director of Bond Finance, in consultation with the Director of Administration, or a Department designee, shall have the authority to recommend counterparties, so long as the criteria set forth in this Policy are met.

The Director of Administration and the Director of Bond Finance shall review this Policy on an annual basis and recommend any necessary changes to the Governing Board.

### III. Purpose

The incurring of obligations by the Department involves a variety of interest rate payments and other risks for which a variety of financial instruments are available to offset, hedge, or reduce. It is the policy of the Department to utilize Swaps to better manage its assets and liabilities. The Department may execute Swaps if the transaction can be expected to result in one of, but not limited to, the following:

- Reduce exposure to changes in interest rates on a particular financial transaction or in the context of the management of interest rate risk derived from the Department's overall asset/liability balance.
- Result in a lower net cost of borrowing with respect to the Department's debt, a higher return on assets, and/or a stronger balance sheet.
- Manage variable interest rate exposure consistent with prudent debt practices.
- Achieve flexibility in meeting overall financial and programmatic objectives that cannot be achieved in conventional markets.
- Lock in fixed rates in current markets for use at a later date.
- Manage the Department's exposure to the risk of changes in the legal or regulatory treatment of tax-exempt bonds.
- Manage the Department's credit exposure to financial institutions.

The Department will not use Agreements that:

- Are purely speculative or incorporate extraordinary leverage;
- Lack adequate liquidity to terminate without incurring a significant bid/ask spread;
- Are characterized by insufficient pricing transparency and therefore make reasonable valuation difficult.

### IV. Evaluation of Risks Associated with Swaps

Before entering into a Swap, the Department shall evaluate the risks inherent in the transaction. The risks to be evaluated will include basis risk, tax risk, counterparty risk, credit risk, termination risk, rollover risk, liquidity risk, remarketing risk, amortization mismatch risk, mortgage yield risk,

non-origination risk, and PAC band risk. The following table outlines these various risks and the Department's evaluation methodology for those risks.

Risk	Description	Evaluation Methodology
Basis Risk	The mismatch between actual variable rate debt service and variable rate indices used to determine Swap payments.	The Department will review historical trading differentials between the variable rate bonds and the index.
Tax Risk	The risk created by potential tax events that could affect Swap payments or their relationship to future bond payments.	The Department will review the tax events in proposed Swap agreements. The Department will evaluate the impact of potential changes in tax law on Swaps that hedge tax-exempt bonds where the index is a taxable index.
Counterparty Risk	The failure of the counterparty to make required payments or the occurrence of an event modifying the credit rating of the counterparty.	The Department will monitor exposure levels, ratings thresholds, and collateralization requirements.
Termination Risk	The need to terminate the transaction in a market that dictates a termination payment by the Department.	The Department will compute its termination exposure for all existing and proposed Swaps at market value and under a worst-case scenario.
Rollover Risk	The mismatch of the maturity of the Swap and the maturity of the underlying bonds.	The Department will determine its capacity to service variable rate bonds that may be outstanding after the maturity of the Swap.
Liquidity Risk	The inability to continue or renew a liquidity facility, and the risk that the cost of a facility will increase beyond expectations.	The Department will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt, if any.
Remarketing Risk	The risk that a remarketing agent may be unable to remarket VRDBs.	The Department will obtain a standby bond purchase facility to provide the funds necessary to purchase the VRDBs.
Amortization Mismatch Risk	The mismatch of outstanding Swap notional amount versus the outstanding bond principal subject to the hedge.	The Department may incorporate one or a combination of the following features: par termination options, PAC or lockout bonds.
Mortgage Yield Risk	The bond issue may not comply with yield restrictions if the Swap is terminated.	The Department will obtain legal opinions and or certificates as appropriate.

Non-origination Risk	The bond proceeds may not originate within the prescribed timeframe and require an unused proceeds call and possible termination payment.	The Department will evaluate bond and mortgage market conditions and quantify the potential termination payment due upon non-origination.
PAC Band Break Risk	The targeted PAC bonds may amortize faster than anticipated based on the PAC amortization schedule.	The Department will rely upon credit rating agency cashflows to ensure adequate PAC/companion bond structural integrity.
Collateral Posting Risk	The risk that the Department may be required to post liquid collateral to the Counterparty. Inability to post such liquid collateral upon short notice may result in the early termination of a Swap transaction.	The Department will seek to structure Swap Agreements so that the need to post collateral is highly unlikely. This can be accomplished by using high posting thresholds or low rating triggers.
Accounting Risk	The risk that the Department may be required to record changes in fair value of a derivative transaction as a gain or loss in its annual financial statements.	The Department, when feasible, should aim to structure Transactions that would expect to qualify as effective hedges under GASB 53.
Floating Rate Benchmark Transition Risk (LIBOR Replacement)	The Financial Conduct Authority, the U.K. regulator for LIBOR, has announced that all tenors of US Dollar LIBOR will no longer be published or no longer be representative after June 30, 2023. The expected discontinuation of LIBOR presents risks to the Department, including but not limited to fallback mechanisms and mismatch between fallback mechanisms of the derivative and the hedged debt.	The Department should work with their legal, tax, financial and accounting advisors regarding fallback mechanisms. In August of 2021, the Department adhered to the ISDA 2020 IBOR Fallbacks Protocol. If the Department does not enter into any bilateral amendments with its swap counterparties, the definitions incorporated through the adherence to the protocol will take effect and provide a mechanism for LIBOR replacement on the Department's LIBOR indexed Swaps.

The Department will diversify its exposure to counterparties. To that end, before entering into a transaction, the Department will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect that exposure. The exposure will not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the Department's exposure ("Maximum Net Termination Exposure"). For purposes of these limits, "Maximum Net Termination Exposure" shall equal the aggregate termination payment for all existing and projected Swaps that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to the

reasonably expected worse case termination payment of all existing Swaps plus the proposed transaction.

The Department will base the Maximum Net Termination Exposure on all outstanding derivative transactions. Limits will be established for each counterparty as well as the relative level of risk associated with each existing and projected Swap. In order to lessen counterparty risk, the Department will diversify exposure among multiple counterparties (when possible) and avoid excessive concentration to any one counterparty. In situations where the Department may execute a swap transaction that would result in offsetting counterparty risk with an existing counterparty, the Department should seek to utilize that counterparty.

The Director of Bond Finance shall determine the appropriate term for a Swap on a case-by-case basis. The slope of the Swap curve, the marginal change in Swap rates from year to year along the Swap curve, and the impact that the term of the Swap has on the overall exposure of the Department shall be considered in determining the appropriate term of any Swap. The term of a Swap between the Department and a qualified Swap counterparty shall not extend beyond the final maturity date of the associated debt, or in the case of a refunding transaction, beyond the final maturity date of the refunding bonds.

The Department will review the use of forward-starting swaps and determine the duration based on market condition and the risk associated with using a forward-starting swap. The Department does not have any swaps with a knock-out option which could expose the Department to higher interest rates. The Department will advise the Board prior to entering into either a forward-starting swap or knock-out option.

The Department will inform the Board if the swap is a fixed notional value swap or a declining notional value swap. The Director of Bond Finance will review proposed swaps to ensure that the use of fixed notional value swaps does not place the Department at risk of incurring an incrementally higher expense if the related bond principal is paid off early.

The total "net notional amount" of all Swaps related to a bond issue should not exceed the amount of outstanding bonds, or bonds anticipated to be issued. For purposes of calculating the net notional amount, credit shall be given to any Swaps that offset another Swap for a specific bond transaction.

## V. Long Term Financial Implications

In evaluating a particular transaction involving the use of derivatives, the Department shall review long-term implications associated with entering into derivatives, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, liquidity capacity, opportunities to refund related debt obligations and other similar considerations.

### Impact of Use of Liquidity

The Department shall consider the impact of any variable rate demand bonds issued in combination with a Swap on the availability and cost of liquidity support for other Department variable rate programs.

## Call Option Value considerations

When considering the relative advantage of a Swap versus fixed rate bonds, the Department will take into consideration the value of any call option on fixed rate bonds.

## Qualified Hedges

The Department understands that, (1) if payments on and receipts from the Agreement are to be taken into account in computing the yield on the related bonds, the Agreement must meet the requirements for a “qualified hedge” under federal tax law (sometimes referred to as an “integrated Swap”); and (2) if one of the goals of entering into the Agreement is to convert variable yield bonds into fixed yield bonds (sometimes referred to as a “super integrated Swap”), then certain additional requirements must be met. In both of these situations, the terms of the Agreement and the process for entering into the Agreement must be reviewed and approved in advance by tax counsel.

## VI. Form of Swap Agreements

Each Swap executed by the Department shall contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement, including any schedules and confirmations. The Swaps between the Department and each qualified Swap counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions and provisions as the Director of Bond Finance deems necessary, desirable, or consistent with industry best practices.

## VII. Qualified Swap Counterparties

The Department will make its best efforts to work with qualified Swap counterparties that (i) have, or has a credit support counterparty that has, a general credit rating of at least “A2” with respect to ratings by Moody’s Investors Service or “A” with respect to ratings by Standard and Poor’s Rating Services or Fitch Ratings.

In addition to the rating criteria specified herein, the Department may seek additional credit enhancement and safeguards in the form of:

- i. Contingent credit support or enhancement;
- ii. Collateral consistent with the policies contained herein; and/or
- iii. Ratings downgrade triggers.

In addition, the Department will take into consideration a Swap counterparty’s track record of successfully executing Swap transactions. The Department will only execute Swap transactions with qualified Swap counterparties.

In addition to credit-related requirements, Swap counterparties and other providers of derivative products must comply with the following requirements to be eligible to enter into a contract with the Department in connection with, and at the time of, each applicable transaction:

No Boycott of Israel. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2270 of the Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

No Discrimination Against Fossil-Fuel Companies. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session ("SB 13")). Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) not boycott energy companies and (ii) will not boycott energy companies during the term for which they provide services to the Department. As used in the foregoing, the term "boycott energy companies" shall have the meaning given to such term in Section 2274.001(1), Texas Government Code (as enacted by SB 13).

No Discrimination Against Firearm Entities and Firearm Trade Associations. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session ("SB 19")), Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term for which they provide services to the Department. As used in the foregoing, the terms "discriminate against a firearm entity or firearm trade association", "firearm entity" and "firearm trade association" shall have the meanings given to each such term in Section 2274.001, Texas Government Code (as enacted by SB 19).

Disclosure of Interested Parties. Swap counterparties and other providers of derivative products are required to comply with the requirements of Section 2252.908 of the Texas Government Code. Counterparties or providers that make a written representation to the Department that their firm is a publicly traded business entity or a wholly owned subsidiary of publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Swap counterparties and providers of derivative products are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Swap counterparties and providers of derivative products must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

## VIII. Termination Provisions

The Department shall include in all Swaps provisions granting the Department the right to optionally terminate a Swap at any time at market over the term of the Agreement. The Director of Bond Finance, in consultation with the Director of Administration, shall determine if it is financially advantageous for the Department to terminate a Swap.

A ratings-based additional termination event shall be included in all of the Department's Swaps if the provider (or its credit support provider) fails to maintain either:

1. A credit rating of at least Baa2 from Moody's; or
2. A credit rating of at least BBB from S&P; or,
3. An equivalent rating determined above by a nationally recognized ratings service acceptable to both parties.

A termination payment to or from the Department may be required in the event of termination of a Swap due to a default or a decrease in credit rating of either the Department or the counterparty. If the cause of the termination is a counterparty downgrade, termination payments will be calculated on the side of the bid-offer spread that favors the Department. Additionally, the termination amount of the Swap should seek to compensate the Department, as allowed under the ISDA Agreement, all other costs for creating a replacement transaction of like terms and conditions.

It is the intent of the Department not to make a termination payment to a counterparty that does not meet its contractual obligations. Prior to making any such termination payment, the Director of Bond Finance, in consultation with the Director of Administration, shall evaluate whether it is financially advantageous for the Department to obtain a replacement counterparty to avoid making such termination payment or finance the termination payment through a long-term financing product.

For payments on early termination and optional termination, Market Quotation and the Second Method will apply, allowing for two way mark-to-market breakage (assuming the Swaps are documented under the 1992 form of the ISDA Master Agreements). Swaps may use the 2002 form of the ISDA Master Agreement.

## IX. Security and Source of Repayment

The Department may use the same security and source of repayment (pledged revenues) for Swaps as is used for the bonds that are hedged or carried by the Swap, if any, but shall consider the economic costs and benefits of subordinating the Department's payments and/or termination payment under the Swap. The use of the same security and source of repayment (pledged revenues) is subject to the respective bond indenture's covenants and the prior approval of the Department's bond counsel.



## X. Specified Indebtedness

The specified indebtedness related to credit events in any Swap should be narrowly defined and refer only to indebtedness of the Department that could have a materially adverse effect on the Department's ability to perform its obligations under the Swap. Debt should typically only include obligations within the same lien as the Swap obligation.

## XI. Governing Law

Governing law for Swaps will be the State of Texas. Issues relating to jurisdiction, venue, waiver of jury trial and sovereign immunity will be subject to prevailing law and approval of the Texas Attorney General Office. Preference will be given to language providing that the counterparty will consent to jurisdiction in the Texas courts with respect to enforcement of the Agreement.

## XII. Events of Default

Events of default of a Swap counterparty shall include, but are not limited to the counterparty's:

1. Failure to make payments when due;
2. Breach of representations and warranties;
3. Illegality;
4. Failure to comply with downgrade provisions; and
5. Failure to comply with any other provisions of the Agreement after a specified notice period.

## XIII. Collateral Requirements

As part of any Swap, the Department may require the counterparty or the counterparty may require the Department to post collateral or other credit enhancement to secure any or all Swap payment obligations. As appropriate, the Director of Administration and Director of Bond Finance may require collateral or other credit enhancement to be posted by each Swap counterparty under the following circumstances:

- Each counterparty to the Department may be required to post collateral if the credit rating of the counterparty or parent falls below a certain rating threshold, which varies by counterparty. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the credit support annex to each Swap with the Department. At the current time, collateral posting rating triggers by the counterparties would range from A2/A to Baa1/BBB+.
- Collateral shall consist of cash, U.S. Treasury securities, or other mutually acceptable highly liquid securities.
- Collateral shall be deposited with an eligible third party custodian, or as mutually agreed upon between the Department and each counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The Department will determine reasonable threshold limits for increments of collateral posting based on a sliding scale reflective of credit ratings.

- The Director of Bond Finance, in consultation with the Director of Administration, shall determine on a case-by-case basis whether a form of credit enhancement in lieu of, or in addition to, collateral is more beneficial to the Department.
- The Department shall seek to not post collateral to the counterparty unless the Department's ratings fall below "A2" or "A".

#### XIV. Other Criteria

The Department may use a competitive or a negotiated process to select a Swap counterparty and price a Swap as it believes business, market or competitive conditions justify such a process. The conditions under which a negotiated selection is best used are provided below.

- Marketing of the Swap will require complex explanations about the security for payment or credit quality.
- Demand is weak among Swap counterparties.
- Market timing is important, such as for refundings.
- Coordination of multiple components of the financing is required.
- The Swap has non-standard features.
- The par amount is large enough to move the market in a manner adverse to the Department's interests.
- Counterparties are likely to demand individual changes in bid documents.

If a transaction is awarded through a negotiated process, the counterparty will provide the Department with:

- A statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions.
- A statement of the amount of the difference as determined by the counterparty.
- If the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty.

The Department will use a swap advisory firm to assist in the price negotiation. Such swap advisory firm shall act as the "qualified independent representative" ("QIR") of the Department for purposes of CFTC Rule 23.450 (b) (1) to advise the Department on swaps, provided that such firm provide certification to the Department addressing why such firm meets the requirements to act as a QIR pursuant to CFTC Regulation 23.450(b)(1). Also, the Department may obtain an opinion from an independent party that the terms and conditions of any derivative entered into reflect a fair market value of such derivatives as of the execution date.

The counterparty must provide to the Department disclosure of any payments the counterparty made to another person to procure the transaction.

Prior to or at execution of any new swap transaction, the swap dealer and/or swap advisor, as the case may be, shall provide information to the Department consistent with the rules and regulations in effect at the time. Such rules would include the Business Conduct Standards for Swap Dealers and Major Swap Participants as published and enacted by the Commodity Futures

Trading Commission. In addition the swap dealer should represent to the Department that it is in compliance with such rules including pay-to-play restrictions.

The Department will determine that the swap transaction will conform to this Interest Rate Swap Policy after reviewing a report of the Director of Bond Finance that identifies with respect to the transaction:

- its purpose;
- the anticipated economic benefit and the method used to determine the anticipated benefit;
- the use of the receipts of the transaction;
- the notional amount, amortization, and average life compared to the related obligation;
- any floating indices;
- its effective date and duration;
- the identity and credit rating of the counterparties;
- the cost and anticipated benefit of transaction insurance;
- the financial advisors and the legal advisors and their fees;
- any security for scheduled and early termination payments;
- any associated risks and risk mitigation features; and
- early termination provisions.

#### XV. Ongoing Monitoring and Reporting Requirements

Written records noting the status of all Swaps will be maintained by the Bond Finance Division and shall include the following information:

- Highlights of all material changes to Swaps or new Swaps entered into by the Department since the last report.
- Market value of each of the Swaps.
- The net impact of a 50 or 100 basis point parallel shift or other relevant shift in the appropriate Swap index or curve.
- For each counterparty, the total notional amount, the average life of each Swap and the remaining term of each Swap.
- The credit rating of each Swap counterparty and credit enhancer insuring Swap payments.
- Actual collateral posting by Swap counterparty, if any, in total by Swap counterparty.
- A summary of each Swap, including but not limited to the type of Swap, the rates paid by the Department and received by the Department, indices, and other key terms.
- Information concerning any default by a Swap counterparty to the Department, and the results of the default, including but not limited to the financial impact to the Department, if any.
- A summary of any Swaps that were terminated.

The Department will monitor its Swaps exposure on a periodic basis, as necessary, and will look for ways to reduce the cost of a Swap(s) or the overall Swap exposure.

The Bond Finance Division will monitor the performance of the QIR on an on-going basis.

The Department shall report its Swaps exposure in its annual financial statements and will reflect the use of derivatives in accordance with GASB requirements. With the adoption of GASB 53, the Department will be required to test hedge effectiveness on an annual basis. Any hedge deemed to be ineffective will result in the change in fair value being recorded as a gain or loss. While the long term economic value of the transaction should be more important when structuring a derivative, the Department should seek to structure transactions that are expected to be effective and would not result in changes in fair value affecting net income. For example, while a transaction structured to meet the Consistent Critical Terms method of GASB 53 would ensure hedge effectiveness, the Department should consider the tradeoffs of utilizing a transaction structure that may provide greater expected economic benefits at the expense of potentially not meeting hedge effectiveness. The disclosure requirements include:

1. Objective of the Derivative
2. Significant Terms
3. Fair Value
4. Associated Debt
5. Risks including but not limited to Credit Risk, Termination Risk, Interest Rate Risk, Basis Risk, Rollover Risk, Market Access Risk, and Foreign Currency Risk.

With the adoption of GASB 72, the Department will be required to report the fair value of its Swaps in its annual financial statements, as more fully described in GASB 72. The Department will follow these guidelines and may engage a third party to assist in the required calculations.

The Director of Administration and the Director of Bond Finance will review this Policy on an annual basis.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

As presented to the Board on April ~~8~~<sup>14</sup>, ~~2021~~2022

~~2021~~2022

~~April 8, 2021~~April 14, 2022

|

|

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

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 (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford.

The Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

### I. Introduction

The purpose of this Interest Rate Swap Policy ("Policy") of the Texas Department of Housing and Community Affairs (the "Department") is to establish guidelines for the use and management of all interest rate management agreements, including, but not limited to, interest rate swaps, swaptions, caps, collars and floors (collectively "Swaps" or "Agreements") incurred in connection with the issuance of debt obligations. This Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

### II. Authority

The Department is authorized by Sections 1371.056 and 2306.351 of the Texas Government Code to enter into Swaps from time to time to better manage assets and liabilities and take advantage of market conditions to lower overall costs and reduce interest rate risk.

This Policy shall govern the Department's use and management of all Swaps. While adherence to this Policy is required in applicable circumstances, the Department recognizes that changes in the capital markets, agency programs, and other unforeseen circumstances may from time to time produce situations that are not covered by this Policy and will require modifications or exceptions approved or authorized by the Governing Board to achieve policy goals.

The Director of Administration and the Director of Bond Finance ~~and Chief Investment Officer~~ are the designated administrators of the Department's Policy. The Bond Finance Division shall have the day-to-day responsibility for structuring, implementing, and managing Swaps, which includes, with the approval of the Executive Director, the execution of the Department's right to optional

termination of Swaps to avoid being overswapped (having a higher notional amount of swap outstanding than par amount of related bonds), for economic benefit to the Department, or to achieve other goals of the Department.

The Department shall be authorized to enter into Swaps only with qualified Swap counterparties as defined herein. The Director of Bond Finance ~~and Chief Investment Officer~~, in consultation with the Director of Administration, or a Department designee, shall have the authority to recommend counterparties, so long as the criteria set forth in this Policy are met.

The Director of Administration and the Director of Bond Finance ~~and Chief Investment Officer~~ shall review this Policy on an annual basis and recommend any necessary changes to the Governing Board.

### III. Purpose

The incurring of obligations by the Department involves a variety of interest rate payments and other risks for which a variety of financial instruments are available to offset, hedge, or reduce. It is the policy of the Department to utilize Swaps to better manage its assets and liabilities. The Department may execute Swaps if the transaction can be expected to result in one of, but not limited to, the following:

- Reduce exposure to changes in interest rates on a particular financial transaction or in the context of the management of interest rate risk derived from the Department's overall asset/liability balance.
- Result in a lower net cost of borrowing with respect to the Department's debt, a higher return on assets, and/or a stronger balance sheet.
- Manage variable interest rate exposure consistent with prudent debt practices.
- Achieve flexibility in meeting overall financial and programmatic objectives that cannot be achieved in conventional markets.
- Lock in fixed rates in current markets for use at a later date.
- Manage the Department's exposure to the risk of changes in the legal or regulatory treatment of tax-exempt bonds.
- Manage the Department's credit exposure to financial institutions.

The Department will not use Agreements that:

- Are purely speculative or incorporate extraordinary leverage;
- Lack adequate liquidity to terminate without incurring a significant bid/ask spread;
- Are characterized by insufficient pricing transparency and therefore make reasonable valuation difficult.

### IV. Evaluation of Risks Associated with Swaps

Before entering into a Swap, the Department shall evaluate the risks inherent in the transaction. The risks to be evaluated will include basis risk, tax risk, counterparty risk, credit risk, termination risk, rollover risk, liquidity risk, remarketing risk, amortization mismatch risk, mortgage yield risk, non-origination risk, and PAC band risk. The following table outlines these various risks and the Department's evaluation methodology for those risks.



Risk	Description	Evaluation Methodology
Basis Risk	The mismatch between actual variable rate debt service and variable rate indices used to determine Swap payments.	The Department will review historical trading differentials between the variable rate bonds and the index.
Tax Risk	The risk created by potential tax events that could affect Swap payments or their relationship to future bond payments.	The Department will review the tax events in proposed Swap agreements. The Department will evaluate the impact of potential changes in tax law on <del>LIBOR indexed</del> Swaps <u>that hedge tax-exempt bonds where the index is a taxable index.</u>
Counterparty Risk	The failure of the counterparty to make required payments or the occurrence of an event modifying the credit rating of the counterparty.	The Department will monitor exposure levels, ratings thresholds, and collateralization requirements.
Termination Risk	The need to terminate the transaction in a market that dictates a termination payment by the Department.	The Department will compute its termination exposure for all existing and proposed Swaps at market value and under a worst-case scenario.
Rollover Risk	The mismatch of the maturity of the Swap and the maturity of the underlying bonds.	The Department will determine its capacity to service variable rate bonds that may be outstanding after the maturity of the Swap.
Liquidity Risk	The inability to continue or renew a liquidity facility, and the risk that the cost of a facility will increase beyond expectations.	The Department will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt, if any.
Remarketing Risk	The risk that a remarketing agent may be unable to remarket VRDBs.	The Department will obtain a standby bond purchase facility to provide the funds necessary to purchase the VRDBs.
Amortization Mismatch Risk	The mismatch of outstanding Swap notional amount versus the outstanding bond principal subject to the hedge.	The Department may incorporate one or a combination of the following features: par termination options, PAC or lockout bonds.
Mortgage Yield Risk	The bond issue may not comply with yield restrictions if the Swap is terminated.	The Department will obtain legal opinions and or certificates as appropriate.

Non-origination Risk	The bond proceeds may not originate within the prescribed timeframe and require an unused proceeds call and possible termination payment.	The Department will evaluate bond and mortgage market conditions and quantify the potential termination payment due upon non-origination.
PAC Band Break Risk	The targeted PAC bonds may amortize faster than anticipated based on the PAC amortization schedule.	The Department will rely upon credit rating agency cashflows to ensure adequate PAC/companion bond structural integrity.
Collateral Posting Risk	The risk that the Department may be required to post liquid collateral to the Counterparty. Inability to post such liquid collateral upon short notice may result in the early termination of a Swap transaction.	The Department will seek to structure Swap Agreements so that the need to post collateral is highly unlikely. This can be accomplished by using high posting thresholds or low rating triggers.
Accounting Risk	The risk that the Department may be required to record changes in fair value of a derivative transaction as a gain or loss in its annual financial statements.	The Department, when feasible, should aim to structure Transactions that would expect to qualify as effective hedges under GASB 53.
Floating Rate Benchmark Transition Risk (LIBOR Replacement)	The Financial Conduct Authority, the U.K. regulator for LIBOR, has announced that all tenors of US Dollar LIBOR will no longer be published or no longer be representative after June 30, 2023. The expected discontinuation of LIBOR presents risks to the Department, including but not limited to fallback mechanisms and mismatch between fallback mechanisms of the derivative and the hedged debt.	The Department should work with their legal, tax, financial and accounting advisors regarding fallback mechanisms, <del>including and not limited to</del> <u>In August of 2021, the Department adhering adhered to the ISDA 2020 IBOR Fallbacks Protocol or bilateral amendments to incorporate fallback mechanisms. If the Department does not enter into any bilateral amendments with its swap counterparties, the definitions incorporated through the adherence to the protocol will take effect and provide a mechanism for LIBOR replacement on the Department's LIBOR indexed Swaps.</u>

The Department will diversify its exposure to counterparties. To that end, before entering into a transaction, the Department will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect that exposure. The exposure will not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the Department's exposure ("Maximum Net Termination Exposure").

For purposes of these limits, “Maximum Net Termination Exposure” shall equal the aggregate termination payment for all existing and projected Swaps that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to the reasonably expected worse case termination payment of all existing Swaps plus the proposed transaction.

The Department will base the Maximum Net Termination Exposure on all outstanding derivative transactions. Limits will be established for each counterparty as well as the relative level of risk associated with each existing and projected Swap. In order to lessen counterparty risk, the Department will diversify exposure among multiple counterparties (when possible) and avoid excessive concentration to any one counterparty. In situations where the Department may execute a swap transaction that would result in offsetting counterparty risk with an existing counterparty, the Department should seek to utilize that counterparty.

The Director of Bond Finance ~~and Chief Investment Officer~~ shall determine the appropriate term for a Swap on a case-by-case basis. The slope of the Swap curve, the marginal change in Swap rates from year to year along the Swap curve, and the impact that the term of the Swap has on the overall exposure of the Department shall be considered in determining the appropriate term of any Swap. The term of a Swap between the Department and a qualified Swap counterparty shall not extend beyond the final maturity date of the associated debt, or in the case of a refunding transaction, beyond the final maturity date of the refunding bonds.

The Department will review the use of forward-starting swaps and determine the duration based on market condition and the risk associated with using a forward-starting swap. The Department does not have any swaps with a knock-out option which could expose the Department to higher interest rates. The Department will advise the Board prior to entering into either a forward-starting swap or knock-out option.

The Department will inform the Board if the swap is a fixed notional value swap or a declining notional value swap. The Director of Bond Finance ~~and Chief Investment Officer~~ will review proposed swaps to ensure that the use of fixed notional value swaps does not place the Department at risk of incurring an incrementally higher expense if the related bond principal is paid off early.

The total “net notional amount” of all Swaps related to a bond issue should not exceed the amount of outstanding bonds, or bonds anticipated to be issued. For purposes of calculating the net notional amount, credit shall be given to any Swaps that offset another Swap for a specific bond transaction.

## V. Long Term Financial Implications

In evaluating a particular transaction involving the use of derivatives, the Department shall review long-term implications associated with entering into derivatives, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, liquidity capacity, opportunities to refund related debt obligations and other similar considerations.

### Impact of Use of Liquidity

The Department shall consider the impact of any variable rate demand bonds issued in combination with a Swap on the availability and cost of liquidity support for other Department variable rate programs.

#### Call Option Value considerations

When considering the relative advantage of a Swap versus fixed rate bonds, the Department will take into consideration the value of any call option on fixed rate bonds.

#### Qualified Hedges

The Department understands that, (1) if payments on and receipts from the Agreement are to be taken into account in computing the yield on the related bonds, the Agreement must meet the requirements for a “qualified hedge” under federal tax law (sometimes referred to as an “integrated Swap”); and (2) if one of the goals of entering into the Agreement is to convert variable yield bonds into fixed yield bonds (sometimes referred to as a “super integrated Swap”), then certain additional requirements must be met. In both of these situations, the terms of the Agreement and the process for entering into the Agreement must be reviewed and approved in advance by tax counsel.

### VI. Form of Swap Agreements

Each Swap executed by the Department shall contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement, including any schedules and confirmations. The Swaps between the Department and each qualified Swap counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions and provisions as the Director of Bond Finance ~~and Chief Investment Officer~~ deems necessary, desirable, or consistent with industry best practices.

### VII. Qualified Swap Counterparties

The Department will make its best efforts to work with qualified Swap counterparties that (i) have, or has a credit support counterparty that has, a general credit rating of at least “A2” with respect to ratings by Moody’s Investors Service or “A” with respect to ratings by Standard and Poor’s Rating Services or Fitch Ratings.

In addition to the rating criteria specified herein, the Department may seek additional credit enhancement and safeguards in the form of:

- i. Contingent credit support or enhancement;
- ii. Collateral consistent with the policies contained herein; and/or
- iii. Ratings downgrade triggers.

In addition, the Department will take into consideration a Swap counterparty’s track record of successfully executing Swap transactions. The Department will only execute Swap transactions with qualified Swap counterparties.

In addition to credit-related requirements, ~~swap~~ Swap counterparties and other providers of derivative products must comply with the following requirements to be eligible to enter into a contract with the Department in connection with, and at the time of, each applicable transaction:

~~Anti-Boycott Verification~~ No Boycott of Israel. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2270 of the Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

No Discrimination Against Fossil-Fuel Companies. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session ("SB 13")). Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) not boycott energy companies and (ii) will not boycott energy companies during the term for which they provide services to the Department. As used in the foregoing, the term "boycott energy companies" shall have the meaning given to such term in Section 2274.001(1), Texas Government Code (as enacted by SB 13).

No Discrimination Against Firearm Entities and Firearm Trade Associations. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session ("SB 19")), Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term for which they provide services to the Department. As used in the foregoing, the terms "discriminate against a firearm entity or firearm trade association", "firearm entity" and "firearm trade association" shall have the meanings given to each such term in Section 2274.001, Texas Government Code (as enacted by SB 19).

~~Exemption from~~ Disclosure of Interested Parties. Swap counterparties and other providers of derivative products are required to comply with the requirements of ~~Chapter~~ Section 2252.908 of the Texas Government Code. Counterparties or providers that make a written representation to the Department that their firm (~~including any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate~~) is a publicly traded business entity or a wholly owned subsidiary of publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Swap counterparties and providers of derivative products are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Swap counterparties and providers of derivative products must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

## VIII. Termination Provisions

The Department shall include in all Swaps provisions granting the Department the right to optionally terminate a Swap at any time at market over the term of the Agreement. The Director of Bond Finance ~~and Chief Investment Officer~~, in consultation with the Director of Administration, shall determine if it is financially advantageous for the Department to terminate a Swap.

A ratings-based additional termination event shall be included in all of the Department's Swaps if the provider (or its credit support provider) fails to maintain either:

1. A credit rating of at least Baa2 from Moody's; or
2. A credit rating of at least BBB from S&P; or,
3. An equivalent rating determined above by a nationally recognized ratings service acceptable to both parties.

A termination payment to or from the Department may be required in the event of termination of a Swap due to a default or a decrease in credit rating of either the Department or the counterparty. If the cause of the termination is a counterparty downgrade, termination payments will be calculated on the side of the bid-offer spread that favors the Department. Additionally, the termination amount of the Swap should seek to compensate the Department, as allowed under the ISDA Agreement, all other costs for creating a replacement transaction of like terms and conditions.

It is the intent of the Department not to make a termination payment to a counterparty that does not meet its contractual obligations. Prior to making any such termination payment, the Director of Bond Finance ~~and Chief Investment Officer~~, in consultation with the Director of Administration, shall evaluate whether it is financially advantageous for the Department to obtain a replacement counterparty to avoid making such termination payment or finance the termination payment through a long-term financing product.

For payments on early termination and optional termination, Market Quotation and the Second Method will apply, allowing for two way mark-to-market breakage (assuming the Swaps are documented under the 1992 form of the ISDA Master Agreements). Swaps may use the 2002 form of the ISDA Master Agreement.

## IX. Security and Source of Repayment

The Department may use the same security and source of repayment (pledged revenues) for Swaps as is used for the bonds that are hedged or carried by the Swap, if any, but shall consider the economic costs and benefits of subordinating the Department's payments and/or termination payment under the Swap. The use of the same security and source of repayment (pledged



revenues) is subject to the respective bond indenture's covenants and the prior approval of the Department's bond counsel.

#### X. Specified Indebtedness

The specified indebtedness related to credit events in any Swap should be narrowly defined and refer only to indebtedness of the Department that could have a materially adverse effect on the Department's ability to perform its obligations under the Swap. Debt should typically only include obligations within the same lien as the Swap obligation.

#### XI. Governing Law

Governing law for Swaps will be the State of Texas. Issues relating to jurisdiction, venue, waiver of jury trial and sovereign immunity will be subject to prevailing law and approval of the Texas Attorney General Office. Preference will be given to language providing that the counterparty will consent to jurisdiction in the Texas courts with respect to enforcement of the Agreement.

#### XII. Events of Default

Events of default of a Swap counterparty shall include, but are not limited to the counterparty's:

1. Failure to make payments when due;
2. Breach of representations and warranties;
3. Illegality;
4. Failure to comply with downgrade provisions; and
5. Failure to comply with any other provisions of the Agreement after a specified notice period.

#### XIII. Collateral Requirements

As part of any Swap, the Department may require the counterparty or the counterparty may require the Department to post collateral or other credit enhancement to secure any or all Swap payment obligations. As appropriate, the Director of Administration and Director of Bond Finance ~~and Chief Investment Officer~~ may require collateral or other credit enhancement to be posted by each Swap counterparty under the following circumstances:

- Each counterparty to the Department may be required to post collateral if the credit rating of the counterparty or parent falls below a certain rating threshold, which varies by counterparty. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the credit support annex to each Swap with the Department. At the current time, collateral posting rating triggers by the counterparties would range from A2/A to Baa1/BBB+.
- Collateral shall consist of cash, U.S. Treasury securities, or other mutually acceptable highly liquid securities.

- Collateral shall be deposited with an eligible third party custodian, or as mutually agreed upon between the Department and each counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The Department will determine reasonable threshold limits for increments of collateral posting based on a sliding scale reflective of credit ratings.
- The Director of Bond Finance ~~and Chief Investment Officer~~, in consultation with the Director of Administration, shall determine on a case-by-case basis whether a form of credit enhancement in lieu of, or in addition to, collateral is more beneficial to the Department.
- The Department shall seek to not post collateral to the counterparty unless the Department's ratings fall below "A2" or "A".

#### XIV. Other Criteria

The Department may use a competitive or a negotiated process to select a Swap counterparty and price a Swap as it believes business, market or competitive conditions justify such a process. The conditions under which a negotiated selection is best used are provided below.

- Marketing of the Swap will require complex explanations about the security for payment or credit quality.
- Demand is weak among Swap counterparties.
- Market timing is important, such as for refundings.
- Coordination of multiple components of the financing is required.
- The Swap has non-standard features.
- The par amount is large enough to move the market in a manner adverse to the Department's interests.
- Counterparties are likely to demand individual changes in bid documents.

If a transaction is awarded through a negotiated process, the counterparty will provide the Department with:

- A statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions.
- A statement of the amount of the difference as determined by the counterparty.
- If the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty.

The Department will use a swap advisory firm to assist in the price negotiation. Such swap advisory firm shall act as the "qualified independent representative" ("QIR") of the Department for purposes of CFTC Rule 23.450 (b) (1) to advise the Department on swaps, provided that such firm provide certification to the Department addressing why such firm meets the requirements to act as a QIR pursuant to CFTC Regulation 23.450(b)(1). Also, the Department may obtain an opinion from an independent party that the terms and conditions of any derivative entered into reflect a fair market value of such derivatives as of the execution date.

The counterparty must provide to the Department disclosure of any payments the counterparty made to another person to procure the transaction.



Prior to or at execution of any new swap transaction, the swap dealer and/or swap advisor, as the case may be, shall provide information to the Department consistent with the rules and regulations in effect at the time. Such rules would include the Business Conduct Standards for Swap Dealers and Major Swap Participants as published and enacted by the Commodity Futures Trading Commission. In addition the swap dealer should represent to the Department that it is in compliance with such rules including pay-to-play restrictions.

The Department will determine that the swap transaction will conform to this Interest Rate Swap Policy after reviewing a report of the Director of Bond Finance ~~and Chief Investment Officer~~ that identifies with respect to the transaction:

- its purpose;
- the anticipated economic benefit and the method used to determine the anticipated benefit;
- the use of the receipts of the transaction;
- the notional amount, amortization, and average life compared to the related obligation;
- any floating indices;
- its effective date and duration;
- the identity and credit rating of the counterparties;
- the cost and anticipated benefit of transaction insurance;
- the financial advisors and the legal advisors and their fees;
- any security for scheduled and early termination payments;
- any associated risks and risk mitigation features; and
- early termination provisions.

## XV. Ongoing Monitoring and Reporting Requirements

Written records noting the status of all Swaps will be maintained by the Bond Finance Division and shall include the following information:

- Highlights of all material changes to Swaps or new Swaps entered into by the Department since the last report.
- Market value of each of the Swaps.
- The net impact of a 50 or 100 basis point parallel shift or other relevant shift in the appropriate Swap index or curve.
- For each counterparty, the total notional amount, the average life of each Swap and the remaining term of each Swap.
- The credit rating of each Swap counterparty and credit enhancer insuring Swap payments.
- Actual collateral posting by Swap counterparty, if any, in total by Swap counterparty.
- A summary of each Swap, including but not limited to the type of Swap, the rates paid by the Department and received by the Department, indices, and other key terms.

- Information concerning any default by a Swap counterparty to the Department, and the results of the default, including but not limited to the financial impact to the Department, if any.
- A summary of any Swaps that were terminated.

The Department will monitor its Swaps exposure on a periodic basis, as necessary, and will look for ways to reduce the cost of a Swap(s) or the overall Swap exposure.

The Bond Finance Division will monitor the performance of the QIR on an on-going basis.

The Department shall report its Swaps exposure in its annual financial statements and will reflect the use of derivatives in accordance with GASB requirements. With the adoption of GASB 53, the Department will be required to test hedge effectiveness on an annual basis. Any hedge deemed to be ineffective will result in the change in fair value being recorded as a gain or loss. While the long term economic value of the transaction should be more important when structuring a derivative, the Department should seek to structure transactions that are expected to be effective and would not result in changes in fair value affecting net income. For example, while a transaction structured to meet the Consistent Critical Terms method of GASB 53 would ensure hedge effectiveness, the Department should consider the tradeoffs of utilizing a transaction structure that may provide greater expected economic benefits at the expense of potentially not meeting hedge effectiveness. The disclosure requirements include:

1. Objective of the Derivative
2. Significant Terms
3. Fair Value
4. Associated Debt
5. Risks including but not limited to Credit Risk, Termination Risk, Interest Rate Risk, Basis Risk, Rollover Risk, Market Access Risk, and Foreign Currency Risk.

With the adoption of GASB 72, the Department will be required to report the fair value of its Swaps in its annual financial statements, as more fully described in GASB 72. The Department will follow these guidelines and may engage a third party to assist in the required calculations.

The Director of Administration and the Director of Bond Finance ~~and Chief Investment Officer~~ will review this Policy on an annual basis.

1e

BOARD ACTION REQUEST  
BOND FINANCE DIVISION  
APRIL 14, 2022

Presentation, discussion, and possible action on Resolution No. 22-020 regarding the annual approval of the Department's Investment Policy

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

The provisions of Tex. Gov't Code, Chapter 2256 (also known as the Public Funds Investment Act) require state agency boards to develop, adopt annually, and maintain a written investment policy (the Investment Policy) that, among other things, details investment priorities and strategies, describes permissible investments, addresses ethics and conflicts of interest, establishes training requirements, and designates Investment Officers. The Investment Policy also establishes requirements for financial advisors and service providers, and requires that investment professionals acknowledge receipt of the Investment Policy in order to do business with the Department.

Staff, in conjunction with the Department's Financial Advisor and Bond Counsel, have reviewed the proposed Investment Policy and recommend approval and adoption of Resolution 22-020.

The proposed Investment Policy, blacklined against the prior policy, proposes no significant changes and includes only minor comments (dates and clean-up) and compliance with state law; a copy is attached for your reference.

## RESOLUTION NO. 22-020

### RESOLUTION OF THE GOVERNING BOARD APPROVING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INVESTMENT POLICY

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "Department"), was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (together with other laws of the State applicable to the Department, collectively, the "Act"); and

WHEREAS, the Governing Board of the Department (the "Governing Board") desires to approve the Department's Investment Policy in the form presented to the Governing Board;

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

#### ARTICLE 1

##### APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of the Department's Investment Policy. The Investment Policy in the form presented to the Governing Board is hereby authorized and approved.

Section 1.2 Authorized Representatives. 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 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Manager of Single Family Finance 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

##### GENERAL PROVISIONS

Section 2.1 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.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14th day of April, 2022.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

As presented to the Board for adoption on April 14, 2022

# 2022

April 14, 2022

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Table of Contents

I.	Policy	3
II.	Scope	3
III.	Prudence	4
IV.	Investment Priorities	4
V.	Strategies	4
VI.	Delegation of Authority	6
VII.	Ethics and Conflicts of Interest	6
VIII.	Authorized Financial Dealers and Institutions	8
IX.	Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers	9
X.	Authorized and Suitable Investments	12
XI.	Diversification	16
XII.	Performance Standards	16
XIII.	Effect of Loss of Required Rating	16
XIV.	Maximum Maturities	16
XV.	Collateralization	17
XVI.	Safekeeping and Custody	17
XVII.	Internal Control	18
XVIII.	Reporting	19
XIX.	Authorized List of Broker/Dealer and Financial Institutions	20
XX.	Investment Policy Adoption	20
XXI.	Acknowledgment of Receipt of Investment Policy	20
XXII.	Training	21
Attachment A	Strategy	22
Attachment B	Policy Statements and Recommended Practice	23
Attachment C	Acknowledgment of Receipt of Investment Policy	25
Attachment D	Annual Disclosure Statement For Financial Advisors And Service Providers	25
Attachment E	Comptroller's Approved List of Broker Dealers	28



# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

### I. POLICY

It is the policy of the Texas Department of Housing and Community Affairs (the "Department") to invest public funds in a manner that will provide, by priority, the following objectives:

1. Safety of principal;
2. Sufficient liquidity to meet Department cash flow needs;
3. Market rate of return for the risk assumed; and
4. Conformance to all applicable state statutes governing the investment of public funds including the Department's enabling legislation, Texas Government Code, Chapter 2306, Texas Government Code, Chapter 2263, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, Chapter 2270, Prohibition of Investing Public Money in Certain Investments, Chapter 808, Prohibition on Investment in Companies that Boycott Israel, Chapter 809, Prohibition on Investment in Financial Companies that Boycott Certain Energy Companies, and specifically Texas Government Code, Chapter 2256, the Public Funds Investment Act (the "Act").

It is further the intent of the Department to set forth in this document how all investments will be administered, providing for an all-inclusive document that will ensure consistency and thoroughness in the presentation of such investments, as they affect the Department's presentation of its financial statements.

### II. SCOPE

This investment policy applies to all investments, including both direct investments and investments that are subject to trust indentures created and supplemented in connection with bonds issued by the Department. All of these investments are accounted for in the Department's Comprehensive Annual Financial Report and include the General Fund, Special Revenue Fund, Trust and Agency Fund, and Enterprise Fund.

This investment policy does not apply to investments in instruments that constitute hedges, which include but are not limited to, interest rate swaps, caps, floors, futures contracts, forward contracts, etc., that satisfy the eligibility requirements of a "qualified hedge" as defined by Section 1.148-4(h)(2) of the Internal Revenue Code.

The Department has created and adopted a separate Interest Rate Swap Policy for guidance regarding the use and management of such hedges.

### III. PRUDENCE

Investments shall be made with judgment and care under prevailing circumstances which persons of prudence, discretion and intelligence would exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of capital as well as the probable income to be derived.

The standard of prudence to be used by the investment officers named herein shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. An investment officer acting in accordance with the investment policy and written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### IV. INVESTMENT PRIORITIES

Investment by the Department will be in accordance with the following priorities in order of importance:

1. Understanding the suitability of the investment to the financial requirements of the Department. Suitability is the first priority in the Department's investment strategy, and will be evaluated on an overall basis and as a specific component of each of the remaining priorities;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment should the need arise to liquidate before maturity;
5. Diversification of the investment portfolio; and
6. Yield (after taking into account the previous five priorities).

Such investment will be in accordance with all federal and state statutes, rules, and regulations.

### V. STRATEGIES

The following are the primary strategies for investment activities in order of priority after taking into account the suitability of any investment:

1. Suitability. In accordance with Section 2256.005(d) of the Act, the first priority is the suitability of investment.
2. Preservation and Safety of Principal. Investments of the Department shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk. To achieve this objective, diversification is required so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
  - A. Credit risk is the risk of loss due to the failure of the security issuer or backer, and may be mitigated by:
    - limiting investments to the safest types of securities;
    - pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with whom the Department will do business; and
    - diversifying the investment portfolio to minimize potential losses on individual securities.
  - B. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, and may be mitigated by:
    - structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities in the open market prior to maturity, and
    - investing operating funds primarily in shorter-term securities.
3. Liquidity. The Department's investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow needs. This is accomplished by structuring the portfolio so that securities mature concurrent with estimated or projected cash needs to meet anticipated demands. Since not all cash demands can be fully anticipated or projected with total accuracy, the portfolio should consist largely of securities with active secondary or resale markets, providing a reasonable level of flexibility to deal with unforeseen cash needs.
4. Marketability. The Department will evaluate investment opportunities based on the marketability of each investment to reduce risk in the event the Department needs to liquidate the investment before maturity. Specifically, the Department will take into consideration the activity level of the secondary market for the investment.

5. Diversification. The Department will maintain a diversified investment portfolio. Maturities will be staggered to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
  
6. Yield. The Department's investment portfolio shall be designed with the objective of attaining a market rate of return through budgetary and economic cycles, taking into account the investment risk constraints and cash flow needs of the Department. Return on investment for short-term operating funds is of less importance than the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
  - A. A security experiencing or reasonably seen as being at risk of material decline in credit quality could be sold early to minimize the risk of loss of principal;
  - B. A security swap would improve the quality, yield, or target duration of the overall portfolio without creating other material risks or adverse features; or
  - C. Liquidity needs of the portfolio require that the security be sold and there are no preferable alternatives.

## VI. DELEGATION OF AUTHORITY

The Board establishes the investment policy and objectives, obtains expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitors the actions of staff and advisors to ensure compliance with its policy. It is the Board's intention that this policy be carried out by those persons who are qualified and competent in their area of expertise.

Authority to manage the Department's investment program is granted under the provisions of Texas Government Code, Section 2306.052(b) (4) and (5) to the Executive Director of the Department ("Executive Director"). Responsibility for the operation of the investment program is hereby delegated by the Executive Director to the Director of Bond Finance and the Director of Administration acting in those capacities (collectively the "Investment Officer") who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer.

## VII. ETHICS AND CONFLICTS OF INTEREST

1. Department employees and Board members must comply with all applicable laws, and should specifically be aware of the following statutes:
  - A. Texas Government Code, Section 2306.027, Eligibility;
  - B. Texas Government Code, Section 572.051, Standards of Conduct for Public Servants;
  - C. Texas Government Code, Sections 553.001-003, Disclosure by Public Servants of Interest in Property Being Acquired by Government;
  - D. Texas Government Code, Section 552.352, Distribution of Confidential Information;
  - E. Texas Government Code, Section 572.054, Representation by Former Officer or Employee of Regulatory Agency Restricted;
  - F. Texas Penal Code, Chapter 36, Bribery, Corrupt Influence and Gifts to Public Servants; and
  - G. Texas Penal Code, Chapter 39, Abuse of Office, Official Misconduct.

The omission of any applicable statute from this list does not excuse violation of its provisions.

2. Department employees and Board members must be honest in the exercise of their duties and must not take actions which will discredit the Department.
3. Department employees and Board members should be loyal to the interest of the Department to the extent that such loyalty is not in conflict with other duties which legally have priority, and should avoid personal, employment or business relationships that create conflicts of interest.
  - A. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
  - B. Officers and employees shall disclose to the Executive Director any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the Department's investment portfolio.
  - C. Officers and employees shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Department.

- D. Department employees and Board members may not use their relationship with the Department to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of the Department as a reference or the communication to others of the fact that a relationship with the Department exists, provided that no misrepresentation is involved.
- E. Department employees and Board members who have a personal business relationship with a business organization offering to engage in an investment transaction with the Department shall file a statement disclosing that personal business interest. An individual who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department shall file a statement disclosing that relationship. A statement required under this section must be filed with the Texas Ethics Commission and the Department's Board. For purposes of this policy, an individual has a personal business relationship with a business organization if:
- the individual owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
  - funds received by the individual from the business organization exceed 10 percent of the individual's gross income from the previous year; or
  - the individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

#### VIII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Department, in conjunction with the Texas Comptroller of Public Accounts (the "State Comptroller") will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness; these may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

The Department will use as its authorized list of broker/dealers and financial institutions any broker/dealer or financial institution that is authorized to do business with the State Comptroller. With respect to investments provided in connection with the issuance of bonds, the above requirements will be deemed met if the investment provider has the minimum credit ratings required by rating agencies and is acceptable to the bond insurer/credit enhancer, if applicable, and if the investment meets the requirements of the applicable bond trust indenture. A broker, engaged solely to secure a qualified investment referred to in this paragraph on behalf of the Department, and who will not be providing an investment

instrument, shall not be subject to the above requirements and may only be engaged if approved by the Board.

#### IX. ETHICS, DISCLOSURE AND OTHER STATE LAW REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

During the 78<sup>th</sup> Legislature, Regular Session, the Texas Legislature passed Chapter 2263, Ethics And Disclosure Requirements For Outside Financial Advisors And Service Providers ("Chapter 2263"). Chapter 2263, under Senate Bill 1059, requires certain actions by governing boards of state entities involved in the management and investment of state funds and adds disclosure requirements for outside financial advisors and service providers. Chapter 2263 became effective September 1, 2003. Each state governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this Act, must have adopted its initial rules in time for the rules to take effect not later than January 1, 2004.

Applicability. Chapter 2263 applies in connection with the management or investment of any state funds managed or invested:

1. under the Texas Constitution or other law, including Chapter 404, State Treasury Operations of Comptroller, and Chapter 2256, Public Funds Investment; and
2. by or for:
  - A. a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;
  - B. an institution of higher education as defined by Section 61.003, Education Code; or
  - C. another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

Chapter 2263 applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

Chapter 2263 does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Definition. With respect to this Chapter 2263, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Construction With Other Law. To the extent of a conflict between Chapter 2263 and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Ethics Requirements For Outside Financial Advisors Or Service Providers. The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

1. may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or
2. render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described immediately above, in regard to compensation or duties, is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

In addition to the disclosures required by Chapter 2263 and described below, the Department will rely upon financial advisors and service providers' submission of an Acknowledgement of Receipt of Investment Policy and Certificate of Compliance with the Public Funds Investment Act forms to evidence compliance with the Department's code of conduct and procedures as related to investments.

Disclosure Requirements For Outside Financial Advisor Or Service Provider. A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

1. any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and
2. all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.



The financial advisor or service provider shall disclose a relationship described by the immediately preceding subsections (1) or (2) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe. The Department's disclosure form is provided as Attachment "D".

The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report related to the immediately preceding subsections (1) or (2).

Public Information. Chapter 552, Government Code, controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or is excepted from required public disclosure.

No Boycott of Israel. Financial advisors and service providers are required to comply with the requirements of Chapter 2270 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Financial advisors and service providers are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

No Discrimination Against Fossil-Fuel Companies. Financial advisors and service providers are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session ("SB 13")). Compliance

includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) not boycott energy companies and (ii) will not boycott energy companies during the term for which they provide services to the Department. As used in the foregoing, the term “boycott energy companies” shall have the meaning given to such term in Section 2274.001(1), Texas Government Code (as enacted by SB 13).

**No Discrimination Against Firearm Entities and Firearm Trade Associations.** Financial advisors and service providers are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session (“SB 19”)), Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term for which they provide services to the Department. As used in the foregoing, the terms “discriminate against a firearm entity or firearm trade association”, “firearm entity” and “firearm trade association” shall have the meanings given to each such term in Section 2274.001, Texas Government Code (as enacted by SB 19).

**Disclosure of Interested Parties.** Financial advisors and service providers are required to comply with the requirements of Section 2252.908 of the Texas Government Code. Financial advisors and service providers that make a written representation to the Department that their firm is a publicly traded business entity or a wholly owned subsidiary of publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

**Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking.** Financial advisors and service providers are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Financial advisors and service providers must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

## X. AUTHORIZED AND SUITABLE INVESTMENTS

Trust Indenture Funds for which the Department has control of the investment decisions, all of which are held by Treasury Safekeeping for the benefit of bondholders, will be subject to the authorized investments set-forth in the applicable trust indenture and any applicable supplemental indenture(s).

General, Special Revenue and Trust and Agency Funds, all of which are on deposit with the State Treasury (specifically excluding Enterprise Funds), are invested by the Treasury pursuant to Texas Government Code, Section 404.024.

### Enterprise Fund

1. Subject to a resolution authorizing issuance of its bonds, the Department is empowered by Texas Government Code, Section 2306.173 to invest its money in bonds, obligations or other securities: or place its money in demand or time deposits, whether or not evidenced by certificates of deposit. A guaranteed investment contract is an authorized investment for bond proceeds. All bond proceeds and revenues subject to the pledge of an Indenture shall be invested in accordance with the applicable law and the provisions of the applicable indenture including "Investment Securities" (or substantially similar defined term) as listed in such indenture and so defined.
2. All other enterprise funds shall be invested pursuant to state law. The following are permitted investments for those funds pursuant to the Act:
  - A. Obligations of, or guaranteed by governmental entities:
    - Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including Federal Home Loan Banks.
    - Direct obligations of this state or its agencies and instrumentalities.
    - Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; provided collateralized mortgage obligations (i) that have a stated final maturity date of greater than 10 years; or (ii) the interest rate of which is determined by an index that adjusts opposite to the changes in a market index are not permitted investments.
    - Other obligations the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities.
    - Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
  - B. A Certificate of Deposit is an authorized investment under this policy if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state and is:
    - guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor;
    - secured by obligations that are described in subsection 2A above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates and secured by collateral as described in Section XII of this policy, but excluding those mortgage backed securities of the nature described by Section 3 below; and

- secured in any other manner and amount provided by law for deposits of the Department.

In addition to the authority to invest funds in certificates of deposit noted above, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this policy:

- the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity, or a broker that has its main office or branch in this state and is selected from the list attached hereto as Attachment E;
  - the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
  - the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
  - the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and
  - at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor.
- C. A “repurchase agreement” is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date, obligations of the United States or its agencies and instrumentalities at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. The Department will comply with the Policy Statements and Recommended Practices for Repurchase Agreements as outlined in Attachment B. A fully collateralized repurchase agreement is an authorized investment under this policy if the repurchase agreement:
- has a defined termination date;

- is secured by collateral described in Section XV(1) and Section X(2)D [if desired] of this policy;
  - requires the securities being purchased by the Department to be pledged to the Department, held in the Department's name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
  - is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; and
  - in the case of a reverse repurchase agreement, notwithstanding any other law other than the Act, the term of any such reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. In addition, money received by the Department under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.
- D. Commercial Paper is an authorized investment under this policy if the commercial paper:
- has a stated maturity of 365 days or fewer from the date of its issuance; and
  - is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally-recognized credit rating agencies, or one nationally-recognized credit rating agency and is fully secured, and by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.
3. The following are not authorized investments pursuant to the Act:
- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
  - B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
  - C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
  - D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Divestment. Upon receipt of the lists prepared by the State Comptroller pursuant to Chapter 2270, Texas Government Code, Chapter 808, Texas Government Code, and Chapter 809, Texas Government Code, identifying a financial company in which the Department has funds invested, Department staff shall take all applicable actions required under those Chapters.

## XI. DIVERSIFICATION

The Department will diversify its investments by security type and institution. The amount of required diversification will be determined based upon:

1. The maturity date of the investment – longer maturity dates will require more diversification; and
2. The rating of the underlying investment – lower rated investments will require a greater degree of diversification.

## XII. PERFORMANCE STANDARDS

The investment portfolio shall be designed and managed with the objective of preserving principal and obtaining a rate of return throughout budgetary and economic cycles commensurate with the investment risk constraints and the cash flow needs. The basis used to determine whether market yields are being achieved shall be the three-month U.S. Treasury bill.

## XIII. EFFECT OF LOSS OF REQUIRED RATING

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Department shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not meet or exceed the minimum rating. Still further, the Investment Officer is required to review monthly all investments subject to this policy to ensure that there have been no rating changes which would render such investment in violation of this policy.

## XIV. MAXIMUM MATURITIES

To the extent possible, the Department will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Department will not directly invest in securities maturing more than five years from the date of purchase. The Department will periodically determine what the appropriate average weighted maturity of the portfolio should be based on anticipated cash flow requirements.

General funds dedicated to the support of single family programs may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of funds.

In addition, funds may be invested in any investments that are being sold from a bond indenture or are the result of the operation of the Department's single family program so long as:

1. such investment furthers the goals of that program;
2. the Investment Officer receives Board approval prior to undertaking such investment.

## XV. COLLATERALIZATION

Collateralization will be required on certificates of deposit, repurchase and reverse repurchase agreements, and savings and demand deposits if not insured by FDIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level should be at least 101% of the market value of principal and accrued interest for repurchase and reverse repurchase agreements. Collateralization of 100% will be required for overnight repurchase agreements and bank deposits in excess of FDIC insurance.

The following obligations may be used as collateral under this policy:

1. obligations of the United States or its agencies and instrumentalities;
2. direct obligations of this state or its agencies and instrumentalities;
3. collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities; and
5. obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally-recognized investment rating firm not less than A or its equivalent.

Collateral will always be held by an independent third party with whom the Department has a current custodial agreement. A clearly marked evidence of ownership or a safekeeping receipt must be supplied to the Department and retained. The right of collateral substitution is granted subject to prior approval by the Investment Officer.

## XVI. SAFEKEEPING AND CUSTODY

All security transactions, including collateral for repurchase agreements, entered into by the Department will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

## XVII. INTERNAL CONTROL

The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that:

1. the cost of a control should not exceed the benefits likely to be derived; and
2. the valuation of costs and benefits requires estimates and judgments by management.

Once every two years, the Department, in conjunction with its annual financial audit, shall have external/internal auditors perform a compliance audit of management controls on investments and adherence to the Department's established investment policies. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the person who records or otherwise accounts for the transaction, a separation of duties is achieved.
3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral as defined by state law shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions must be supported by written communications and approved by the appropriate person, as defined by investment internal control procedures. Written



communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.

7. Development of a wire transfer agreement with the lead bank or third party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

The Department's external/internal auditors shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The Office of the State Auditor compiles the results of reports received under this subsection and reports those results to the legislative audit committee once every two years.

#### XVIII. REPORTING

1. Methods. Not less than quarterly, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report of investment transactions for all funds covered by this policy for the preceding reporting period; including a summary that provides a clear picture of the status of the current investment portfolio and transactions made over the previous reporting period. This report will be prepared in a manner which will allow the Department and the Board to ascertain whether investment activities during the reporting period have conformed to the investment policy. While not required under the Act, this report will provide information regarding investments held under bond trust indentures as well as investments covered under the Act. The report must:
  - A. describe in detail the investment position of the Department on the date of the report;
  - B. be prepared jointly by each Investment Officer of the Department;
  - C. be signed by each Investment Officer of the Department;
  - D. contain a summary statement, prepared in compliance with generally accepted accounting principles for each fund that states the:
    - book value and market value of each separately invested asset at the beginning and end of the reporting period; and
    - fully accrued interest for the reporting period;
  - E. state the maturity date of each separately invested asset that has a maturity date;
  - F. state the fund in the Department for which each individual investment was acquired; and

- G. state the compliance of the investment portfolio of the Department as it relates to the investment strategy expressed in the Department's investment policy and relevant provisions of the policy.

The reports prepared by the Investment Officer under this policy shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

2. Performance Standards. The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance will be compared to appropriate benchmarks on a regular basis.
3. Marking to Market. A statement of the market value of the portfolio shall be issued at least quarterly. The Investment Officer will obtain market values from recognized published sources or from other qualified professionals as necessary. This will ensure that a review has been performed on the investment portfolio in terms of value and subsequent price volatility.

#### XIX. AUTHORIZED LIST OF BROKER/DEALERS AND FINANCIAL INSTITUTIONS

Not less than annually, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report outlining the list of authorized broker/dealers and financial institutions maintained by the State Comptroller. The current list is provided in Attachment E.

#### XX. INVESTMENT POLICY ADOPTION

The Department's investment policy shall be adopted by resolution of the Board.

1. Exemptions. Except as provided by Texas Government Code, Chapter 2270, Texas Government Code, Chapter 808, and Texas Government Code, Chapter 809, any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.
2. Amendment. The policy shall be reviewed at least annually by the Board and any amendments made thereto must be approved by the Board. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies.

#### XXI. ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction related to Department funds. The qualified representative of the business organization shall execute a written instrument in a form acceptable to the Department and the business organization, substantially to the effect that the offering business organization has:

1. received and reviewed the investment policy of the Department; and
2. acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the business organization that are not authorized by the Department's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio or requires an interpretation of subjective investment standards.

The Investment Officer of the Department may not buy any securities from a person who has not delivered to the Department an instrument complying with this investment policy. (See sample documents in Attachment "C".)

## XXII. TRAINING

Each member of the Department's Board and the Investment Officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties. Training under this section is provided by the Texas Higher Education Coordinating Board and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this policy. The Investment Officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Department's Board. The Investment Officer shall prepare a report on the training and deliver the report to the Board not later than the 180th day after the last day of each regular session of the legislature.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment A

### STRATEGY

#### SECTION 1

All of the Department's funds as listed below are program / operational in nature, excluding the bond funds which are listed separately in Section 2 below. The following funds are held in the State Treasury and the Department earns interest on those balances at the then applicable rate.

- General Fund
- Trust Funds
- Custodial Funds
- Proprietary Funds (excluding Revenue Bond Funds)

#### SECTION 2

The Department's Revenue Bond Funds, including bond proceeds, are invested in various investments as stipulated by the controlling bond indenture. Certain investments, controlled by indentures prior to the latest revised Public Funds Investment Act, are properly grandfathered from its provisions. Typical investments include: guaranteed investment contracts; agency mortgage-backed securities resulting from the program's loan origination; in some cases, long-term Treasury notes; and bonds used as reserves with maturities that coincide with certain long-term bond maturities.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment B

### POLICY STATEMENTS AND RECOMMENDED PRACTICE

#### Repurchase Agreements

1. Repurchase agreements (“repos”) are the sale by a bank or dealer of government securities with the simultaneous agreement to repurchase the securities on a later date. Repos are commonly used by public entities to secure money market rates of interest.
2. The Department affirms that repurchase agreements are an integral part of its investment program.
3. The Department and its designated Investment Officer should exercise special caution in selecting parties with whom they will conduct repurchase transactions, and be able to identify the parties acting as principals to the transaction.
4. Proper collateralization practices are necessary to protect the public funds invested in repurchase agreements. Risk is significantly reduced by delivery of underlying securities through physical delivery or safekeeping with the purchaser’s custodian. Over-collateralization, commonly called haircut, or marking-to-market practices should be mandatory procedures.
5. To protect public funds the Department should work with securities dealers, banks, and their respective associations to promote improved repurchase agreement procedures through master repurchase agreements that protect purchasers’ interests, universal standards for delivery procedures, and written risk disclosures.
6. Master repurchase agreements should generally be used subject to appropriate legal and technical review. If the prototype agreement developed by the Public Securities Association is used, appropriate supplemental provisions regarding delivery, substitution, margin maintenance, margin amounts, seller representations and governing law should be included.
7. Despite contractual agreements to the contrary, receivers, bankruptcy courts and federal agencies have interfered with the liquidation of repurchase agreement collateral. Therefore, the Department should encourage Congress to eliminate statutory and regulatory obstacles to perfected security interests and liquidation of repurchase collateral in the event of default.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment C

ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

1. I am a qualified representative of \_\_\_\_\_ (the "Business Organization").
2. The Business Organization proposes to engage in an investment transaction (the "Investments") with the Texas Department of Housing and Community Affairs (the "Department").
3. I acknowledge that I have received and reviewed the Department's investment policy.
4. I acknowledge that the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the business organization and the Department that are not authorized by the Department's investment policy.
5. The Business Organization makes no representation regarding authorization of the Investments to the extent such authorization is dependent on an analysis of the Department's entire portfolio and which requires an interpretation of subjective investment standards.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Organization: \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment D

Annual Disclosure Statement for Financial Advisors and Service Providers





---

2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, please explain in detail. (Attach additional sheets as needed.)

---

---

**PART 3: SIGNATURE AND DATE**

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature\_\_\_\_\_ Date\_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment E



**COMPTROLLER OF PUBLIC ACCOUNTS  
 FY 2021 Broker Dealer List  
 October 2020**

- |   |  |
|---|--|
| Amherst Pierpont Securities LLC   | MUFG Securities Americas, Inc.   |
| Barclays Capital Inc.   | Multi-Bank Securities, Inc.  |
| BMO Capital Markets Corp.   | Natalliance Securities LLC   |
| BNP Paribas Securities Corp.  | NatWest Markets Securities Inc.  |
| BNY Mellon Capital Markets LLC.   | Nomura Securities International Inc.                                   |
| B of A Securities, Inc.   | Oppenheimer & Co. Inc.   |
| BOK Financial Services, Inc.  | Piper Sandler & Co.<br>(formerly Piper Jaffray & Co.)                  |
| Brean Capital LLC   | Raymond James & Associates, Inc.                                       |
| Cantor Fitzgerald & Co.   | RBC Capital Markets, LLC   |
| Capital Institutional Services, Inc.  | Rice Securities, LLC   |
| CIBC World Markets Corp.  | Robert W. Baird & Co., Inc.  |
| Citigroup Global Markets, Inc.  | Samuel A. Ramirez & Co., Inc.  |
| Credit Agricole Securities (USA) Inc.                                       | Scotia Capital (USA) Inc.  |
| Daiwa Capital Markets America Inc.  | S.G. Americas Securities LLC   |
| FHN Financial Securities Corp.<br>(formerly FTN Financial Securities Corp.) | Siebert-Williams Shank & Co., LLC<br>(formerly Williams Capital)       |
| Goldman Sachs & Co.   | Signature Securities Group Corporation                                 |
| HSBC Securities (USA) Inc.  | Stern Brothers & Co.   |
| InCapital LLC   | Stifel, Nicolaus & Company Inc.  |
| Jefferies, LLC  | TD Securities (USA) LLC  |
| J.P. Morgan Securities, LLC   | Truist Securities, Inc.<br>(formerly SunTrust Robinson Humphrey, Inc.) |
| Loop Capital Markets LLC  | UBS Securities LLC   |
| Mesirow Financial Group   | Vining-Sparks IGB, L.P.  |
| Mischler Financial Group  | Virtu Americas, LLC  |
| Mizuho Securities USA Inc.  | Wells Fargo Securities, LLC  |
| Morgan Stanley & Co. LLC  | ZB, NA, Investment Division  |

---

Thomas Jefferson Rusk State Office Building    208 East 10<sup>th</sup> Street    Austin, Texas 78701  
 Phone (512) 463-4300    Fax (512) 463-4368

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

As presented to the Board for adoption on April ~~8, 2021~~14, 2022

~~2021~~2022

April ~~8, 2021~~14, 2022

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Table of Contents

I.	Policy	3
II.	Scope	3
III.	Prudence	4
IV.	Investment Priorities	4
V.	Strategies	4
VI.	Delegation of Authority	6
VII.	Ethics and Conflicts of Interest	6
VIII.	Authorized Financial Dealers and Institutions	8
IX.	Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers	9
X.	Authorized and Suitable Investments	12
XI.	Diversification	<del>151</del> <u>6</u>
XII.	Performance Standards	<del>151</del> <u>6</u>
XIII.	Effect of Loss of Required Rating	<del>151</del> <u>6</u>
XIV.	Maximum Maturities	16
XV.	Collateralization	<del>161</del> <u>7</u>
XVI.	Safekeeping and Custody	17
XVII.	Internal Control	<del>171</del> <u>8</u>
XVIII.	Reporting	<del>181</del> <u>9</u>
XIX.	Authorized List of Broker/Dealer and Financial Institutions	<del>192</del> <u>0</u>
XX.	Investment Policy Adoption	<del>192</del> <u>0</u>
XXI.	Acknowledgment of Receipt of Investment Policy	<del>192</del> <u>0</u>
XXII.	Training	<del>202</del> <u>1</u>
Attachment A	Strategy	<del>212</del> <u>2</u>
Attachment B	Policy Statements and Recommended Practice	<del>222</del>

Attachment C	Acknowledgment of Receipt of Investment Policy	<del>232</del> <u>3</u>
Attachment D	Annual Disclosure Statement For Financial Advisors And Service Providers	<del>242</del> <u>5</u>
Attachment E	Comptroller's Approved List of Broker Dealers	<del>272</del> <u>8</u>

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

### I. POLICY

It is the policy of the Texas Department of Housing and Community Affairs (the "Department") to invest public funds in a manner that will provide, by priority, the following objectives:

1. Safety of principal;
2. Sufficient liquidity to meet Department cash flow needs;
3. Market rate of return for the risk assumed; and
4. Conformance to all applicable state statutes governing the investment of public funds including the Department's enabling legislation, Texas Government Code, Chapter 2306, Texas Government Code, Chapter 2263, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, [Chapter 2270, Prohibition of Investing Public Money in Certain Investments](#), [Chapter 808, Prohibition on Investment in Companies that Boycott Israel](#), [Chapter 809, Prohibition on Investment in Financial Companies that Boycott Certain Energy Companies](#), and specifically Texas Government Code, Chapter 2256, the Public Funds Investment Act (the "Act").

It is further the intent of the Department to set forth in this document how all investments will be administered, providing for an all-inclusive document that will ensure consistency and thoroughness in the presentation of such investments, as they affect the Department's presentation of its financial statements.

### II. SCOPE

This investment policy applies to all investments, including both direct investments and investments that are subject to trust indentures created and supplemented in connection with bonds issued by the Department. All of these investments are accounted for in the Department's Comprehensive Annual Financial Report and include the General Fund, Special Revenue Fund, Trust and Agency Fund, and Enterprise Fund.

This investment policy does not apply to investments in instruments that constitute hedges, which include but are not limited to, interest rate swaps, caps, floors, futures contracts, forward contracts, etc., that satisfy the eligibility requirements of a "qualified hedge" as defined by Section 1.148-4(h)(2) of the Internal Revenue Code.

The Department has created and adopted a separate Interest Rate Swap Policy for guidance regarding the use and management of such hedges.

### III. PRUDENCE

Investments shall be made with judgment and care under prevailing circumstances which persons of prudence, discretion and intelligence would exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of capital as well as the probable income to be derived.

The standard of prudence to be used by the investment officers named herein shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. An investment officer acting in accordance with the investment policy and written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### IV. INVESTMENT PRIORITIES

Investment by the Department will be in accordance with the following priorities in order of importance:

1. Understanding the suitability of the investment to the financial requirements of the Department. Suitability is the first priority in the Department's investment strategy, and will be evaluated on an overall basis and as a specific component of each of the remaining priorities;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment should the need arise to liquidate before maturity;
5. Diversification of the investment portfolio; and
6. Yield (after taking into account the previous five priorities).

Such investment will be in accordance with all federal and state statutes, rules, and regulations.

### V. STRATEGIES



The following are the primary strategies for investment activities in order of priority after taking into account the suitability of any investment:

1. Suitability. In accordance with Section 2256.005(d) of the Act, the first priority is the suitability of investment.
2. Preservation and Safety of Principal. Investments of the Department shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk. To achieve this objective, diversification is required so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
  - A. Credit risk is the risk of loss due to the failure of the security issuer or backer, and may be mitigated by:
    - limiting investments to the safest types of securities;
    - pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with whom the Department will do business; and
    - diversifying the investment portfolio to minimize potential losses on individual securities.
  - B. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, and may be mitigated by:
    - structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities in the open market prior to maturity, and
    - investing operating funds primarily in shorter-term securities.
3. Liquidity. The Department's investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow needs. This is accomplished by structuring the portfolio so that securities mature concurrent with estimated or projected cash needs to meet anticipated demands. Since not all cash demands can be fully anticipated or projected with total accuracy, the portfolio should consist largely of securities with active secondary or resale markets, providing a reasonable level of flexibility to deal with unforeseen cash needs.
4. Marketability. The Department will evaluate investment opportunities based on the marketability of each investment to reduce risk in the event the Department needs to liquidate the investment before maturity. Specifically, the Department will take into consideration the activity level of the secondary market for the investment.

5. Diversification. The Department will maintain a diversified investment portfolio. Maturities will be staggered to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
6. Yield. The Department's investment portfolio shall be designed with the objective of attaining a market rate of return through budgetary and economic cycles, taking into account the investment risk constraints and cash flow needs of the Department. Return on investment for short-term operating funds is of less importance than the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:
  - A. A security experiencing or reasonably seen as being at risk of material decline in credit quality could be sold early to minimize the risk of loss of principal;
  - B. A security swap would improve the quality, yield, or target duration of the overall portfolio without creating other material risks or adverse features; or
  - C. Liquidity needs of the portfolio require that the security be sold and there are no preferable alternatives.

## VI. DELEGATION OF AUTHORITY

The Board establishes the investment policy and objectives, obtains expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitors the actions of staff and advisors to ensure compliance with its policy. It is the Board's intention that this policy be carried out by those persons who are qualified and competent in their area of expertise.

Authority to manage the Department's investment program is granted under the provisions of Texas Government Code, Section 2306.052(b) (4) and (5) to the Executive Director of the Department, ("Executive Director"). Responsibility for the operation of the investment program is hereby delegated by the Executive Director to the Director of Bond Finance ~~and Chief Investment Officer~~ and the Director of Administration acting in those capacities (collectively the "Investment Officer") who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer.

## VII. ETHICS AND CONFLICTS OF INTEREST

1. Department employees and Board members must comply with all applicable laws, and should specifically be aware of the following statutes:
  - A. Texas Government Code, ~~Section 825.211, Certain Interests in Loans, Investments or Contracts Prohibited~~; Section 2306.027, Eligibility;
  - B. Texas Government Code, Section 572.051, Standards of Conduct for Public Servants;
  - C. Texas Government Code, Sections 553.001-003, Disclosure by Public Servants of Interest in Property Being Acquired by Government;
  - D. Texas Government Code, Section 552.352, Distribution of Confidential Information;
  - E. Texas Government Code, Section 572.054, Representation by Former Officer or Employee of Regulatory Agency Restricted;
  - F. Texas Penal Code, Chapter 36, Bribery, Corrupt Influence and Gifts to Public Servants; and
  - G. Texas Penal Code, Chapter 39, Abuse of Office, Official Misconduct.

The omission of any applicable statute from this list does not excuse violation of its provisions.

2. Department employees and Board members must be honest in the exercise of their duties and must not take actions which will discredit the Department.
3. Department employees and Board members should be loyal to the interest of the Department to the extent that such loyalty is not in conflict with other duties which legally have priority, and should avoid personal, employment or business relationships that create conflicts of interest.
  - A. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
  - B. Officers and employees shall disclose to the Executive Director any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the Department's investment portfolio.

- C. Officers and employees shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Department.
- D. Department employees and Board members may not use their relationship with the Department to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of the Department as a reference or the communication to others of the fact that a relationship with the Department exists, provided that no misrepresentation is involved.
- E. Department employees and Board members who have a personal business relationship with a business organization offering to engage in an investment transaction with the Department shall file a statement disclosing that personal business interest. An individual who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department shall file a statement disclosing that relationship. A statement required under this section must be filed with the Texas Ethics Commission and the Department's Board. For purposes of this policy, an individual has a personal business relationship with a business organization if:
  - the individual owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
  - funds received by the ~~Investment Officer~~ individual from the business organization exceed 10 percent of the individual's gross income from the previous year; or
  - the individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

#### VIII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Department, (in conjunction with the Texas Comptroller of Public Accounts (the "State Comptroller")) will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness; these may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

The Department will use as its authorized list of broker/dealers and financial institutions any broker/dealer or financial institution that is authorized to do business with the State Comptroller. With respect to investments provided in connection with the issuance of bonds,

the above requirements will be deemed met if the investment provider has the minimum credit ratings required by rating agencies and is acceptable to the bond insurer/credit enhancer, if applicable, and if the investment meets the requirements of the applicable bond trust indenture. A broker, engaged solely to secure a qualified investment referred to in this paragraph on behalf of the Department, and who will not be providing an investment instrument, shall not be subject to the above requirements and may only be engaged if approved by the Board.

IX. ETHICS, ~~AND DISCLOSURE~~ AND OTHER STATE LAW REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

During the 78<sup>th</sup> Legislature, Regular Session, the Texas Legislature passed Chapter 2263, Ethics And Disclosure Requirements For Outside Financial Advisors And Service Providers (“Chapter 2263”). Chapter 2263, under Senate Bill 1059, requires certain actions by governing boards of state entities involved in the management and investment of state funds and adds disclosure requirements for outside financial advisors and service providers. Chapter 2263 became effective September 1, 2003. Each state governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this Act, must have adopted its initial rules in time for the rules to take effect not later than January 1, 2004.

Applicability. Chapter 2263 applies in connection with the management or investment of any state funds managed or invested:

1. under the Texas Constitution or other law, including Chapter 404, State Treasury Operations of Comptroller, and Chapter 2256, Public Funds Investment; and
2. by or for:
  - A. a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;
  - B. an institution of higher education as defined by Section 61.003, Education Code; or
  - C. another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

Chapter 2263 applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

Chapter 2263 does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Definition. With respect to this Chapter 2263, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Construction With Other Law. To the extent of a conflict between Chapter 2263 and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Ethics Requirements For Outside Financial Advisors Or Service Providers. The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

1. may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or
2. render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described immediately above, in regard to compensation or duties, is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

In addition to the disclosures required by Chapter 2263 and described below, the Department will rely upon financial advisors and service providers' submission of an Acknowledgement of Receipt of Investment Policy and Certificate of Compliance with the Public Funds Investment Act forms to evidence compliance with the Department's code of conduct and procedures as related to investments.

Disclosure Requirements For Outside Financial Advisor Or Service Provider. A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

1. any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and
2. all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is

connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

The financial advisor or service provider shall disclose a relationship described by the immediately preceding subsections (1) or (2) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe. The Department's disclosure form is provided as Attachment "D".

The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report related to the immediately preceding subsections (1) or (2).

Public Information. Chapter 552, Government Code, controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or is excepted from required public disclosure.

~~Anti-Boycott Verification~~ No Boycott of Israel. Financial advisors and service providers are required to comply with the requirements of Chapter 2270 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Financial advisors and service providers are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.



No Discrimination Against Fossil-Fuel Companies. Financial advisors and service providers are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session (“SB 13”). Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) not boycott energy companies and (ii) will not boycott energy companies during the term for which they provide services to the Department. As used in the foregoing, the term “boycott energy companies” shall have the meaning given to such term in Section 2274.001(1), Texas Government Code (as enacted by SB 13).

No Discrimination Against Firearm Entities and Firearm Trade Associations. Financial advisors and service providers are required to comply with the requirements of Chapter 2274 of the Texas Government Code (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session (“SB 19”)), Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term for which they provide services to the Department. As used in the foregoing, the terms “discriminate against a firearm entity or firearm trade association”, “firearm entity” and “firearm trade association” shall have the meanings given to each such term in Section 2274.001, Texas Government Code (as enacted by SB 19).

~~Exemption from~~ Disclosure of Interested Parties. Financial advisors and service providers are required to comply with the requirements of ~~Chapter~~ Section 2252.908 of the Texas Government Code. Financial advisors and service providers that make a written representation to the Department that their firm (~~including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate~~) is a publicly traded business entity or a wholly owned subsidiary of publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Financial advisors and service providers are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Financial advisors and service providers must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

## X. AUTHORIZED AND SUITABLE INVESTMENTS

Trust Indenture Funds for which the Department has control of the investment decisions, all of which are held by Treasury Safekeeping for the benefit of bondholders, will be subject to the authorized investments set-forth in the applicable ~~Indenture of Trust~~ trust indenture and any applicable supplemental indenture(s).



General, Special Revenue and Trust and Agency Funds, all of which are on deposit with the State Treasury (specifically excluding Enterprise Funds), are invested by the Treasury pursuant to Texas Government Code, Section 404.024 ~~and Article 5221(f), Subsection 13A(d) as amended relating to Manufactured Housing.~~

### Enterprise Fund

1. Subject to a resolution authorizing issuance of its bonds, the Department is empowered by Texas Government Code, Section 2306.173 to invest its money in bonds, obligations or other securities: or place its money in demand or time deposits, whether or not evidenced by certificates of deposit. A guaranteed investment contract is an authorized investment for bond proceeds. All bond proceeds and revenues subject to the pledge of an Indenture shall be invested in accordance with the applicable law and the provisions of the applicable indenture including "Investment Securities" (or substantially similar defined term) as listed in such ~~Indenture-indenture~~ and so defined.
2. All other enterprise funds shall be invested pursuant to state law. The following are permitted investments for those funds pursuant to the Act:
  - A. Obligations of, or guaranteed by governmental entities:
    - Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including Federal Home Loan Banks.
    - Direct obligations of this state or its agencies and instrumentalities.
    - Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; provided collateralized mortgage obligations (i) that have a stated final maturity date of greater than 10 years; or (ii) the interest rate of which is determined by an index that adjusts opposite to the changes in a market index are not permitted investments.
    - Other obligations the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities.
    - Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
  - B. A Certificate of Deposit is an authorized investment under this policy if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state and is:

- guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor;
- secured by obligations that are described in subsection 2A above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates and secured by collateral as described in Section XII of this policy, but excluding those mortgage backed securities of the nature described by Section 3 below; and
- secured in any other manner and amount provided by law for deposits of the Department.

In addition to the authority to invest funds in certificates of deposit noted above, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this policy:

- the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity, or a broker that has its main office or branch in this state and is selected from the list attached hereto as Attachment E;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
- the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and
- at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor.

- C. A "repurchase agreement" is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date, obligations of the United States or its agencies and instrumentalities at a market value at the time the funds are disbursed of not

less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. The Department will comply with the Policy Statements and Recommended Practices for Repurchase Agreements as outlined in Attachment B. A fully collateralized repurchase agreement is an authorized investment under this policy if the repurchase agreement:

- has a defined termination date;
- is secured by collateral described in Section XV(1) and Section X(2)D [if desired] of this policy;
- requires the securities being purchased by the Department to be pledged to the Department, held in the Department's name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
- is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; and
- in the case of a reverse repurchase agreement, notwithstanding any other law other than the Act, the term of any such reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. In addition, money received by the Department under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

D. Commercial Paper is an authorized investment under this policy if the commercial paper:

- has a stated maturity of 365 days or fewer from the date of its issuance; and
- is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally-recognized credit rating agencies, or one nationally-recognized credit rating agency and is fully secured, and by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

3. The following are not authorized investments pursuant to the Act:

- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

- C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
- D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Divestment. Upon receipt of the lists prepared by the State Comptroller pursuant to Chapter 2270, Texas Government Code, Chapter 808, Texas Government Code, and Chapter 809, Texas Government Code, identifying a financial company in which the Department has funds invested, Department staff shall take all applicable actions required under those Chapters.

## XI. DIVERSIFICATION

The Department will diversify its investments by security type and institution. The amount of required diversification will be determined based upon:

1. The maturity date of the investment – longer maturity dates will require more diversification; and
2. The rating of the underlying investment – lower rated investments will require a greater degree of diversification.

## XII. PERFORMANCE STANDARDS

The investment portfolio shall be designed and managed with the objective of preserving principal and obtaining a rate of return throughout budgetary and economic cycles commensurate with the investment risk constraints and the cash flow needs. The basis used to determine whether market yields are being achieved shall be the three-month U.S. Treasury bill.

## XIII. EFFECT OF LOSS OF REQUIRED RATING

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Department shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not meet or exceed the minimum rating. Still further, the Investment Officer is required to review monthly all investments subject to this policy to ensure that there have been no rating changes which would render such investment in violation of this policy.

## XIV. MAXIMUM MATURITIES

To the extent possible, the Department will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Department will not

directly invest in securities maturing more than five years from the date of purchase. The Department will periodically determine what the appropriate average weighted maturity of the portfolio should be based on anticipated cash flow requirements.

General funds dedicated to the support of single family programs may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of funds.

In addition, funds may be invested in any investments that are being sold from a bond indenture or are the result of the operation of the Department's single family program so long as:

1. such investment furthers the goals of that program;
2. the Investment Officer receives Board approval prior to undertaking such investment.

## XV. COLLATERALIZATION

Collateralization will be required on certificates of deposit, repurchase and reverse repurchase agreements, and savings and demand deposits if not insured by FDIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level should be at least 101% of the market value of principal and accrued interest for repurchase and reverse repurchase agreements. Collateralization of 100% will be required for overnight repurchase agreements and bank deposits in excess of FDIC insurance.

The following obligations may be used as collateral under this policy:

1. obligations of the United States or its agencies and instrumentalities;
2. direct obligations of this state or its agencies and instrumentalities;
3. collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities; and
5. obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally-recognized investment rating firm not less than A or its equivalent.

Collateral will always be held by an independent third party with whom the Department has a current custodial agreement. A clearly marked evidence of ownership or a safekeeping receipt must be supplied to the Department and retained. The right of collateral substitution is granted subject to prior approval by the Investment Officer.

## XVI. SAFEKEEPING AND CUSTODY

All security transactions, including collateral for repurchase agreements, entered into by the Department will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

## XVII. INTERNAL CONTROL

The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that:

1. the cost of a control should not exceed the benefits likely to be derived; and
2. the valuation of costs and benefits requires estimates and judgments by management.

Once every two years, the Department, in conjunction with its annual financial audit, shall have external/internal auditors perform a compliance audit of management controls on investments and adherence to the Department's established investment policies. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the person who records or otherwise accounts for the transaction, a separation of duties is achieved.
3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral as defined by state law shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control

structure that is contingent on the various staff positions and their respective responsibilities.

6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions must be supported by written communications and approved by the appropriate person, as defined by investment internal control procedures. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
7. Development of a wire transfer agreement with the lead bank or third party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

The Department's external/internal auditors shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The Office of the State Auditor compiles the results of reports received under this subsection and reports those results to the legislative audit committee once every two years.

#### XVIII. REPORTING

1. Methods. Not less than quarterly, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report of investment transactions for all funds covered by this policy for the preceding reporting period; including a summary that provides a clear picture of the status of the current investment portfolio and transactions made over the previous reporting period. This report will be prepared in a manner which will allow the Department and the Board to ascertain whether investment activities during the reporting period have conformed to the investment policy. While not required under the Act, this report will provide information regarding investments held under bond trust indentures as well as investments covered under the Act. The report must:
  - A. describe in detail the investment position of the Department on the date of the report;
  - B. be prepared jointly by each Investment Officer of the Department;
  - C. be signed by each Investment Officer of the Department;
  - D. contain a summary statement, prepared in compliance with generally accepted accounting principles for each fund that states the:
    - book value and market value of each separately invested asset at the beginning and end of the reporting period; and

- fully accrued interest for the reporting period;
- E. state the maturity date of each separately invested asset that has a maturity date;
- F. state the fund in the Department for which each individual investment was acquired; and
- G. state the compliance of the investment portfolio of the Department as it relates to the investment strategy expressed in the Department's investment policy and relevant provisions of the policy.

The reports prepared by the Investment Officer under this policy shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

2. Performance Standards. The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance will be compared to appropriate benchmarks on a regular basis.
3. Marking to Market. A statement of the market value of the portfolio shall be issued at least quarterly. The Investment Officer will obtain market values from recognized published sources or from other qualified professionals as necessary. This will ensure that a review has been performed on the investment portfolio in terms of value and subsequent price volatility.

#### XIX. AUTHORIZED LIST OF BROKER/DEALERS AND FINANCIAL INSTITUTIONS

Not less than annually, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report outlining the list of authorized broker/dealers and financial institutions maintained by the State Comptroller. The current list is provided in Attachment E.

#### XX. INVESTMENT POLICY ADOPTION

The Department's investment policy shall be adopted by resolution of the Board.

1. Exemptions. Except as provided by Texas Government Code, Chapter 2270, [Texas Government Code, Chapter 808, and Texas Government Code, Chapter 809](#), any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.



2. Amendment. The policy shall be reviewed at least annually by the Board and any amendments made thereto must be approved by the Board. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies.

#### XXI. ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction related to Department funds. The qualified representative of the business organization shall execute a written instrument in a form acceptable to the Department and the business organization, substantially to the effect that the offering business organization has:

1. received and reviewed the investment policy of the Department; and
2. acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the business organization that are not authorized by the Department's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio or requires an interpretation of subjective investment standards.

The Investment Officer of the Department may not buy any securities from a person who has not delivered to the Department an instrument complying with this investment policy. (See sample documents in Attachment "C".)

#### XXII. TRAINING

Each member of the Department's Board and the Investment Officer ~~who are in office on September 1, 1996 or who assume such duties after September 1, 1996,~~ shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties. Training under this section is provided by the Texas Higher Education Coordinating Board and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this policy. The Investment Officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Department's Board. The Investment Officer shall prepare a report on the training and deliver the report to the Board not later than the 180th day after the last day of each regular session of the legislature.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment A

### STRATEGY

#### SECTION 1

All of the Department's funds as listed below are program / operational in nature, excluding the bond funds which are listed separately in Section 2 below. The following funds are held in the State Treasury and the Department earns interest on those balances at the then applicable rate.

General Fund

Trust Funds

~~Agency-Custodial~~ Funds

Proprietary Funds (excluding Revenue Bond Funds)

#### SECTION 2

The Department's Revenue Bond Funds, including bond proceeds, are invested in various investments as stipulated by the controlling bond indenture. Certain investments, controlled by indentures prior to the latest revised Public Funds Investment Act, are properly grandfathered from its provisions. Typical investments include: guaranteed investment contracts; agency mortgage-backed securities resulting from the program's loan origination; in some cases, long-term Treasury notes; and bonds used as reserves with maturities that coincide with certain long-term bond maturities.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment B

### POLICY STATEMENTS AND RECOMMENDED PRACTICE

#### Repurchase Agreements

1. Repurchase agreements (“repos”) are the sale by a bank or dealer of government securities with the simultaneous agreement to repurchase the securities on a later date. Repos are commonly used by public entities to secure money market rates of interest.
2. The Department affirms that repurchase agreements are an integral part of its investment program.
3. The Department and its designated Investment Officer should exercise special caution in selecting parties with whom they will conduct repurchase transactions, and be able to identify the parties acting as principals to the transaction.
4. Proper collateralization practices are necessary to protect the public funds invested in repurchase agreements. Risk is significantly reduced by delivery of underlying securities through physical delivery or safekeeping with the purchaser’s custodian. Over-collateralization, commonly called haircut, or marking-to-market practices should be mandatory procedures.
5. To protect public funds the Department should work with securities dealers, banks, and their respective associations to promote improved repurchase agreement procedures through master repurchase agreements that protect purchasers’ interests, universal standards for delivery procedures, and written risk disclosures.
6. Master repurchase agreements should generally be used subject to appropriate legal and technical review. If the prototype agreement developed by the Public Securities Association is used, appropriate supplemental provisions regarding delivery, substitution, margin maintenance, margin amounts, seller representations and governing law should be included.
7. Despite contractual agreements to the contrary, receivers, bankruptcy courts and federal agencies have interfered with the liquidation of repurchase agreement collateral. Therefore, the Department should encourage Congress to eliminate statutory and regulatory obstacles to perfected security interests and liquidation of repurchase collateral in the event of default.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment C

ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

1. I am a qualified representative of \_\_\_\_\_ (the "Business Organization").
2. The Business Organization proposes to engage in an investment transaction (the "Investments") with the Texas Department of Housing and Community Affairs (the "Department").
3. I acknowledge that I have received and reviewed the Department's investment policy.
4. I acknowledge that the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the business organization and the Department that are not authorized by the Department's investment policy.
5. The Business Organization makes no representation regarding authorization of the Investments to the extent such authorization is dependent on an analysis of the Department's entire portfolio and which requires an interpretation of subjective investment standards.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Organization: \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment D

Annual Disclosure Statement for Financial Advisors and Service Providers



---

2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain in detail. (Attach additional sheets as needed.)

---

---

**PART 3: SIGNATURE AND DATE**

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature \_\_\_\_\_ Date \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment E





**COMPTROLLER OF PUBLIC ACCOUNTS  
FY 2021 Broker Dealer List  
October 2020**

- |   |  |
|---|--|
| Amherst Pierpont Securities LLC   | MUFG Securities Americas, Inc.   |
| Barclays Capital Inc.   | Multi-Bank Securities, Inc.  |
| BMO Capital Markets Corp.   | Natalliance Securities LLC   |
| BNP Paribas Securities Corp.  | NatWest Markets Securities Inc.  |
| BNY Mellon Capital Markets LLC.   | Nomura Securities International Inc.                                   |
| B of A Securities, Inc.   | Oppenheimer & Co. Inc.   |
| BOK Financial Services, Inc.  | Piper Sandler & Co.<br>(formerly Piper Jaffray & Co.)                  |
| Brean Capital LLC   | Raymond James & Associates, Inc.                                       |
| Cantor Fitzgerald & Co.   | RBC Capital Markets, LLC   |
| Capital Institutional Services, Inc.  | Rice Securities, LLC   |
| CIBC World Markets Corp.  | Robert W. Baird & Co., Inc.  |
| Citigroup Global Markets, Inc.  | Samuel A. Ramirez & Co., Inc.  |
| Credit Agricole Securities (USA) Inc.                                       | Scotia Capital (USA) Inc.  |
| Daiwa Capital Markets America Inc.  | S.G. Americas Securities LLC   |
| FHN Financial Securities Corp.<br>(formerly FTN Financial Securities Corp.) | Siebert-Williams Shank & Co., LLC<br>(formerly Williams Capital)       |
| Goldman Sachs & Co.   | Signature Securities Group Corporation                                 |
| HSBC Securities (USA) Inc.  | Stern Brothers & Co.   |
| InCapital LLC   | Stifel, Nicolaus & Company Inc.  |
| Jefferies, LLC  | TD Securities (USA) LLC  |
| J.P. Morgan Securities, LLC   | Truist Securities, Inc.<br>(formerly SunTrust Robinson Humphrey, Inc.) |
| Loop Capital Markets LLC  | UBS Securities LLC   |
| Mesirow Financial Group   | Vining-Sparks IGB, L.P.  |
| Mischler Financial Group  | Virtu Americas, LLC  |
| Mizuho Securities USA Inc.  | Wells Fargo Securities, LLC  |
| Morgan Stanley & Co. LLC  | ZB, NA, Investment Division  |

---

Thomas Jefferson Rusk State Office Building    208 East 10<sup>th</sup> Street    Austin, Texas 78701  
Phone (512) 463-4300    Fax (512) 463-4368

1f

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department, an order adopting new §1.1 Reasonable Accommodation Requests to the Department, and an order directing their publication for adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to satisfy Tex. Gov't Code §2306.066(e), which requires the Executive Director to prepare a written plan to provide persons with disabilities an opportunity to participate in the Department's programs, and in accordance with the Fair Housing Act, and other federal and state civil rights laws;

**WHEREAS**, the current rule relating to the handling of reasonable accommodation requests to the Department is in need of revisions to bring several definitions into concurrence with definitions in other Department rules, include phone number and email as requested contact information, clarify the process to be used in the handling of Reasonable Accommodations by staff, allow staff to grant approvals of Reasonable Accommodation requests, and make other minor non-substantive revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be

adopted and published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

### **BACKGROUND**

The Department last amended 10 TAC §1.1, Reasonable Accommodation Requests, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed: update definitions including bringing several definition into concurrence with definitions in other Department rules, include phone number and email as requested contact information, clarify the process to be used in the handling of Reasonable Accommodations by staff, allow staff to grant approvals of Reasonable Accommodation requests, and make other minor non-substantive revisions.

The rule, as proposed, was released for public comment from February 25, 2022, through March 25, 2022. No comment was received and staff is recommending approval without changes from the version proposed.

**Attachment 1: Preamble, including required analysis, for adoption of the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department**

The Texas Department of Housing and Community Affairs (the Department) adopts without changes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the handling of requests for reasonable accommodations.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.1 Reasonable Accommodation Requests to the Department

**Attachment 2: Preamble, including required analysis, for new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department**

The Texas Department of Housing and Community Affairs (the Department) adopts without changes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department. The purpose of the rule is to: update definitions including bringing several definition into concurrence with definitions in other Department rules, include phone number and email as requested contact information, clarify the process to be used in the handling of Reasonable Accommodations by staff, allow staff to grant approvals of Reasonable Accommodation requests, and make other minor non-substantive revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the handling of requests for reasonable accommodations.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand or contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period will be held from February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.



## **§1.1 Reasonable Accommodation Requests to the Department**

(a) Purpose. The purpose of this section is to establish the procedures by which a Requestor may ask that a Reasonable Accommodation is made to the Department. For rules governing the handling of reasonable accommodation requests and responsibilities of entities receiving funds or resources from the Department see Subchapter B, §1.204 of this Chapter, relating to Reasonable Accommodations. This rule is statutorily authorized by Tex. Gov't Code, 2306.066(e), which requires the Executive Director to prepare a written plan to provide persons with disabilities an opportunity to participate in the Department's programs, and in accordance with the Fair Housing Act, and other federal and state civil rights laws.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The Governing Board of the Texas Department of Housing and Community Affairs.

(2) Program Manager or Director--Department staff member supervising the division or area of a division containing the program for which a Reasonable Accommodation is being requested.

(3) 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. Included in this meaning is the term handicap as defined in the Fair Housing Act, or the term disability as defined in the Americans with Disabilities Act.

(4) Fair Housing Act--Fair Housing Act of 1968, also known as Title VIII of the Civil Rights Act of 1968.

(5) Reasonable Accommodation--An accommodation and/or modification that is an alteration, change, exception, or adjustment to a program, policy, service, building, or 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.

(6) Requestor--Includes applicants, members of the public, clients of Department programs, program participants, or their representatives.

(7) Section 504--Section 504 of the Rehabilitation Act of 1973, as amended.

(c) Procedures.

(1) The Requestor of the Reasonable Accommodation shall submit a request to the Division Manager or Director or their designee. A request does not have to be in writing. A request can be made in a face-to-face conversation with a Division Manager or Director or their designee, or using any other method of communication. A request is any communication in which an individual clearly asks or states that they need the Department to provide or to change something because of a Disability.

(2) The request, whether oral or written, must contain, at minimum:

(A) The Department program or procedure for which an accommodation is being requested;

(B) Household information to include name, address, phone number and email address, if available;

(C) Description of the Reasonable Accommodation being requested; and

(D) Reason the Reasonable Accommodation is necessary.

(E) In the case of oral requests, the Division Manager or Director will create a written summary of the request.

(3) The Division Director may coordinate with the Department's Fair Housing subject matter experts as needed. The supervising Director may ask for additional information from the Requestor. Staff should address Reasonable Accommodations requests promptly. If making the requested Reasonable Accommodation would require the Department to incur an expense, the Division Director will first confirm that the Reasonable Accommodation expense will not cause the Division to exceed their approved budget or, if additional measures beyond those within budget are required, that they are promptly considered and a compliant decision made. Upon having the applicable information, the Division Director or Manager and Fair Housing subject matter experts, as needed, will determine:

(A) If the proposed Reasonable Accommodation is covered under Section 504 and/or the Fair Housing Act, or any other federal or state law; and

(B) Whether to approve the request, or recommend to the Executive Director an alternative Reasonable Accommodation or denial. Any approval that would require Board action will first be presented to the Executive Director.

(4) If not approved as requested or if the approval requires Board action, the request and recommendation will then be sent to the Executive Director or their designee, resulting in one of the following steps:

(A) The Executive Director adopts an alternative Reasonable Accommodation to the Requestor;

(B) The Executive Director concurs that Board action is necessary and presents the request and recommendation at an ensuing Board meeting. The Executive Director can choose to include a recommendation for or against the request; or

(E) The Executive Director denies the request. In the case of a denial, the Requestor can ask that their request be placed on the agenda for the next available Board meeting for a final Board determination.

1g

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department, an order adopting new §1.2 Department Complaint Process, and an order directing their publication for adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to continue to provide a clear process by which interested parties may file complaints to the Department;

**WHEREAS**, the current rule relating to the handling of complaints is in need of revisions to update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the actions herein in the form presented to this meeting, to be published in the *Texas Register* for adoption, and in connection therewith, make such non-substantive

technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

### **BACKGROUND**

The Department last amended 10 TAC §1.2, Department Complaint System to the Department, in September 2018.

Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed: update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions. Additionally staff is revising the title of this rule from 'Department Complaint System to the Department' to 'Department Complaint Process.'

The rule, as proposed, was released for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

**Attachment 1: Preamble, including required analysis, for repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department**

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the process to be used for persons wishing to file a complaint with the Department.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from February 25, 2022, to March 25, 2022, to receive input on the action. No comment was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.2 Department Complaint System to the Department

**Attachment 2: Preamble, including required analysis, for new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint Process**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint Process without changes. The purpose of the proposed rule is to: update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the process to be used for persons wishing to file a complaint with the Department.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand or contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**



The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

## §1.2 Department Complaint Process

(a) Purpose. The purpose of this section is to establish the procedures by which complaints are filed with the Department and how the Department handles those complaints under Department jurisdiction in compliance with Tex. Gov't Code §2306.066, Tex. Gov't Code, Chapter 2105, Subchapter C, and 24 CFR §91.115(h), as applicable.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Complainant--A Person filing a Complaint.

(2) Complaint--A complaint submitted to the Department in writing (via mailed letter, fax, email, or submitted online through the Department website) from a person that believes the Department has the authority to resolve the issue.

(3) Complaint Coordinator--Department employee designated by the Executive Director or their designee to monitor the Public Complaint System and coordinate activities related to complaints.

(4) Complaint Liaison--the Department employee(s) designated by each division or program to handle each division or program's complaint-related issues.

(5) Department--The Texas Department of Housing and Community Affairs.

(6) Person--Any individual, other than an employee of the Department, and any partnership, corporation, association, governmental subdivision, or public or private organization of any character.

(7) Public Complaint System--Department-created system used to track complaints received by the Department.

(c) Applicability. Except as specifically adopted in whole or in part by rule or contractual provision this rule is not applicable to:

(1) consumer complaints relating to manufactured housing which are alternatively addressed by §80.73 of this title relating to Manufactured Housing Procedures for Handling Consumer Complaints; and

(2) Complaints filed in association with temporary Department programs for which a separate Complaint process has been established.

(d) Procedures.

(1) Complaint Submission. A Person who has a Complaint may submit such Complaint in writing to the Department, which will be directed to a Complaint Coordinator. If an accommodation because of a disability is needed in relation to the process of filing of a Complaint, the Person interested in filing the Complaint should refer to 10 TAC §1.1, Reasonable Accommodation Requests to the Department; if assistance is needed for non-English speaking persons, the Person interested in filing the Complaint should access the Department's Language Assistance webpage (<https://www.tdhca.state.tx.us/lap.htm>).

(2) Upon receipt of a Complaint:

(A) A Complaint Coordinator will enter the complaint in the Public Complaint System.

(B) A Complaint Coordinator will review the Complaint and as needed, forward the Complaint to the appropriate program or division Complaint Liaison(s).

(C) Notwithstanding any other provisions of this subsection, in the case of Complaints received by the Department in which no method of contacting the Complainant was provided, the Complaint Coordinator will close the Complaint in the Public Complaint System and provide a copy of the Complaint to the applicable program or division for informational purposes only.

(D) A Complaint Coordinator may also identify whether a Complaint received involves a potential Reasonable Accommodation request involving a Department recipient or property; in such cases the

Complaint will be handled as provided for in §1.204 of this chapter relating to Reasonable Accommodations.

(E) Complaints that have potential Fair Housing Act violations may, at the Department's discretion, be also referred to the Texas Workforce Commission's Civil Rights Division.

(F) The Department will notify the Complainant of the status of the Complaint at least quarterly until there is a disposition of the Complaint, which is the final determination; there is no further process available, except as otherwise provided in state or federal law.

(3) A Complaint Liaison will research and evaluate the issues identified in the Complaint, and then resolve and close the Complaint. The Complaint Liaison will enter in the Public Complaint System summaries of each contact made with the Complainant and any actions taken leading to complaint resolution. (4) The Complaint Coordinator may submit periodic summary reports or analysis to the Executive Director or designee.

(5) The Department will provide to the Person filing the Complaint, and to each Person who is a subject of the Complaint (to the extent contact information is available), a link to this rule, which serves as the Department's policy and procedures relating to complaint investigation and resolution.

(6) The Department will either notify the Complainant of the resolution of the Complaint within 15 business days after the date the Complaint was received by the Department, or notify the Complainant, within such period, of the date the Complainant can expect a response to the Complaint.

(7) Additional Complaints submitted by the same Complainant describing an issue which has previously been closed, had a final resolution, and for which there is no substantively new information presented, will be considered resolved by the Department. A letter to this effect will be sent to the Complainant by the Department. In such cases, a new Complaint will not be opened in the system.

(8) An information file about each Complaint will be maintained. The file must include:

(A) the Complaint number;

(B) the name of the Complainant;

(C) the date the Complaint was received by the Department;

(D) the subject matter of the Complaint;

(E) the name of each Person contacted in relation to the Complaint, if applicable;

(F) a summary of the results of the review of the Complaint;

(G) the date the Complaint was closed; and

(H) an explanation of the final resolution of the Complaint including the reason the file was closed.

(9) A Complaint may be withdrawn by the Complainant at any time.

(10) A Complainant may request and receive from the Department copies of any documentation or records collected by the Department with regard to the Complaint, subject to the Texas Public Information Act.

(11) Adherence to these procedures is not required by the Department if another procedure is required by law, or if the following of a procedure above would jeopardize an audit or Government investigation.

1h

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors, and directing its publication for readoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.4, Protest Procedures for Contractors, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to comply with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to readopt the rule as required by Tex. Gov't Code, §2001.039 as part of the four-year rule review process; and

**WHEREAS**, such proposed action was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to adopt the action herein in the form presented to this meeting, for it to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

**BACKGROUND**

The Department last amended 10 TAC §1.4, Protest Procedures for Contractors, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule was made available for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Adoption of Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.4, Protest Procedures for Contractors**

The Texas Department of Housing and Community Affairs (the Department) adopts its rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.4, Protest Procedures for Contractors. The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

The Department has determined that there continues to be a need for this rule, which is to comply with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule has been readopted which will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Comments or questions about the rule review were accepted from February 25, 2022, through March 25, 2022. No comment was received.

## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.4, Protest Procedures for Contractors**

(a) Purpose. The purpose of this rule provides for the Department's compliance with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The Governing Board of the Department.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Interested Parties-- All vendors who have submitted bids or proposals for the contract involved. A list of interested parties is available upon request from the Department.

(4) Protest--A written objection submitted to the Department by any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a procurement contract by the Department.

(c) These procedures are for Department procurements only. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with a solicitation, evaluation, or award may formally protest to the Department's Purchasing Officer.

(d) To be considered timely, the Protest must be filed in accordance with the requirements of 34 TAC §20.535(b).

(e) To be considered complete, the Protest must be in writing, signed by an authorized representative, notarized, and contain:

(1) a specific identification of the statutory or regulatory provision(s) that the Person submitting the Protest alleges to have been violated;

(2) a specific description of each act made by the Department that the Person submitting the Protest alleges to have been violated specified in the statutory or regulatory provision(s) identified in paragraph (1) of this Subsection;

(3) a precise statement of the relevant facts including:

(A) sufficient documentation to establish that the Protest has been timely filed;

(B) a description of the adverse impact to the Department or the state; and

(C) a description of the resulting adverse impact to the protesting vendor;

(4) a statement of the argument and authorities that the Person submitting the Protest offers in support of the Protest;

(5) an explanation of the subsequent action the Person submitting the Protest is requesting; and

(6) except for a Protest that concerns the solicitation documents or actions associated with the publication of solicitation documents, a statement confirming that copies of the Protest have been mailed or delivered to other identifiable Interested Parties.

(f) The Purchasing Officer shall have the initial authority to settle and resolve the Dispute concerning the solicitation or award of a contract. The Purchasing Officer may dismiss the Protest if it is not timely filed or does not meet the requirements of this section. The Purchasing Officer may solicit written responses to the Protest from other Interested Parties.



(g) If the Protest is not resolved by mutual agreement, the Purchasing Officer will provide a written recommendation to the Department's Executive Director.

(h) The Executive Director shall issue a final written determination on the Protest within 15 calendar days after receipt of the Purchasing Officer's recommendation in accordance with the requirements of 34 TAC §20.537(c).

(i) In the alternative, the Executive Director may, in his or her discretion, refer the matter to the Department's Governing Board for their consideration at a regularly scheduled meeting. The decision of the Board shall be final.

(j) A protesting party may appeal the determination of the Executive Director under Subsection (g) of this section to the Department's Governing Board. An appeal of the Executive Director's determination must be in writing and received by the Purchasing Officer not later than 10 calendar days after the date the Executive Director sent written notice of their determination. The scope of the appeal shall be limited to review of the Executive Director's determination. The protesting party must mail or deliver to all other interested parties a copy of the appeal, which must contain a certified statement that such copies have been provided.

(1) The appeal will be presented for consideration at the next regularly scheduled meeting of the Governing Board. The decision of the Governing Board shall be final.

(2) An appeal that is not filed timely shall not be considered unless good cause for delay is shown in writing relating to issues that are significant to agency procurement practices or procedures, or the Department's General Counsel makes such a determination.

(k) All documents collected by the Department as part of a solicitation, evaluation, and/or award of a contract shall be retained with the procurement file according to Department's Records Retention Schedule.

(l) The Department reserves all of its rights under 34 TAC §20.536. The Department may award a solicitation or award without delay, in spite of a timely filed Protest, to protect the best interests of the state.

1i

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review ordering re-adoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.6, Historically Underutilized Businesses, and directing its publication for re-adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.6, Historically Underutilized Businesses, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to encourage the use of Historically Underutilized Businesses (HUBs) in the Department's procurement processes and to comply with Tex. Gov't Code §2161.003, which requires that the Department adopt the Texas Comptroller of Public Accounts HUB Program rules;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to submit the adoption of the rule as required by Tex. Gov't Code, §2001.039 as part of the four-year rule review process; and

**WHEREAS**, such proposed action was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the action herein in the form presented to this meeting, to be published in the *Texas Register* for adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.6, Historically Underutilized Businesses, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule was made available for public comment from February 25, 2022, through March 25, 2022. No comment was received.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.6, Historically Underutilized Businesses**

The Texas Department of Housing and Community Affairs (the Department) files this adoption of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.6, Historically Underutilized Businesses. The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to encourage the use of Historically Underutilized Businesses (HUBs) in the Department's procurement processes and to comply with Tex. Gov't Code §2161.003, which requires that the Department adopt the Texas Comptroller of Public Accounts HUB Program rules. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule has been readopted and will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

SUMMARY PUBLIC COMMENT. Comments or questions regarding the rule review were open to be submitted from February 25, 2022, through March 25, 2022. No comment was received.

## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.6, Historically Underutilized Businesses**

It is the policy of the Department to encourage the use of Historically Underutilized Businesses ("HUB") in the Department's procurement processes. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the 2009 State of Texas Disparity Study. As required by Tex. Gov't Code §2161.003, the Department adopts the Texas Comptroller of Public Accounts ("Comptroller") HUB Program rules at 34 TAC §§20.281 - 20.298 (relating to Historically Underutilized Business Program, and as may be amended by the Comptroller so far as the amendments are implementing Tex. Gov't Code §2161.003), which describe the minimum steps and requirements to be undertaken by the Comptroller and state agencies to fulfill the state's HUB policy, and attain aspirational goals identified in the Texas Disparity Study.

1j

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12, Negotiated Rulemaking, and directing its publication for readoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.12, Negotiated Rulemaking, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to satisfy Tex. Gov't Code §2306.082, which requires the Department to encourage negotiated rulemaking;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to submit the readoption of the rule as required by Tex. Gov't Code §2001.039 as part of the four-year rule review process; and

**WHEREAS**, such proposed action was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to adopt the action herein in the form presented to this meeting, for it to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.



## **BACKGROUND**

The Department last amended 10 TAC §1.12, Negotiated Rulemaking, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. The rule was made available for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking**

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking. The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage negotiated rulemaking. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule has been readopted, which will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Comments or questions in response to this notice of rule review could be submitted from February 25, 2022, through March 25, 2022. No comments were received.

## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.12, Negotiated Rulemaking**

(a) Purpose. In accordance with Tex. Gov't Code §2306.082, the Department encourages the use of negotiated rulemaking procedures for the adoption of Department rules. Tex. Gov't Code Chapter 2008 describes the procedures for negotiated rulemaking including appointment of a convener; publishing notice of proposed negotiated rulemaking and requesting comments on the proposal; appointing a negotiated rulemaking committee; appointing an impartial third party facilitator; and proposing the resulting draft rule for public comment.

(b) Request for Negotiated Rulemaking Process.

(1) Any person or organization that would like for the Department to use negotiated rulemaking for the adoption of a Department rule may submit such a request to the Department's Board Secretary. The proposal must identify: the rule proposed for negotiated rulemaking, potential participants for the negotiated rulemaking committee, possible third party facilitators, and a suggested timeline for the process. The Department may also on its own propose to use negotiated rulemaking.

(2) In determining whether a proposed negotiated rulemaking is appropriate in a particular situation, the Department and interested parties may consider any relevant factors, including:

(A) The number of identifiable interests that would be significantly affected by the proposed rule;

(B) The probability that those interests would be adequately represented in a negotiated rulemaking;

(C) The probable willingness and authority of the representatives of affected interests to negotiate in good faith;

(D) The probability that a negotiated rulemaking committee would reach a unanimous or a suitable general consensus on the proposed rule;

(E) The probability that negotiated rulemaking will not unreasonably delay notice and eventual adoption of the proposed rule;

(F) The adequacy of agency and public resources to participate in negotiated rulemaking; and

(G) The probability that the negotiated rulemaking committee will provide a balanced representation among all interested and affected parties. (Tex. Gov't Code §2008.052(d)).

(3) The Department generally will respond to the request within seven calendar days. If the negotiated rulemaking is not pursued, the Department will provide the party making the request with an explanation for the basis of the decision.

(c) If the Department decides to proceed with a negotiated rulemaking, it shall follow the process outlined in Tex. Gov't Code Chapter 2008 and costs associated with the negotiated rulemaking process will be handled as specified in Tex. Gov't Code §2008.003.

1k

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures, an order adopting new §1.13 Contested Case Hearing Procedures, and directing their publication for adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to provide clear procedures for contested case hearings;

**WHEREAS**, the current rule relating to contested case hearings is in need of revisions to improve clarity, revise how notice will be served, and to denote that a hearing may be initiated at the request of the Board;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register* for adoption and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.13, Contested Case Hearing Procedures, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed improve clarity, revise how notice will be served, and denote that a hearing may be initiated at the request of the Board. The rule, as proposed, was released for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

**Attachment 1: Preamble, including required analysis, for adoption of repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures**

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the procedures to be used in the case of contested case hearings.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be a more clear rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 25, 2022, to March 25, 2022, to receive input on the proposed action and no comment was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.13 Contested Case Hearing Procedures



**Attachment 2: Preamble, including required analysis, for adoption of new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures. The purpose of the new rule is to improve clarity, revise how notice will be served, and to denote that a hearing may be initiated at the request of the Board.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the procedures to be used in the case of contested case hearings.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand or contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a more clear rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 25, 2022, to March 25, 2022, to receive input on the proposed action and no comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

### **§1.13 Contested Case Hearing Procedures**

(a) Purpose. The purpose of this section is to provide procedures for contested case hearings. This section does not apply to matters such as appeals to the Board of staff decisions or waivers, and this section does not in itself create any right to a contested case hearing, but merely provides the process to be used for contested case hearings that are otherwise expressly provided for by law or rule.

(b) SOAH Designation. The Governing Board (the Board) of the Texas Department of Housing and Community Affairs (the Department) designates the State Office of Administrative Hearings (SOAH) to hold all contested case hearings on the Board's behalf.

(c) Initiation of Hearing.

(1) Upon request from the Board or upon receipt of a pleading or other document that is intended to initiate a contested case proceeding, the Department shall determine if a contested case hearing is indicated under the relevant statutory provisions and rules. If so, staff will mark the file as a pending proceeding and refer the matter to SOAH for hearing generally within 45 calendar days, or such other lesser time as an applicable state or federal statute, rule, or regulation may require. The Department will notify the opposing party of any delay.

(2) SOAH shall acquire jurisdiction over a case when the Department completes and files a Request to Docket Case form or other form acceptable to SOAH, together with the notice of report to the Board required under Tex. Gov't. Code §2306.043 or other pertinent documents giving rise to the case. Once SOAH acquires jurisdiction, all subsequent documents created, sent, or received in connection with the proceeding that SOAH requires to be filed with it are to be filed with SOAH, with appropriate service upon the opposing party in accordance with this section and the rules of SOAH.

(3) Except upon a showing of good cause or as an applicable statute or federal regulation may require, all contested case hearings in which the Department is a party shall be held at the location so determined by SOAH.

(4) Nothing in this subchapter shall in any way limit, alter, or abridge the ability of the Department to enter into mediation or alternative dispute resolution at any time prior to or after the holding of the administrative hearing but prior to the adoption by the Board of a final order.

(d) Service of Notice of Hearing, Pleadings and Other Documents on Parties.

(1) Service of a notice of hearing or of pleadings or other documents shall be made electronically using the EFileTexas system (found at [efiletexas.gov](http://efiletexas.gov)). If EFileTexas is not available to a party, hand delivery, courier-receipted delivery, regular first class mail or certified mail to the party's last known address as shown on the Department's records, in accordance with §1.22 of this Title (relating to Providing Contact Information to the Department) shall be used.

(2) Service of pleadings and other documents shall be made in any manner provided for in SOAH rules.

(e) Proposal for Decision.

(1) After the conclusion of a hearing, the Administrative Law Judge (ALJ) shall prepare and serve on the parties a proposal for decision that includes the ALJ's findings of fact and conclusions of law, as modified by the ALJ's addressing of any exceptions and replies to exceptions timely filed with the ALJ in accordance with Tex. Gov't. Code §2001.062 and SOAH rules. The Executive Director shall place the proposal for decision and a proposed final order on the Board's agenda for discussion and possible action at a subsequent meeting of the Board.

(2) At a meeting of the Board where the proposed final order may be adopted, parties may provide testimony based on the record only, for changes to the proposal for decision or the proposed final order. No new evidence shall be submitted at the Board meeting. The Board may, on its own motion, remand to SOAH for any additional fact finding it determines is necessary, or, the Board may change a finding of fact or conclusion of law made by the ALJ, but only for reasons stated in Tex. Gov't. Code §2001.058(e). The Board may adopt a final order if it finds that the findings of fact and conclusions of law are supported by the evidence. Motions for rehearing may be filed and served in accordance with the Tex. Gov't. Code Chapter 2001 and the rules of SOAH.

(f) Disposition of Contested Cases on a Default Basis.

(1) In contested cases where the party not bearing the burden of proof at the hearing fails to appear, the ALJ may issue an order finding that adequate notice has been given, deeming factual allegations in the notice of hearing admitted, if appropriate, conditionally dismissing the case from the SOAH docket, and conditionally remanding the case to TDHCA for disposition on a default basis. Pursuant to SOAH rules, a party has 15 calendar days after the issuance of a conditional order of dismissal and remand to file with SOAH a motion to set aside the order of dismissal and remand. On the sixteenth day after issuance, if no motion to set aside has been timely filed or if such a motion to set aside is not granted within the time limits provided for in SOAH's rules, the conditional order of dismissal and remand becomes final.

(2) When the order of dismissal and remand is final, the Executive Director shall prepare a proposed order for the Board's action containing findings of fact, as set forth in the notice of hearing, conclusions of law, and granting the relief requested by staff. The matter shall be placed on the Board's agenda for discussion and possible action at a subsequent meeting. Although public testimony is allowed, argument and evidence on the merits will not be considered at the Board meeting. Motions for rehearing shall be filed and served in accordance with Tex. Gov't. Code Chapter 2001 and the rules of SOAH.

11

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution, and directing its publication for readoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.17, Alternative Dispute Resolution, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to satisfy Tex. Gov't Code §2306.082, which requires the Department to encourage the use of alternative dispute resolution procedures;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to readopt the rule as required by Tex. Gov't Code §2001.039 as part of the four-year rule review process; and

**WHEREAS**, such proposed action will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to adopt the action herein in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.17, Alternative Dispute Resolution, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule was made available for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Adoption of Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution**

The Texas Department of Housing and Community Affairs (the Department) adopts its rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution. The purpose of the action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage alternative dispute resolution procedures. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule has been readopted which will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

SUMMARY OF PUBLIC COMMENT. Comments or questions about the rule review were accepted from February 25, 2022, through March 25, 2022. No comment was received.



## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.17, Alternative Dispute Resolution**

(a) Purpose. In accordance with Tex. Gov't Code, §2306.082, and as authorized by Tex. Gov't Code, §2009.051(c), the Department encourages the use of appropriate Alternative Dispute Resolution ("ADR") procedures under Tex. Gov't Code, Chapter 2009 to assist in the fair and expeditious resolution of internal and external disputes under the Department's jurisdiction. These ADR procedures are intended to work in conjunction with the guidelines and rules of the State Office of Administrative Hearings found at Tex. Gov't Code, Chapter 2001; 1 TAC Part 7, Chapter 155; and with Chapter 154, Civil Practice and Remedies Code.

(b) Definitions. For purposes of this rule, terms used herein shall have the following meaning:

(1) Alternative Dispute Resolution ("ADR")--a procedure or combination of procedures described in Chapter 154, Civil Practice and Remedies Code.

(2) Dispute Resolution Coordinator--One or more trained persons employed by the Department, who may not be in the Legal Division, designated by the Executive Director to coordinate and process requests for the ADR procedures.

(3) Mediation--a dispute resolution procedure in which an impartial person, the mediator, facilitates communication between the parties to promote reconciliation, settlement, or understanding among them. The mediator may not impose his or her own judgment on the issues for that of the parties (§154.023(a) and (b), Texas Civil Practice and Remedies Code).

(4) Impartial third party--A person who meets the qualifications and conditions of Tex. Gov't Code §2009.053. An Impartial Third Party must possess the qualifications required under the Texas Civil Practice and Remedies Code §154.052 (a minimum of 40 classroom hours of training in dispute resolution techniques), is subject to the standards and duties prescribed by Texas Civil Practice and Remedies Code §154.053 and has the qualified immunity prescribed by Texas Civil Practice and Remedies Code §154.055 for volunteer third parties not receiving compensation in excess of expenses, if applicable. (Tex. Gov't Code §2009.053(d)).

(c) Preliminary Considerations.

(1) The Department encourages communication between Department staff and applicants to the Department programs, and other interested persons, to exchange information and informally resolve disputes.

(2) The Department has appeal procedures found at 10 TAC §1.7, and at 10 TAC §10.902. ADR procedures supplement and do not limit any available procedure for the resolution of disputes (Tex. Gov't Code §2009.052(a)). Pursuing an ADR procedure does not suspend or delay application, appeal, or other deadlines. For example, if a tax credit applicant desires to appeal a Department decision using the procedures promulgated under §2306.6715 and also desires to pursue an ADR procedure, the applicant may independently pursue the two procedures. Each procedure will proceed independently of the other. However, ADR does not suspend any statutory deadlines or grant any additional authority to resolve issues beyond statute.

(3) Consistent with Tex. Gov't Code §2306.082(e), the ADR procedure must be requested before the Department's Board makes a final decision on an issue.

(4) Consistent with Tex. Gov't Code §2306.082(f), the ADR procedure may not be used to unnecessarily delay an appeal proceeding, or other deadline.

(d) Appropriateness of ADR

(1) Assessment of the Dispute. In determining whether an ADR procedure is appropriate, the parties to the dispute, including the Department, should consider the following factors:

(A) whether direct discussions and negotiations between the parties have been unsuccessful and/or the parties believe there is a misunderstanding involving the facts or interpretations that could be improved with the assistance of an Impartial Third Party;

(B) whether the use of ADR potentially could use fewer resources and take less time than other available procedures, and that there is a reasonable likelihood that the use of ADR will result in an agreement to resolve the dispute;

(C) whether there is a reasonable likelihood that the use of ADR will result in an agreement to resolve the dispute, and there are potential remedies or solutions that are only available through ADR; and/or

(D) whether the need for a final decision with precedential value is less important than other considerations. (Nothing herein should be construed as creating a presumption that a final decision establishes binding precedent in any given manner).

(2) The parties may also consider additional factors found in the State Office of Administrative Hearings' ADR Model Guidelines for assessing whether a dispute is appropriate for mediation.

(3) Independent of any proposal from interested parties outside the Department, the Department may propose using ADR procedures to interested parties to try to resolve a dispute.

(e) ADR Process

(1) Any applicant for Department programs or other interested person may request the use of an ADR procedure to attempt to resolve a dispute with the Department. The ADR request must be submitted in writing to the Department's Dispute Resolution Coordinator at the mailing address or email address listed on the Department's website. The request for ADR must state the nature of the dispute, the parties involved, any pertinent or impending deadlines, whether all parties agree to refer the dispute to ADR, proposed times and locations, and the preferred type of ADR procedure.

(2) If an applicant or other interested person is uncertain whether to propose the possible use of ADR or is uncertain about any particular aspect of a possible proposal, they should contact the Department's Dispute Resolution Coordinator to discuss the matter.

(3) The ADR Coordinator will notify the person requesting the ADR procedure that an ADR decision is not binding on the state and that the Department will mediate in good faith.

(4) The ADR Coordinator will provide copies of the request received, and all other materials received, to any other parties to the dispute.

(5) The Dispute Resolution Coordinator shall provide a copy of the ADR request to the Executive Director and General Counsel and other applicable internal parties.

(6) The Dispute Resolution Coordinator will assess whether ADR would assist in fairly and expeditiously resolving the dispute and will notify all affected parties within seven calendar days of receiving an ADR request of one of the following determinations:

(A) If the parties, including the Department, cannot agree on whether an ADR procedure should be used or on the particulars of the ADR procedure, the Dispute Resolution Coordinator will notify both parties that agreement to utilize ADR could not be reached;

(B) If the Dispute Resolution Coordinator determines not to refer the dispute to ADR, the Dispute Resolution Coordinator shall state the reasons in writing; or

(C) If the Dispute Resolution Coordinator decides to refer the dispute to ADR, the date for the selected ADR process will be included in the notice.

(f) Selection of Mediator or Impartial Third Party.

(1) The Department designates the State Office of Administrative Hearings ("SOAH") as the primary mediator for Department ADR requests as required by Tex. Gov't Code §2306.082(b).

(2) If the Department and SOAH agree to utilize an Impartial Third Party other than one so designated through SOAH, an Impartial Third Party will be identified.

(3) The selection of an Impartial Third Party is subject to the approval of the parties to the dispute. If the parties do not suggest potential third parties, the Dispute Resolution Coordinator will provide a list of potential third parties from which to choose. If all parties agree to use an Impartial Third Party who charges for ADR services, then the costs for the Impartial Third Party shall be apportioned equally among all parties, unless otherwise agreed by the parties.

(g) Voluntary Agreement. All parties participating must have the authority to reach an agreement to make a final recommendation to resolve the dispute. The Executive Director will abide by an agreed upon solution to the dispute and either approve that agreement or offer that recommendation to the Board, if Board authorization is needed. The decision to reach agreement is voluntary. If the parties reach a resolution and execute a written agreement, the agreement is enforceable in the same manner as any other written agreement of the same nature with the State. A written agreement to which the Department is a signatory resulting from an ADR procedure must be approved by the appropriate authority.

(h) A written agreement to which the Department is a signatory resulting from an ADR procedure is subject to Tex. Gov't Code Chapter 552 concerning open records.

(i) Confidentiality of Records and Communications. The confidentiality of the communications, records, conduct, and demeanor of an impartial third party and parties in an ADR procedure are governed by Tex. Gov't Code §2009.054.

(j) The Department may share the results of its ADR process with other governmental bodies, and with the Center for Public Policy Dispute Resolution at the University of Texas School of Law, which may collect and analyze the information and report its conclusions and useful information to governmental bodies and the legislature.

1m

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance, an order adopting new §1.19 Reallocation of Financial Assistance, and an order directing their publication for adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to provide the policy for the reallocation of financial assistance, including assistance related to bonds, administered by the Department if the Department's obligation with respect to that assistance is prematurely terminated;

**WHEREAS**, the current rule relating to reallocation of financial assistance is in need of revisions to add to the list of circumstances in which reallocation may be warranted, to clarify the documents that may address deobligation and reallocation, and to make other minor non-substantive revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be adopted in its place; and

**WHEREAS**, such proposed rulemaking was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the actions herein in the form presented to this meeting, to be published in the *Texas Register* for adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.19, Reallocation of Financial Assistance, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed add to the list of circumstances in which reallocation may be warranted, to clarify the documents that may address deobligation and reallocation, and make other minor non-substantive revisions.

The rule, as proposed, was released for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

**Attachment 1: Preamble, including required analysis, for adoption of repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance**

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comments were received.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the action affects no other code, article, or statute.

§1.19 Reallocation of Financial Assistance



**Attachment 2: Preamble, including required analysis, for adoption of new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance. The purpose of the rule is to: add to the list of circumstances in which reallocation may be warranted, to clarify the documents that may address deobligation and reallocation, and to make other administrative clarifications.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand or contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

## **§1.19 Reallocation of Financial Assistance**

(a) Purpose. As provided for by Tex. Gov't Code §2306.111(h), this rule provides the policy for the reallocation of financial assistance, including assistance related to bonds, administered by the Department if the Department's obligation with respect to that assistance is prematurely terminated.

(b) It is the policy of the Department to take prudent measures to ensure that, when funds are provided to recipients for assistance, the funds are timely and lawfully utilized and that, if they cannot be timely and lawfully utilized by the initial recipient, there are mechanisms in place to reallocate those funds to other recipients in order to ensure their full utilization in assisting beneficiaries.

(c) The reallocation of federal or state financial assistance administered by the Department may be required when:

- (1) an administrator, subrecipient, owner, or contractor returns contracted funds;
- (2) reserved funds are not fully utilized at completion of an activity;
- (3) balances on contracts remain unused;
- (4) funds in a contract or reservation are partially or fully recaptured or terminated;
- (5) funds in a contract that were used for an ineligible activity and have been repaid to the Department and the federal oversight agency is allowing the Department to still utilize the funds;
- (6) required benchmarks or expenditure deadlines have not been achieved within the time frames agreed;
- (7) there is program income; or
- (8) other circumstances arise that prompt an initial recipient to be unable to utilize contracted funds.

(d) Reallocation of financial assistance for specific federal or state funding sources or programs administered by the Department is also governed by or provided for in:

- (1) federal regulations and requirements;
- (2) state rules relating to deobligation and reobligation adopted in other sections of this title;
- (3) funding plans authorized by the Board governing federal or state resources that may have been reviewed and approved by the federal funding agency;
- (4) Notices of Funding Availability (NOFAs) and Requests for Applications (RFAs); or
- (5) written agreements and contracts relating to the administration of such funds.

(e) To the extent that programs or funding sources are governed by any of the items provided for in subsection (d) of this section, and the specific documents listed in subsection (d) of this section do not require further Board approval, no additional Board approval to follow the reallocation as provided for in those items is required. Reallocation of funding not governed by subsection (d) of this section will require Board approval.

(f) To the extent that certain programs are required to regionally allocate their annual allocations of funds, funds having originally been regionally allocated and needing to be reallocated under this section do not require that regional allocation be performed again.

(g) Funds made available under this section may be aggregated over a period of time prior to being reallocated.

(h) Consistent with the requirements of Tex. Gov't Code §2306.111(h), if the Department's obligation of financial assistance related to bonds is terminated prior to issuance, the assistance will be reallocated among other activities permitted by that bond issuance and any indenture associated with those bonds, as approved by the Board.

1n

**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department, an order adopting new , §1.22 Providing Contact Information to the Department, and an order directing their publication for adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to require that any person or entities doing business with the Department shall notify the Department of any change in contact information, and that the Department is entitled to rely solely on the most recent contact information on file with the Department at the time any notice or other communication is sent;

**WHEREAS**, the current rule is in need of revisions to change how updated contact information is provided to the Department and make other minor non-substantive revisions;

**WHEREAS**, such revisions are being adopted through the repeal of the current rule and a simultaneous new rule in its place; and

**WHEREAS**, such proposed rulemaking was published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and no comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the actions herein in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last reviewed 10 TAC §1.22, Providing Contact Information to the Department, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Under this rule's last review, no changes were made. Staff has determined that there is a continuing need for this rule to exist, however revisions are now recommended.

The revisions proposed change how updated contact information is provided to the Department and make other minor non-substantive revisions.

The rule, as proposed, was released for public comment from February 25, 2022, through March 25, 2022, and no comment was received.

**Attachment 1: Preamble, including required analysis, for adoption of the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department**

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the requirement that any person or entities doing business with the Department must notify the Department of any change in contact information.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**



The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the action affects no other code, article, or statute.

§1.22 Providing Contact Information to the Department

**Attachment 2: Preamble, including required analysis, for adoption of new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department. The purpose of the rule is to change how updated contact information is provided to the Department and make other minor non-substantive revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the requirement that any person or entities doing business with the Department must notify the Department of any change in contact information.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand or contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held February 25, 2022, to March 25, 2022, to receive input on the proposed action. No comment was received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute. The rule has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

## **§1.22 Providing Contact Information to the Department**

(a) Any person or entities doing business with the Department shall notify the Department, of any change in contact information, including names, addresses, telephone numbers, email addresses and fax numbers. In addition, the notification shall include all Department contract numbers, project numbers or property names of any type. The notification shall be made as described in paragraphs (1) and (2) of this subsection:

- (1) by email sent to the director or manager of the applicable program; or
- (2) sent via the CMTS Attachment System.

(b) Only in cases in which email or access to the CMTS Attachment System is not available may the notification be sent by mail to Texas Department of Housing and Community Affairs, Contact Information Update, P.O. Box 13941, Austin, Texas 78711-3941.

(c) All persons or entities doing business with the Department are responsible for keeping their contact information current pursuant to subsection (a) of this section and as required by other Department rules. The Department is entitled to rely solely on the most recent contact information on file with the Department at the time any notice or other communication is sent.

(d) The notification requirements of this section are in addition to any other change of contact information notification requirements specific to certain divisions, funding sources or programs of the Department.

10

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action on release of the draft 2023 Low Income Home Energy Assistance Program State Plan for public comment

**RECOMMENDED ACTION**

**WHEREAS**, the U.S. Department of Health and Human Services (USHHS) requires that the Department submit a State Plan every year in order to receive its allotment of Low Income Home Energy Assistance Program (LIHEAP) funds;

**WHEREAS**, the Department has prepared a draft 2023 LIHEAP State Plan (the Plan); and

**WHEREAS**, USHHS requires that a draft Plan be released for public comment and the State requires four public hearings prior to the submission of the Plan to USHHS;

**NOW, therefore, it is hereby**

**RESOLVED**, that the draft Plan, in the form presented to this meeting, is hereby approved to be released for public comment, public hearings, posted on the Department's website and published in the *Texas Register*;

**FURTHER RESOLVED**, that if USHHS releases different guidance after Board approval, the Board authorizes staff to make needed conforming changes and non-substantive changes to the Plan, and to change the public hearing dates and the comment period; and

**FURTHER RESOLVED**, that the final Plan with consideration of final grant guidance, public comment and technical corrections made by staff, along with award recommendations for subrecipients, will be presented to the Board no later than July 2022.

**BACKGROUND**

USHHS requires that the State of Texas submit a LIHEAP State Plan each year on or before September 1<sup>st</sup> in order to receive its allotment of LIHEAP funds. In response to this requirement, the Department has prepared a draft 2023 LIHEAP State Plan. Subrecipients had two previous opportunities to provide input into the drafting of this Plan. The first opportunity included a 14-day timeframe in January 2022 to provide comments on what they wanted changed from the 2022 LIHEAP State Plan and the second opportunity included a 12-day period in March 2022 to comment on the draft 2023 Plan before presenting it to the Board at this meeting.

The Plan, upon approval by the Board, will be posted on the Department's website, published in the *Texas Register*, released for public comment and public hearings will be held. An announcement of the availability of the draft Plan and details regarding the timeframe to accept comments from the public and the public hearing will be posted on the Department's website no later than April 18, 2022, and published in the *Texas Register* on April 29, 2022. The period to accept comments from the public

regarding the Plan will be open from Friday, April 29, 2022, through Wednesday, May 25, 2022, at 5:00 p.m. Austin local time. Written comments concerning the Plan may be submitted to the Texas Department of Housing and Community Affairs, Community Affairs Division-Gavin Reid, P.O. Box 13941, Austin, TX 78711-3941, or by email to [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us). Comments are due no later than 5:00 p.m. Austin local time on Wednesday, May 25, 2022.

The Department will also conduct four public hearings throughout the state. Meeting dates, times and locations are:

- Monday, May 9, 2022, 2:30 pm - 3:00 p.m. at Southside Community Center, 959 E. Rosedale, room #3, Fort Worth, TX 76104.
- Tuesday, May 10, 2022, at 5:30 p.m. - 6:00 p.m. at 1415 East 2<sup>nd</sup>, Odessa, TX 79762.
- Wednesday, May 11, 2022, at 1:30 p.m. - 2:00 p.m. at Baker Ripley, 3838 Aberdeen Way, 1<sup>st</sup> Floor Education Center Room, Houston, TX 77025.
- Thursday, May 12 at 5:30 p.m. - 6:00 p.m. at Rusk building, room #320, 208 E. 10<sup>th</sup> Street, Austin, TX 78701.

Upon completion of the public comment period and public hearings, staff will modify the Plan, if appropriate, based on public comment. Staff will also include any changes required by federal guidance and necessary technical corrections made by staff. Staff anticipates presenting the revised Plan, along with recommendations for subrecipient awards, to the Board for review and final approval no later than July.

LIHEAP funds, as reflected in the Plan, are utilized in the following three ways:

- The Department allocates at least 75% of the LIHEAP funds to the Comprehensive Energy Assistance Program (CEAP), which provides utility assistance to eligible households, including crisis assistance and services to reduce home energy needs.
- The Department allocates up to 15% of the LIHEAP funds to the Weatherization Assistance Program. There is generally greater flexibility with LIHEAP weatherization funds than U.S. Department of Energy (DOE) weatherization funds, so continuing to allocate some portion of these funds for this activity allows households to receive more comprehensive assistance than were they to be served solely by DOE WAP funds.
- The Department allocates 10% of LIHEAP funds for Department and subrecipient administration.

The most significant change to the plan this year allows for the state to seek a statewide provider to supplement the networks effort to meet the demand for the increase in the federal funding. The plan also increases the maximum assistance for an eligible household so that increases in electric and gas rates as well as increased inflation of household expenses are reflected in the household benefit. In review of the Plan, attached, it should be noted that the Plan follows a template and series of required responses pre-determined by USHHS with character limitations and specific instructions. Also, the Plan is provided in blackline form reflecting the changes being recommended since the publication of the 2022 LIHEAP State Plan.

The full text of the draft 2023 LIHEAP State Plan may be viewed at the Department's website: <https://www.tdhca.state.tx.us/public-comment.htm>. The public may also receive a copy of the draft 2023 LIHEAP State Plan by contacting Gavin Reid at [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us).

**LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

**MODEL PLAN**

**PUBLIC LAW 97-35, AS AMENDED**

**FEDERAL FISCAL YEAR 2023**

**GRANTEE:** Texas Department of Housing and Community Affairs

**EIN:** 17426105429

**ADDRESS:** P.O. Box 13941

Austin, Texas 78711-3941

**LIHEAP COORDINATOR:** Michael DeYoung

**EMAIL:** michael.deyoung@tdhca.state.tx.us

**TELEPHONE:** (512) 475-2125 **FAX:** (512) 475-3935

**CHECK ONE:** TRIBE / TRIBAL ORGANIZATION \_\_\_\_\_ STATE X \_\_\_\_\_ INSULAR AREA \_\_\_\_\_

**Department of Health and Human Services  
Administration for Children and Families  
Office of Community Services  
Washington, DC 20447**

**August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01**

**OMB Approval No. 0970-0075**

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.



## Assurances

The Texas Department of Housing and Community Affairs agrees to:

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs, and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed an amount equal to 150 percent of the poverty level for such State; or

(i) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a Federal fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-

income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that--

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the Federal fiscal year preceding the Federal fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to--

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that--

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a Federal fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) beginning in Federal fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

\* This assurance is applicable only to States, and to territories whose annual regular LIHEAP allotments exceed \$200,000. Neither territories with annual allotments of \$200,000 or less nor Indian tribes/tribal organizations are subject to Assurance 15.

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

Certification to the Assurances: As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: \_\_\_\_\_

Title: Executive Director, Texas Department of Housing and Community Affairs

Date: August 2022 (*The exact date to be notated in USHHS OLDC system at time of submission.*)

**The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.**

**The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.**

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

**Section 1<sup>1</sup>**

**Program Components, 2605(a), 2605(b)(1) – Assurance 1, 2605(c)(1)(C)**

1.1 Check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

Dates of Operation<sup>2</sup>

- Heating assistance      Start date: 10/01/2022    End date: 09/30/2024
- Cooling assistance      Start date: 10/01/2022    End date: 09/30/2024
- Crisis assistance      Start date: 10/01/2022    End date: 09/30/2024
- Weatherization assistance    Start date: 10/01/2022      End date: 09/30/2024

**Estimated Funding Allocation, 2604(c), 2605(k)(1), 2605(b)(9), 2605(b)(16) – Assurances 9 and 16**

1.2 Estimate what amount of available LIHEAP funds will be used for each component that you will operate: **The total of all percentages must add up to 100%**

15% heating assistance

50% cooling assistance

10% crisis assistance

Up to 15% weatherization assistance<sup>3</sup>

0% carryover to the following Federal fiscal year

10% administrative and planning costs

0% services to reduce home energy needs including needs assessment (Assurance 16)

0% used to develop and implement leveraging activities

100% **TOTAL**

---

<sup>1</sup> Capitalized terms are defined in Title 10, Chapters 1, 2, or 6 (as applicable) of the Texas Administrative Code or by federal law.

<sup>2</sup> Identification of these periods does not limit the payment of assistance on any “seasonal” basis.

<sup>3</sup> If 15% is not used for weatherization assistance, the balance will be added to heating, cooling, or crisis assistance as needed.

**Alternate Use of Crisis Assistance Funds, 2605(c)(1)(C)**

1.3 The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:

- Heating assistance
- Weatherization assistance
- Cooling assistance
- Other (specify): funds are utilized for all eligible components

**Categorical Eligibility, 2605(b)(2)(A) – Assurance 2, 2605(c)(1)(A), 2605(b)(8A) – Assurance 8**

1.4 Do you consider households categorically eligible if one household member receives one of the following categories of benefits in the left column below?  Yes  No

Program	Cooling	Heating	Crisis	Weatherization
Temporary Assistance for Needy Families	No	No	No	No
Supplemental Security Income	Yes	Yes	Yes	Yes
Supplemental Nutrition Assistance Program	No	No	No	No
Means-tested Veterans Programs	Yes	Yes	Yes	Yes

1.5 Do you automatically enroll households without a direct annual application?  
 Yes  No

1.6 How do you ensure there is no difference in the treatment of categorically eligible households from those not receiving other public assistance when determining eligibility and benefit amounts?  
 Texas provides Categorical Eligibility for SSI and Means-Tested Veterans Programs into its program. State rules have a provision that there is to be no difference in the treatment of Categorically Eligible Households. The Department has a system for persons to submit complaints, and the monitoring reviews would also note any differences in treatment of persons that are or are not Categorically Eligible.

**SNAP Nominal Payments**

1.7 Do you allocate LIHEAP funds toward a nominal payment for SNAP households? If you answered “yes” to question 1.71 you must provide a response to 1.7b, 1.7c, 1.7d.

- a.  Yes  No
- b. Amount of Nominal Assistance: \$ \_\_\_ NA \_\_\_\_\_
- c. Frequency of Assistance:
  - Once per year
  - Once every five years
  - Other (describe): \_\_\_\_\_ NA \_\_\_\_\_

d. How do you confirm that the household receiving a nominal payment has an energy cost or need?

## Determination of Eligibility – Countable Income

1.8 In determining a household's income eligibility for LIHEAP, do you use gross income or net income?

- Gross Income (except for self-employment or farm income or gambling/lottery winnings)<sup>4</sup>  
 Net Income

1.9. Select all of the applicable forms of countable income used to determine a household's income eligibility for LIHEAP.<sup>5</sup>

- Wages (except as prohibited by the Workforce Investment Act of 1998)  
 Self-employment income  
 Contract income  
 Payments from mortgage or sales contracts  
 Unemployment Insurance  
 Strike pay  
 Social Security Administration (SSA) benefits  
     Including MediCare deduction       Excluding MediCare deduction  
 Supplemental Security Income (SSI)  
 Retirement / pension benefits  
 General Assistance benefits (except as excluded by federal law or 10 TAC §6.4-)  
 Temporary Assistance for Needy Families (TANF) benefits (except for one-time payments)  
 Supplemental Nutrition Assistance Program (SNAP) benefits  
 Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits  
 Loans that need to be repaid  
 Cash gifts  
 Savings account balance  
 One-time lump-sum payments, such as rebates/credits, refund deposits, etc.  
 Jury duty compensation  
 Rental income  
 Income from employment through Workforce Investment Act (WIA)  
 Income from work study programs  
 Alimony  
 Child support  
 Interest, dividends, or royalties  
 Commissions  
 Legal settlements  
 Insurance payments made directly to the insured  
 Insurance payments made specifically for the repayment of a bill, debt, or estimate  
 Veterans Administration (VA) benefits (except for 38 USC 1315, 1521, 1541, 1542)  
 Earned income of a child under the age of 18  
 Balance of retirement, pension, or annuity accounts where funds cannot be withdrawn without a penalty.  
 Income tax refunds  
 Stipends from senior companion programs, such as VISTA  
 Funds received by household for the care of a foster child  
 AmeriCorps Program payments for living allowances, earnings, and in-kind aid.  
 Reimbursements (for mileage, gas, lodging, meals, etc.)

---

<sup>4</sup> Exceptions on use of net income are provided for in 10 TAC §6.4.

<sup>5</sup> Any income received by a household that is received from a federal, State, local government, or disaster relief agency that is in excess of the amounts of what would be received if not for the CARES Act legislation, will be excluded per 10 TAC §6.4(c)(28).

Other Any item not excluded in 10 TAC §6.4 or by other federal law

## Section 2 - HEATING ASSISTANCE

### Eligibility, 2605(b)(2) – Assurance 2

2.1 Designate the income eligibility threshold used for the heating component:

<i>Household Size</i>	<i>Eligibility Guidelines</i>	<i>Eligibility Threshold</i>
All Household Sizes	USHHS Poverty Guidelines	150%
All Household Sizes	State Median Income	60% <sup>6</sup>

2.2 Do you have additional eligibility requirements for **HEATING ASSISTANCE**?

Yes  No <sup>7</sup>

2.3 Check the appropriate boxes below and describe the policies for each.

- |  | <u>Yes</u>                          | <u>No</u>                           |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test?                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: |                                     |                                     |
| ● Renters?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing?                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? <sup>8</sup>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to:                    |                                     |                                     |
| ● Elderly?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Disabled?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Young children?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Households with high energy burdens?                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?<br>Households with high energy consumption          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

<sup>6</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State's median income (SMI). The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. Texas will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>7</sup> 10 TAC §6.307(f) states: "A Dwelling Unit cannot be served if the meter is utilized by another Household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if: (1) the members of the separate structures that share a meter meet the definition of a Household per §6.2 of this Chapter (relating to Definitions); (2) the members of the separate structures that share a meter submit one application as one Household; and (3) all persons and applicable income from each structure are counted when determining eligibility."

<sup>8</sup> Per 10 TAC §6.309(h)(7), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer's rent.



## Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.4 Describe how you prioritize the provision of heating assistance to vulnerable households, e.g., benefit amounts, application period, etc.

Subrecipients and statewide or regional contractors use a rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Households with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household's income. Households with the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children do not have a limit on the number of benefit payments, but adhere to the same benefit amounts. The maximum benefit amount is determined per program year based on Household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

2.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need:
  - Fuel type
  - Climate/region
  - Individual bill
  - Dwelling type
  - Energy burden (% of income spent on home energy)
  - Energy need
  - Other (Describe:)

Other: Households who have a disconnect notice or have had their service disconnected will receive assistance based on the energy bill. For future month's utility assistance, the amount that will be paid on the account is based on the previous twelve (12) month's home energy consumption history. If the household has incomplete billing history, then payments are determined utilizing an alternative billing method (ABM). The Department recommends an ABM where the subrecipient determines the average consumption amount (kWh, therms, MCF, gallons, etc.) per month, for each household size and type based on a minimum sample size of 30 files that contain complete billing histories; however, if it is not possible for subrecipients to obtain the recommended 30 file per household sample size to create an average consumption amount, subrecipients should use all the applicable files to determine the average consumption and document the lack of files for that household size. Subrecipients and statewide or regional contractors can propose other types of ABMs. The ABM proposed by the subrecipient must be approved by the Department prior to utilization. Subrecipients and statewide or regional contractors must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden is the highest rated item in sliding scale priority determinations.

The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Per 10 TAC §6.309(e), Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$2,400 for the Utility Assistance Component and the Crisis Assistance Component; Households with incomes at 51%-75% FPIG have a maximum of

\$2,300 per Component; Households with incomes 76%-150% FPIG have a maximum of \$2,200 per Component; and there is a maximum of up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.

### **Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

2.6 Describe estimated benefit levels for FY 2022:

\$1 Minimum benefit      \$12,300 Maximum benefit

Note: The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount. The maximum benefit amount per household is \$12,300 per program year and could be reached if a household received up to \$2,400 in Crisis Assistance, \$2,400 in Utility Assistance, and a \$7,500 repair or replacement of a heating or cooling unit or crisis-related purchase of portable air conditioning/window units/evaporative coolers and heating units. The initial assistance payment that would include arrears does not count towards the annual benefit caps for a household.

Households are eligible for up to \$2,400 under Utility Assistance Component and up to \$2,400 under Crisis Assistance Component. The level of assistance is dependent on Household income and meeting CEAP program eligibility requirements. The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$2,400 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$2,300 per Component; incomes 76%-150% FPIG up to \$2,200 per Component; and up to \$7,500 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$12,300.

Non-vulnerable population households with inoperable heating and cooling units may be eligible for an additional \$7,500 for service and repair of existing heating and cooling units when the Household meets crisis conditions. Vulnerable Population Households, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$7,500. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/window units/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

2.7 Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?

Yes       No -- If yes, describe.

Non-vulnerable Households may receive service and repair of existing heating and cooling units not to exceed \$7,500 if the Household is experiencing crisis conditions. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$7,500. All Households experiencing a life-threatening

crisis may be eligible to receive portable air conditioning/window units/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310 (c), which include blankets, fans, air conditioners, and generators.

**Section 3: COOLING ASSISTANCE**

**Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2**

3.1 Designate the income eligibility threshold used for the cooling component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>9</sup>

3.2 Do you have additional eligibility requirements for **COOLING ASSISTANCE**

Yes  No<sup>10</sup>

3.3 Check the appropriate boxes below and describe the policies for each.

- |  | <u>Yes</u>               | <u>No</u>                           |
|--|--------------------------|-------------------------------------|
| ● Do you require an assets test?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: |                          |                                     |
| ● Renters?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing?                      | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? <sup>11</sup> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

<sup>9</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State’s median income. Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. The State will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>10</sup> 10 TAC §6.307(f) states: “A Dwelling Unit cannot be served if the meter is utilized by another Household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if: (1) the members of the separate structures that share a meter meet the definition of a Household per §6.2 of this Chapter (relating to Definitions); (2) the members of the separate structures that share a meter submit one application as one Household; and (3) all persons and applicable income from each structure are counted when determining eligibility.”

<sup>11</sup> Per 10 TAC §6.309(h)(7), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer’s rent.

● Do you give priority in eligibility to:

- Elderly?
- Disabled?
- Young children?
- Households with high energy burdens?
- Other?  
Households with high energy consumption

3.3 Check the appropriate boxes below and describe the policies for each.

Explanations of policies for each “yes” checked above:

10 TAC §6.307(e) states “Subrecipients and statewide or regional contractors must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden shall be the highest rated item in sliding scale priority determinations. The Subrecipient must maintain documentation of the use of the criteria.”

Priority must be given to Elderly, Disabled, Households with Young Children, and Households with High Energy Burden and High Energy Consumption.

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application periods, etc.

Subrecipients and statewide or regional contractors use a rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household’s income. Households with the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children do not have a limit on the number of benefit payments, but adhere to the same benefit amounts. The maximum benefit amount is determined per-program year based on Household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

**Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

3.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need
  - Fuel type
  - Climate/region
  - Individual bill
  - Dwelling type
  - Energy burden (% of income spent on home energy)
  - Energy need

Other (describe)

Other: Households who have a disconnect notice or have had their service disconnected will receive assistance based on the energy bill. For future month's utility assistance, the amount that will be paid on the account is based on the previous twelve (12) month's home energy consumption history. If the household has incomplete billing history, then payments are determined utilizing an alternative billing method (ABM). The Department recommends an ABM where the subrecipient determines the average consumption amount (kWh, therms, MCF, gallons, etc.) per month, for each household size and type based on a minimum sample size of 30 files that contain complete billing histories; however, if it is not possible for subrecipients to obtain the recommended 30 file per household sample size to create an average consumption amount, subrecipients should use all the applicable files to determine the average consumption and document the lack of files for that household size. Subrecipients and statewide or regional contractors can propose other types of ABMs. The ABM proposed by the subrecipient must be approved by the Department prior to utilization. Subrecipients and statewide or regional contractors must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden is the highest rated item in sliding scale priority determinations.

The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Per 10 TAC §6.309(e), Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$2,400 for the Utility Assistance Component and the Crisis Assistance Component; Households with incomes at 51%-75% FPIG have a maximum of \$2,300 per Component; Households with incomes 76%-150% FPIG have a maximum of \$2,200 per Component; and there is a maximum of up to \$7,500 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$12,300.

**Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

3.6 Describe benefit levels:

\$1 Minimum benefit    \$12,300 Maximum benefit

Note:

The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount. The maximum benefit amount per household is \$12,300 per program year and could be reached if a household received up to \$2,400 in Crisis Assistance, \$2,400 in Utility Assistance, and a \$7,500 repair or replacement of a heating or cooling unit or crisis-related purchase of portable heating and cooling units. The initial assistance payment that would include arrears does not count towards the annual benefit caps for a household.

Households are eligible for up to \$2,400 under Utility Assistance Component and up to \$2,400 under Crisis Assistance Component. The level of assistance is dependent on Household income and meeting CEAP program eligibility requirements. The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$2,400 for the Utility Assistance Component and the Crisis Assistance

Component, incomes at 51%-75% FPIG up to \$2,300 per Component; incomes 76%-150% FPIG up to \$2,200 per Component; and up to \$7,500 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$12,300.

Non-vulnerable population households with inoperable heating and cooling units may be eligible for an additional \$7,500 for service and repair of existing heating and cooling units when the Household meets crisis conditions. Vulnerable Population Households, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$7,500. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?

Yes  No -- If yes, describe.

Non-vulnerable Households may receive service and repair of existing heating and cooling units not to exceed \$7,500 if the Household is experiencing crisis conditions. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$7,500. All Households experiencing a Life-Threatening Crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310 (c), which include blankets, fans, air conditioners, and generators.

**Section 4: CRISIS ASSISTANCE**

**Eligibility - 2604(c), 2605(c)(1)(A)**

4.1 Designate the income eligibility threshold used for the crisis component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>12</sup>

<sup>12</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas may use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. Texas will communicate this designation to affected Subrecipients and statewide or

4.2 Provide your LIHEAP program’s definition for determining a crisis.

Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the following conditions, as defined in 10 TAC §6.301 (relating to Background and Definitions):

- (1) Extreme Weather Conditions, with assistance provided within 48 hours;
- (2) Disaster, with assistance provided within 48 hours; or
- (3) Life Threatening Crisis, with assistance provided within 18 hours.

4.3 What constitutes a life-threatening crisis?

A Life Threatening Crisis exists when the life of at least one person in the applicant Household who is a U.S. Citizen, U.S. National, or a Qualified Alien would likely, in the opinion of a reasonable person, be endangered if utility assistance or heating and cooling assistance is not provided due to a Household member who needs electricity for life-sustaining equipment or whose medical professional has prescribed that the person with a medical condition requires that the ambient air temperature be maintained at a certain temperature. Examples of life-sustaining equipment include, but are not limited to, kidney dialysis machines, oxygen concentrators, and cardiac monitors. Documentation must not be requested about the medical condition of the applicant, but the applicant must state that such a device is required in the Dwelling Unit to sustain life.

**Crisis Requirements, 2604(c)**

4.4 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households? 48 Hours

4.5 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours<sup>13</sup>

**Crisis Eligibility, 2605(c)(1)(A)?**

4.6 Do you have additional eligibility requirements for CRISIS ASSISTANCE?

Yes  No

4.7 Check the appropriate boxes below and describe the policies for each.

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you give priority in eligibility to:		
● Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

regional contractors through email and by website posting. Subrecipients and statewide or regional contractors must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>13</sup> Pursuant to §2604(c)(2) of the LIHEAP Statute, the Department provides “some form of assistance that will resolve the energy crisis” not later than 18 hours after a household applies for crisis benefits if such household is eligible to receive such benefits and is in a life-threatening situation.

- Young children?
  - Households with high energy burdens?
  - Other?
- Households with high energy consumption

● In order to receive crisis assistance:<sup>14</sup>

- Must the household have received a shut-off notice or have a near empty tank?
- Must the household have been shut off or have an empty tank?
- Must the household have exhausted their regular heating benefit?
- Must renters with heating costs included in their rent have received an eviction notice?
- Must heating/cooling be medically necessary?
- Must the household have non-working heating or cooling equipment?
- Other?

Explanation for Other: Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the following conditions, as defined in 10 TAC §6.301 (relating to Background and Definitions):

- (1) Extreme Weather Conditions, with assistance provided within 48 hours;
- (2) Disaster, with assistance provided within 48 hours; or
- (3) Life Threatening Crisis, with assistance provided within 18 hours.

● Do you have additional/differing eligibility policies for:

- Renters?
- Renters living in subsidized housing?
- Renters with utilities included in the rent?<sup>15</sup>

**Determination of Benefits**

4.8 How do you handle crisis situations?

- Separate component
- Fast Track
- Other

4.9 If you have a separate component, how do you determine crisis assistance benefits?

<sup>14</sup> The program has different requirements depending on whether the household contains a member of a priority group.

<sup>15</sup> Per 10 TAC §6.309(h)(7), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from client's rent.



Amount to resolve crisis, up to a maximum of \$2,400

Other  
Heating and cooling equipment repair or replace up to \$7,500

### **Crisis Requirements, 2604(c)**

4.10 Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served?

Yes       No

Explain: In addition to what is already stated in Section 2604(c)(3) regarding the requirement that each subrecipient accept applications at sites that are geographically accessible to all Households in the area to be served, 10 TAC §6.313(c) states "Subrecipient shall handle Reasonable Accommodation requests, in accordance with §1.204 of this title (relating to Reasonable Accommodations)." 10 TAC §1.204 (b) General Considerations in Handling of Reasonable Accommodations. An applicant, participant, or occupant who has a disability may request an accommodation and, depending on the program funding the property or activity and whether the accommodation requested is a reasonable accommodation, their request must be timely addressed."

4.11 Do you provide individuals who have physical disabilities the means to:

■ Submit applications for crisis benefits without leaving their homes?

Yes    No If no, explain.

Applications can be mailed in. In some cases, applications may be completed online or the organization will go to the applicant's home to take the application.

■ Travel to the sites at which applications for crisis assistance are accepted?

Yes       No If yes, explain.

If you answered "No" to both questions 4.11, please explain alternative means of intake to those who are homebound or physically disabled.

### **Benefit Levels, 2605(c)(1)(B)**

4.12 Indicate the maximum benefit for each type of crisis assistance offered.

Winter Crisis      \$ 0 maximum benefit

Summer Crisis      \$ 0 maximum benefit

Year-round Crisis      \$2,400 maximum benefit

4.13 Do you provide in-kind (e.g., blankets, space heaters, fans) and/or other forms of benefits?

Yes    No If yes, describe.

If a component(s) of the heating or cooling system cannot be repaired using parts, the Subrecipient and statewide or regional contractors can replace the component(s) in order to repair the heating or cooling

system under the Utility Assistance Component for Vulnerable Households or Crisis Assistance Component for Non-Vulnerable Households. Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.

LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310(c).

All Households experiencing a Life-Threatening Crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310(c), which include blankets, fans, air conditioners, and generators.

4.14 Do you provide for equipment repair or replacement using crisis funds?

Yes  No

4.15 Check appropriate boxes below to indicate type(s) of assistance provided:

Type of Assistance	Winter Crisis	Summer Crisis	Year-round Crisis
Heating system repair			X
Heating system replacement (only components of a central HVAC system)			X
Cooling system repair			X
Cooling system replacement (only components of a central HVAC system)			X
Wood stove purchase			
Pellet stove purchase			
Solar panel(s)			
Utility poles / Gas line hook-ups			
Other (Specify): For Households which include a member of a Vulnerable Population, service and repair or purchase of portable heating and cooling units can be provided if a system is non-existent up to \$7,500. For Households who do not have a member of a Vulnerable Population, such assistance is limited to times when a crisis exists as defined in 10 TAC §6.310(a).			X

4.16 Do any of the utility vendors you work with enforce a winter moratorium on shut offs? If you respond “Yes” to question 4.16, you must respond to question 4.17.  Yes  No

4.17 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.

Specific to energy assistance clients, §25.483(i) of the Texas Public Utilities Commission rules provides that a Retail Electric Provider (REP) shall not authorize a disconnection for nonpayment of electric service to a delinquent residential customer for a billing period in which the REP receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the disconnection notice, and the customer, by the due date on the disconnection notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider. Additionally, the rule provides that if an energy assistance provider has requested monthly usage data pursuant to §25.472(b)(4) (relating to Privacy of Customer Information), the REP shall extend the final due date on the disconnection notice, day for day, from the date the usage data was requested until it is provided; and that a REP shall allow at least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification before submitting the disconnection request to the TDU.

There are protections for several other categories of clients and situations applicable to LIHEAP clients served:

§25.483(g) provides that a REP shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent Critical Care Residential Customer when that customer establishes that disconnection of service will cause some person at that residence to become seriously ill or more seriously ill.

§25.483(h) provides that a REP shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent customer when that customer has been designated as a Chronic Condition Residential Customer pursuant to 25.497 with noted rule exceptions.

§25.483(j) provides that a REP shall not authorize a disconnection for nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs. A REP shall offer residential customers a deferred payment plan upon request by the customer that complies with the requirements of 25.480 (relating to Bill Payment and Adjustments) for bills that become due during the weather emergency. The term “extreme weather emergency” shall mean a day when:

(A) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service (NWS) reports; or

(B) the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county.

## **Section 5: WEATHERIZATION ASSISTANCE**

**Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2**

5.1 Designate the income eligibility threshold used for the weatherization component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>16</sup>

5.2 Do you enter into an interagency agreement to have another government agency administer a **WEATHERIZATION component?**  Yes  No

5.3 If yes, name the agency. N/A

5.4 Is there a separate monitoring protocol for weatherization?  Yes  No

**WEATHERIZATION - Types of Rules**

5.5 Under what rules do you administer LIHEAP weatherization? (Check only one.)

Entirely under LIHEAP (not DOE) rules

Entirely under DOE WAP (not LIHEAP) rules

Mostly under LIHEAP rules with the following DOE WAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

Income Threshold

Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.

Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities).

Other (describe): Adhere to language from the Consolidated Appropriations Act of 2021 (Page 3269) that Paragraph (2) of Section 415(c) of the Energy Conservation and Production Act (42 USC 6865(c)) is amended to allow re-weatherization for a dwelling unit not previously weatherized using federal funds until the date that is 15 years after the date such previous weatherization has passed. 10 TAC Part 1, Chapter 6, Subchapter D,

---

<sup>16</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. TDHCA will communicate this designation to affected Subrecipients and statewide or regional contractors through email and by website posting. Subrecipients and statewide or regional contractors must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

Weatherization Assistance Program, is one area where the LIHEAP funded weatherization program adheres to DOE regulations. TDHCA uses a priority list for LIHEAP households at 150% or below USHHS poverty income level. Energy-related home repair: TDHCA will allow the use of LIHEAP weatherization funds for structural and ancillary repairs only if required to enable effective weatherization. If LIHEAP funds are included in a DOE unit, the SIR/audit must be used to justify all measures.

Mostly under DOE WAP rules, with the following LIHEAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

- Income Threshold.
- Weatherization not subject to DOE WAP maximum statewide average cost per dwelling unit.
- Weatherization measures are not subject to DOE Savings to Investment Ratio (SIR) standards.
- Other (describe)

**Eligibility, 2605(b)(5) – Assurance 5**

	<u>Yes</u>	<u>No</u>
5.6 Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5.7 Do you have additional/differing eligibility policies for:

- |   |                          |                                     |
|---|--------------------------|-------------------------------------|
| • Renters?                              | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| • Renters living in subsidized housing? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

5.8 Do you give priority in eligibility to:

- |  |                                     |                          |
|--|-------------------------------------|--------------------------|
| • Elderly?                             | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Disabled?                            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Young children?                      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Households with high energy burdens? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Other?                               | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Explanation: Households with high energy consumption

**Benefit Levels**

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?  
     

5.10 If yes, what is the maximum amount? \$11,000

NOTE: unless additional expenditure is authorized in writing by the Department. **Types of Assistance, 2605(c)(1), (B) & (D)**

5.11 What LIHEAP weatherization measures do you provide? (Check all categories that apply.)

Weatherization needs/assessments/audits

Caulking and insulation

Storm windows

Furnace/heating system modifications/repairs

Furnace replacement

Cooling system modifications/repairs

Water conservation measures

Compact fluorescent light bulbs

Energy related roof repair

Major appliance repairs

Major appliance replacement

Windows/sliding glass doors

Doors

Water Heater

Cooling system replacement

Other (describe)

Solar screens or window film. Smart thermostats, miscellaneous repairs up to \$500 for structural and ancillary only if required to enable effective weatherization; Window screens to help prevent exposure to the Zika virus for Households with pregnant women.

If any of the questions require further explanation or clarification that could not be made in the fields provided, attach a document with said explanation here.

## Section 6: Outreach, 2605(b)(3) – Assurance 3, 2605(c)(3)(A)

6.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:

- Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
- Publish articles in local newspapers or broadcast media announcements.
- Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.
- Mass mailing(s) to prior-year LIHEAP recipients.
- Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.
- Execute interagency agreements with other low-income program offices to perform outreach to target groups.
- Other (specify):

## Section 7: Coordination, 2605(b)(4) – Assurance 4

7.1 Describe how you will ensure that the LIHEAP program is coordinated with other programs available to low-income households (TANF, SSI, WAP, etc.)

- Joint application for multiple programs
- Intake referrals to/from other programs
- One-stop intake centers
- Other – describe:

## Section 8: Agency Designation, 2605(b)(6) – Assurance 6

8.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy/Environment Agency
- Housing Agency
- Welfare Agency
- Other – describe:

**Alternate Outreach and Intake, 2605(b)(15) – Assurance 15**

**8.2 How do you provide alternate outreach and intake for HEATING ASSISTANCE?**

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

**8.3 How do you provide alternate outreach and intake for COOLING ASSISTANCE?**

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

**8.4 How do you provide alternate outreach and intake for CRISIS ASSISTANCE?**

In instances of natural disaster, subrecipients and statewide or regional contractors coordinate with other assistance organizations (shelters, Red Cross, etc.). Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

<b>Question 8.5</b>	<b><u>Heating</u></b>	<b><u>Cooling</u></b>	<b><u>Crisis</u></b>	<b><u>Weatherization</u></b>
8.5a. Who determines client eligibility?	Local governments, CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments, CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments , CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments, CAAs and Other Non-profits, Statewide or Regional Contractors
8.5b. Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments, CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments , CAAs and Other Nonprofits, Statewide or Regional Contractors	N/A



<b>Question 8.5</b>	<b><u>Heating</u></b>	<b><u>Cooling</u></b>	<b><u>Crisis</u></b>	<b><u>Weatherization</u></b>
8.5c. Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments, CAAs and Other Nonprofits, Statewide or Regional Contractors	Local governments , CAAs and Other Nonprofits, Statewide or Regional Contractors	N/A
8.5d. Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Nonprofits-most subcontract with local contractors, Statewide or Regional Contractors

Note for 8.5: In the USHHS-OLDC system where the State Plan is entered, it only allows states to select one type of entity. The Department will select Nonprofits; although we will also contract with Units of government and CAAs.

8.6 What is your process for selecting local administering agencies?

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving CSBG or LIHEAP funds.

(1) The Department before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department gives special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

Currently, the Department administers all aspects of program delivery through subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and Department rules. If subrecipients are successfully administering the program, the Department may offer to renew the contract. However, the Department will utilize funds that have been deobligated in compliance with TAC rule §6.304, voluntarily relinquished annual allocation LIHEAP funds, and supplemental LIHEAP funding from the American Rescue Plan Act and the Infrastructure and Investment Jobs Act to contract with either a statewide or regional LIHEAP contractors. Additionally, if the State receives a large supplemental appropriation for LIHEAP, the Department may allocate some or all of the funds to a statewide or regional contractors. Funds allocated to statewide or regional contractors will be allocated and utilized to benefit the county(ies) of the State for which those funds were intended to

benefit and the statewide or regional contractors will utilize the funds to benefit the county(ies) for which the funds were allocated.

If the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if a subrecipient fails to administer the program correctly, the Department may proceed with the process provided for in Department rules of removing funds and reassign the service area or a portion to another existing subrecipient or conduct solicitation or selection of a new subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected subrecipient may request a hearing in accordance with §2105.204 of the Texas Government Code.

However, the Department retains the right to go through a procurement process for some or all aspects of the LIHEAP program.

8.7 How many local administering agencies do you use? 36

8.8 Have you changed any local administering agencies from last year?  Yes  No

8.9 If so, why?

- Agency was in noncompliance with grantee requirements for LIHEAP
- Agency is under criminal investigation
- Added agency
- Agency closed
- Other – describe – voluntary relinquishment

**Section 9: Energy Suppliers, 2605(b)(7) – Assurance 7**

9.1 Do you make payments directly to home energy suppliers?

- Heating  Yes  No
  - Cooling  Yes  No
  - Crisis  Yes  No
  - Are there exceptions?  Yes  No
- If yes, describe:

9.2 How do you notify the client of the amount of assistance paid?  
The administering agency informs them once the determination is made.

9.3 How do you assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment?

Vendor agreements are used in all components. The Department provides subrecipients and statewide or regional contractors with a Department approved Vendor Agreement to utilize. The document can be found at the Department’s website at <https://www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm>

9.4 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHEAP assistance?

Vendor Agreements are used in all components. The Department provides subrecipients and statewide or regional contractors with a Department approved Vendor Agreement to utilize. The document can be found at the Department’s website at <https://www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm>

9.5 Do you make payments contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households?  Yes  No. If so, describe the measures unregulated vendors may take.

**Section 10: Program, Fiscal Monitoring, and Audit, 2605(b)(10) – Assurance 10**

- 10.1. How do you ensure good fiscal accounting and tracking of LIHEAP funds?
- 1. Review annual audits
  - 2. Monitor fiscal records
  - 3. Review current and prior year monthly expenditure and performance reports

**Audit Process**

10.2. Is your LIHEAP program audited annually under the Single Audit Act and OMB Circular A-133?  Yes  No

10.3. Describe any audit findings rising to the level of material weakness or reportable condition cited in the A-133 audits, Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHEAP agency from the most recently audited federal fiscal year.

Finding <sup>17</sup>	Type	Brief Summary	Resolved?	Action Taken
LIHEAP Performance Data Form discrepancies	Reporting	Certain line items reported did not agree to the supporting schedules for the amounts reported in Schedule 2	Yes	Several upgrades to the automated system have been made. The Department is still working to resolve the finding.

10.4. Audits of Local Administering Agencies

What types of annual audit requirements do you have in place for local administering agencies/district offices?

Local agencies/district offices are required to have an annual audit in compliance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).<sup>18</sup>

Local agencies/district offices are required to have an annual audit (other than 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)).

10.4 (continued)

Local agencies/district offices 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) or other independent audits are reviewed by Grantee as part of compliance process.

Grantee conducts fiscal and program monitoring of local agencies/district offices.

### Compliance Monitoring

10.5. Describe the Grantee’s strategies for monitoring compliance with the Grantee’s and Federal LIHEAP policies and procedures by:

Grantee employees:

Internal program review

Departmental oversight

Secondary review of invoices and payments

Other program review mechanisms are in place. Describe: Cross Division peer review of documents

---

<sup>18</sup> For 2022, Subrecipients and statewide or regional contractors will follow the audit requirements in 45 CFR 75 Subpart F, as applicable, and the requirements in the Texas Single Audit Act.

Local Administering Agencies/District Offices:

- On-site evaluation
- Annual program review
- Monitoring through Central Database
- Desk reviews
- Client File Testing/Sampling
- Other program review mechanisms are in place. Describe: Desk review of 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance); A review of the Subrecipient’s and statewide or regional contractors’ resolution of prior monitoring or Single Audit reports is performed prior to awarding new contracts.

10.6. Explain, or attach a copy of, your local agency monitoring schedule and protocol.  
See attached monitoring schedule and monitoring instruments.

Describe how you select local agencies for monitoring reviews?

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance with program requirements. Subrecipient and statewide or regional contractors monitors review necessary program documents and financial records through desk reviews and on-site reviews. LIHEAP subrecipients and statewide or regional contractors are monitored at least once every three years. This is a component of the risk assessment score. If a subrecipient also has Community Service Block Grant funds, the LIHEAP monitoring may be done at the same time. Subrecipients and statewide or regional contractors that leverage LIHEAP funds with DOE funds for weatherization are subject to a programmatic, fiscal, and unit inspection review according to the DOE monitoring schedule (once a year). Contracts may also be selected for monitoring based on other factors, such as prior monitoring findings, issues noted in the Single Audit, complaints, and/or special requests.

10.7. Site Visits: Onsite monitoring visits are conducted at least once every three years. The Department will inspect a minimum of 5% of all LIHEAP weatherized units reported as complete.  
Desk Reviews: Some materials are requested and reviewed at the Department’s office prior to the onsite visit.

10.8. How often is each local agency monitored? At least once every three years.

10.9. What is the combined error rate for eligibility determinations? (Optional question) Optional

10.10. What is the combined error rate for benefit determinations? (Optional question)  
Optional

10.11. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues? (Number only) -0

10.12. How many local agencies are currently on corrective action plans for financial accounting or administrative issues? (Number only) -0

**Section 11: Timely and Meaningful Public Participation, 2605(b)(12) – Assurance 12, 2605(c)(2)**

11.1 How did you obtain input from the public in the development of your LIHEAP plan?

Check all that apply:

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)
- Comments are solicited during outreach activities
- Other, describe:

11.2 What changes did you make to your LIHEAP plan as a result of this participation?

Increased annual caps on benefit levels and on repairs or replacement of inoperable cooling and heating systems.

Description: Increased annual caps on benefit levels and on repairs or replacement of inoperable cooling and heating systems.

**Public Hearings, 2605(a)(2)**

11.3 List the date(s) and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

Date	Event Description
Monday, May 9, 2022, 2:30 pm - 3:00 p.m.	Southside Community Center, 959 E. Rosedale, room #3, Fort Worth, TX 76104
Tuesday, May 10, 2022, at 5:30 p.m. - 6:00 p.m.	1415 East 2nd, Odessa, TX 79762
Wednesday, May 11, 2022, at 1:30 p.m. - 2:00 p.m.	Baker Ripley, 3838 Aberdeen Way, 1 <sup>st</sup> Floor Education Center Room, Houston, TX 77025
Thursday, May 12 at 5:30 p.m. - 6:00 p.m.	Rusk building, room #320, 208 E. 10 <sup>th</sup> Street, Austin, TX 78701

11.4 How many parties commented on your plan at the hearing(s)? TBD

11.5 Summarize the comments you received at the hearing(s).

TBD11.6 What changes did you make to your LIHEAP plan as a result of the comments received at the public hearing(s)?

TBD

### **Section 12: Fair Hearings, 2605(b)(13) – Assurance 13**

12.1 How many fair hearings did the grantee have in the prior Federal fiscal year?  
None

12.2 How many of those fair hearings resulted in the initial decision being reversed? N/A

12.3 Describe any policy and/or procedural changes made in the last Federal fiscal year as a result of fair hearings? None

12.4 Describe your fair hearing procedures for **households whose applications are denied**. Subrecipient contracts include the following section:

#### **APPEALS PROCESS**

In compliance with the LIHEAP Act, Subrecipient and statewide or regional contractors must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner. Subrecipient and statewide or regional contractors must establish a denial of service complaint procedure in accordance with 10 TAC §6.8 of the State Rules. The rule states:

(b) Subrecipient and statewide or regional contractors shall establish a denial of service complaint procedure to address written complaints from program applicants/customers. At a minimum, the procedures described in paragraphs (b)(1) - (8) of this subsection shall be included:

(1) Subrecipients and statewide or regional contractors shall provide a written denial of assistance notice to applicant within ten (10) calendar days of the determination. Such a determination is defined as a denial of assistance, but does not include a level of assistance lower than the possible program limits or a reduction in assistance, as long as such process is in accordance with the Subrecipient's and statewide or regional contractors written policy. This notification shall include written notice of the right of a hearing and specific reasons for the denial by program. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) A Subrecipient and statewide or regional contractors must establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their customer files.

(3) Subrecipients and statewide or regional contractors shall hold a private appeal hearing (unless otherwise required by law) by phone or in person in an accessible location within ten (10) business days after the Subrecipient received the appeal request from the applicant and must provide the applicant notice in writing of the time/location of the hearing at least seven (7) calendar days before the appeal hearing.

(4) Subrecipient and statewide or regional contractors shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient and statewide or regional contractors shall notify applicant of the decision in writing. The Subrecipient and statewide or regional contractors shall mail the notification by close of business on the third calendar day following the decision (three day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing.

(c) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(d) Applicants/customers who allege that the Subrecipient and statewide or regional contractors has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001.

(e) The hearing under subsection (d) shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient, for which the procedures are further described in §1.13, relating to Contested Case Hearing Procedures, of this title.

(f) If the applicant/customer appeals to the Department, the funds should remain encumbered until the Department completes its decision.

12.5 When and how are applicants informed of these rights?

Within ten days of the determination, the subrecipient must provide written notification to the applicant.

12.6 Describe your fair hearing procedures for **households whose applications are not acted on in a timely manner**.

An Applicant requests a hearing with the Subrecipient and statewide or regional contractors initially. If not satisfied with the results of the Subrecipient's and statewide or regional contractor's hearing, the Applicant then appeals to the Texas Department of Housing and Community Affairs. The Department then schedules a fair administrative hearing.

12.7 When and how are applicants informed of these rights?

Applicants are informed of their rights either by 1) informing them on the application itself, 2) handing them a document with such information at the time of application, 3) displaying posters at intake offices, or 4) providing them the information in the denial of LIHEAP assistance letter that is mailed to the applicant.

### **Section 13: Reduction of home energy needs, 2605(b)(16) – Assurance 16**

13.1 Describe how you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance?



N/A- The State does not use funds under Assurance 16.

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities?

NA-The State does not use funds under Assurance 16.

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

13.4 Describe the level of direct benefits provided to those households in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

13.5 How many households applied for these services?

NA-The State does not use funds under Assurance 16.

13.6 How many households received these services?

NA-The State does not use funds under Assurance 16.

**Section 14: Leveraging Incentive Program, 2607A**

14.1 Do you plan to submit an application for the leveraging incentive program?

Yes  No

14.2 Describe instructions to any third parties and/or local agencies for submitting LIHEAP leveraging resource information and retaining records. NA

14.3 For each type of resource and/or benefit to be leveraged in the upcoming year that will meet the requirements of 45 C.F.R. § 96.87(d)(2)(iii), describe the following:

Resource	What is the type of resource or benefit?	What is the source(s) of the resource?	How will the resource be integrated and coordinated with LIHEAP?
NA	NA	NA	NA

**Section 15: Training**

15.1 Describe the training you provide for each of the following groups:

a. Grantee Staff:

Formal training on grantee policies and procedures

How often?

Annually

Biannually

As needed

Other – Describe:

Employees are provided with policy manual

Other – Describe:

Employees are provided with all the information necessary to administer the LIHEAP. The Department training team provides its new staff with programmatic orientation training and are invited to observe and participate in Subrecipient trainings as well.

b. Local Agencies:

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe: The Department offers a manager training for newly hired managers or Executive Directors, as needed, which is then followed up with individualized technical assistance. The Department hosts meetings and training events on an as needed basis with Subrecipients and statewide or regional contractors to conduct necessary training and/or make announcements. The Department collaborates with the Texas Association of Community Action Agencies to coordinate training for Subrecipients and statewide or regional contractors. Training for Subrecipients and statewide or regional contractors occurs at an annual conference sponsored by the Texas Association of Community Action Agencies each year. The Department provides Energy Audit training to agencies as needed, along with Department posted Energy Audit Student Guide and Best Practices on its website. The Department provides a template for developing the Annual Service Delivery Plan and a guide for developing it. The Department develops data tools and trains agencies as needed on how to analyze their data to improve efficiency and productivity. Emails, Go-To-Webinars, MS Teams for virtual TTA, and phone calls are common communication means with which the Department trains, assists, and communicates with LIHEAP Subrecipients and statewide or regional contractors.

On-site training

How often?

Annually

Biannually

As needed

Other –

The Department identifies key areas for training needs based upon monitoring reports, new regulations, and Subrecipient and statewide or regional contractors requests. Since COVID, the Department has developed robust and effective virtual

training courses to address Subrecipient TTA needs. The Department provides training as needed to individual agencies and network wide trainings on a variety of topics such as: process mapping, production, data analysis, intake, client file documentation, weatherization assessments, audits, final inspections, working with contractors, reporting, and technical assistance for service delivery. Onsite training is provided as warranted. The Department also supplies Subrecipients with online resources, training centers, and conference information to obtain skills and certifications.

- Employees are provided with policy manual
- Other – Describe: The Department uses an online portal (i.e., Wufoo) that agencies use daily for quick responses to questions or for requesting training. As needed, the Department schedules meetings to provide information, training, and technical assistance to the local agencies. Emails, the online portal, Go-To-Webinar, MS Teams for virtual TTA, and phone calls are the common methods used by the Department to train, assist, and communicate with LIHEAP Subrecipients and statewide or regional contractors. The Department creates tools, guides, best practices, and FAQs that are posted on program webpages.

c. Vendors

- Formal training conference
  - How often?
    - Annually
    - Biannually
    - As needed
    - Other – Describe:
- Policies communicated through vendor agreements
- Policies are outlined in a vendor manual
- Other – Describe:

15.2 Does your training program address fraud reporting and prevention?

- Yes
- No

**Section 16: Performance Goals and Measures, 2605(b)**

16.1 Describe your progress toward meeting the data collection and reporting requirements of the four required LIHEAP performance measures. Include timeframes and plans for meeting these requirements and what you believe will be accomplished in the coming federal fiscal year.

The Department was able to meet the four LIHEAP performance measures.

The Department currently requires subrecipients and statewide or regional contractors to upload data related to the four performance measures into our State reporting system. The Department has made this reporting a contractual requirement for all LIHEAP subrecipients and statewide or regional contractors. The Department periodically reviews uploaded summary reports and offers technical assistance to subrecipients and statewide or regional contractors who may not understand what to report or may not upload the data in a timely fashion.

**Section 17: Program Integrity, 2605(b)(10)**

**17.1 Fraud Reporting Mechanisms**

a. Describe all mechanisms available to the public for reporting cases of suspected waste, fraud, and abuse. Select all that apply.

- Online Fraud Reporting
- Dedicated Fraud Reporting Hotline
- Report directly to local agency/district office or Grantee office
- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse.
- Other – describe:

Note: TDHCA’s website has a webpage named “Report Fraud, Waste, and Abuse by TDHCA Management and Staff” directing persons who suspect fraud, waste, and abuse by TDHCA management and staff to report to the State Auditor’s Office at <https://sao.fraud.texas.gov/ReportFraud/>. Subrecipients and statewide or regional contractors are required to establish fraud, waste, and abuse procedures.

b. Describe strategies in place for advertising the above-referenced resources. Select all that apply.

- Printed outreach materials
- Addressed on LIHEAP application
- Website
- Other – describe:

**17.2 Identification Documentation Requirements**

a. Indicate which of the following forms of identification are required or requested to be collected from LIHEAP applicants or their household members.

Type of Identification Collected	Collected from Whom?		
	Applicant Only	All Adults in HH	HH Members Seeking Assistance*
Social Security Card is photocopied and retained	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Social Security Number (without actual card)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>

Government-issued identification card (e.g.,: driver's license, state ID, Tribal ID, passport, etc.)	Required <input checked="" type="checkbox"/>	Required <input checked="" type="checkbox"/>	Required <input checked="" type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>

#	Other	Applicant Only Required	Applicant Only Requested	All Adults in House hold Required	All Adults in Household Requested	All Household Members Required	All Household Members Requested
1	Other: clients provide identification to the subrecipients and statewide or regional contractors at the time of application. See attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

\*Households may include members who are not seeking assistance and may not be included in the household count. A live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household.

b. Describe any exceptions to the above policies: NA

### 17.3 Identification Verification

Describe what methods are used to verify the authenticity of identification documents provided by clients or household members. Select all that apply.

- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or state agency
- Match SSNs with state eligibility/management system (e.g., SNAP, TANF)
- Match with state Department of Labor system
- Match with state and/or federal corrections system
- Match with state child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff (for tribal grantees only)
- Match SSN/Tribal ID number with tribal database or enrollment records (for tribal grantees only)
- Other – describe:

Subrecipients and statewide or regional contractors verify the authenticity of identification documents provided by clients who are not U.S. citizens or nationals. That verification is made through the Systematic Alien Verification for Entitlements (SAVE) system.

### 17.4 Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or aliens who are qualified to receive LIHEAP benefits?

- Clients sign an attestation of citizenship or legal residency
- Clients' submission of Social Security cards is accepted as proof of legal residency
- Noncitizens must provide documentation of immigration status
- Citizens must provide a copy of their birth certificate, naturalization papers, or passport

- Noncitizens are verified through the SAVE system
- Tribal members are verified through Tribal database/Tribal ID card
- Other – describe: U.S. Nationals will have to provide documentation of that status.

#### 17.5 Income Verification

What methods does your agency utilize to verify household income?

- Require documentation of income for all adult household members
  - Pay stubs
  - Social Security award letters
  - Bank statements
  - Tax statements
  - Zero-income statements
  - Unemployment Insurance letters
  - Other – describe: Court Documents or government benefit statements as applicable.
- Computer data matches:
  - Income information matched against state computer system (e.g., SNAP, TANF)
  - Proof of unemployment benefits verified with state Department of Labor
  - Social Security income verified with SSA
  - Utilize state directory of new hires
- Other – describe:

#### 17.6 Protection of Privacy and Confidentiality

Describe the financial and operating controls in place to protect client information against improper use or disclosure.

- Policy in place prohibiting release of information without written consent
- Grantee LIHEAP database includes privacy/confidentiality safeguards
- Employee training on confidentiality for:
  - Grantee employees
  - local agencies/district offices
- Employees must sign confidentiality agreement
  - Grantee employees
  - local agencies/district offices
- Physical files are stored in a secure location
- Other – describe: Grantee contracts include the following section:

#### **RECORD KEEPING REQUIREMENTS**

Subrecipient and statewide or regional contractors acknowledges that all information collected, assembled, or maintained by subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

**Texas Administrative Code, Title 10 Chapter 1, Subchapter D §1.409 requires that:**

(a) Client Records including Multifamily Development Owners. The Department requires subrecipient organizations and statewide or regional contractors to document client services and assistance.

Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations and statewide or regional contractors must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization and statewide or regional contractors policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient and statewide or regional contractors headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

(b) Records of client eligibility must be retained for five (5) years starting from the date the Household activity is completed, unless otherwise provided in federal regulations governing the program.

(c) Other records must be maintained as described in the Contract or the LURA, and in accordance with federal or state law for the programs described in the Chapters of this Part.

### 17.7 Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- All vendors must register with the State/Tribe
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through energy bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other – describe, and note any exceptions to policies above:

### 17.8 Benefits Policy – Gas and Electric Utilities

What policies are in place to protect against fraud when making benefit payments to gas and electric utilities on behalf of clients? Select all that apply.

- Applicants required to submit proof of physical residency
- Applicants must submit current utility bill
- Data exchange with utilities that verifies:
  - Account ownership
  - Consumption
  - Balances
  - Payment history
  - Account is properly credited with benefit
  - Other – describe:
- Centralized computer system/database tracks payments to all utilities
- Centralized computer system automatically generates benefit level
- Separation of duties between intake and payment approval
- Payments coordinated among other heating assistance programs to avoid duplication of payments
- Payments to utilities and invoices from utilities are reviewed for accuracy
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to utilities
- Direct payment to households are made in limited cases only
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.9 Benefits Policy — Bulk Fuel Vendors

What procedures are in place for averting fraud and improper payments when dealing with bulk fuel suppliers of heating oil, propane, wood, and other bulk fuel vendors? Select all that apply.

- Vendors are checked against an approved vendors list
- Centralized computer system/database is used to track payments to all vendors
- Clients are relied on for reports of non-delivery or partial delivery
- Two-party checks are issued naming client and vendor
- Direct payment to households are made in limited cases only
- Vendors are only paid once they provide a delivery receipt signed by the client
- Conduct monitoring of bulk fuel vendors
- Bulk fuel vendors are required to submit reports to the Grantee
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.10 Investigations and Prosecutions

Describe the Grantee's procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud. Select all that apply.

- Refer to state Inspector General
- Refer to local prosecutor or state Attorney General
- Refer to US DHHS Inspector General (including referral to OIG hotline)
- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Grantee attempts collection of improper payments. If so, describe the recoupment process.
- Clients found to have committed fraud are banned from LIHEAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated
- Vendors found to have committed fraud may no longer participate in LIHEAP
- Other — describe: A Subrecipient and statewide or regional contractors may be referred to the Department's Enforcement Committee or proposed for debarment.



## **Section 18: Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions**

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used

in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

#### **Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--Lower Tier Covered Transactions**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the prospective primary participant is providing the certification set out above.

## Section 19: Certification Regarding Drug-Free Workforce Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

### Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

*Controlled substance* means a controlled substance in Schedules I through V of the Controlled

Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

*Conviction* means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

*Criminal drug statute* means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

*Employee* means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of Subrecipients or subcontractors in covered workplaces).

## Certification Regarding Drug-Free Workplace Requirements

### Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;  
(2) The grantee's policy of maintaining a drug-free workplace;  
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and  
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --  
(1) Abide by the terms of the statement; and  
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- (B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

221 East 11<sup>th</sup> Street

Austin, Travis County, Texas, 78701

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the prospective primary participant is providing the certification set out above.

## Section 20: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients and statewide or regional contractors shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

## **REQUIRED ATTACHMENTS**

The following documents must be attached to this application:

- Assurances signature page
- Designation letter for signature to Assurances is required if someone other than the Governor or Tribal Chairperson signs the Assurances.
- Heating component benefit matrix. (Attachment 3)
- Cooling component benefit matrix. (Attachment 3)
- Local Agency Monitoring Schedule (Attachment 4)



## **Attachment 3**

### **Benefit Matrix**

Program rules found at 10 Texas Administrative Code, §6.309(e):

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=309](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=309) . .

All benefits are determined based on a sliding scale.

(e) Benefit determinations for the Utility Assistance Component and the Crisis Assistance Component cannot exceed the sliding scale described in paragraphs (1) - (3) of this subsection:

- (1) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount not to exceed \$2,400 per Component;
- (2) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount not to exceed \$2,300 per Component; and
- (3) Households with Incomes of 76% to at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed \$2,200 per Component; and

(f) Service and Repair of existing heating and cooling units: Households may receive up to \$7,500 for service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system based on requirements in §6.310 and §6.311.

## Attachment 4

### Monitoring Schedule for FY 2023

	SUBRECIPIENT	REVIEW TYPE	Date of Next Monitoring Review	DATE OF LAST FULL ONSITE REVIEW (IF APPLICABLE)
1	Alamo Area Council of Governments	On-Site	2022	November 2021
2	Aspermont Small Business Development Center, Inc.	On-Site	2022	November 2019
3	BakerRipley	On-Site	2023	February 2022
4	Bexar County Community and Development Programs	On-Site	2022	January 2020
5	Big Bend Community Action Committee, Inc.	On-Site	2024	March 2022
6	Brazos Valley Community Action Programs	On-Site	2022	March 2020
7	Central Texas Opportunities/DBA Cornerstone Community Action Agency	On-Site	2023	September 2020
8	City of Fort Worth Neighborhood Services Department	On-Site	2022	February 2020
9	City of Lubbock Community Development Department	On-Site	2024	August 2021
10	Combined Community Action, Inc.	On-Site	2022	November 2019
11	Community Action Committee of Victoria, Texas	On-Site	2022	September 2019
12	Community Action Corporation of South Texas	On-Site	2022	July 2019
13	Community Action Inc. of Central Texas	On-Site	2023	October 2020
14	Community Council of South Central Texas, Inc.	On-Site	2023	September 2020
15	Community Services Northeast Texas, Inc.	On-Site	2024	April 2021
16	Concho Valley Community Action Agency	On-Site	2023	April 2020
17	County of Hidalgo Community Services Agency	On-Site	2024	June 2021
18	Dallas County Health and Human Services	On-Site	2023	October 2020
19	Economic Action Committee of the Gulf Coast	On-Site	2022	July 2019
20	Economic Opportunities Advancement Corporation of Planning Region XI	On-Site	2022	January 2020
21	El Paso Community Action Program-Project BRAVO	On-Site	2023	September 2020
22	Galveston County Community Action Council, Inc.	On-Site	2023	April 2020
23	Greater East Texas Community Action Program	On-Site	2023	April 2020
24	Hill Country Community Action Association, Inc.	On-Site	2024	October 2021
25	Kleberg County Human Services	On-Site	2024	October 2021
26	Nueces County Community Action Agency	On-Site	2024	July 2021
27	Panhandle Community Services	On-Site	2024	August 2021
28	Pecos County Community Action Agency	On-Site	2024	February 2021
29	Rolling Plains Management Corporation	On-Site	2023	January 2021
30	South Plains Community Action Association, Inc.	On-Site	2024	August 2021
31	South Texas Development Council	On-Site	2024	April 2021
32	Texas Neighborhood Services	On-Site	2022	May 2019
33	Texoma Council Of Governments	On-Site	2022	August 2019
34	Travis County Health and Human Services	On-Site	2023	August 2020
35	Tri-County Community Action, Inc.	On-Site	2024	March 2021
36	Webb County Community Action Agency	On-Site	2022	December 2019
37	West Texas Opportunities, Inc.	On-Site	2023	June 2020

38	Williamson-Burnet County Opportunities, Inc.	On-Site	2023	September 2020
----	--	---------	------	----------------

1p

BOARD ACTION REQUEST

FINANCIAL ADMINISTRATION DIVISION

APRIL 14, 2022

Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department), a public and official governmental agency of the State of Texas, was created and organized pursuant to and in accordance with the provisions of Tex. Gov't Code, Chapter 2306 (the Code), as amended;

WHEREAS, the Code authorizes the Department, among other things: (a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State of Texas (the State); (b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans of participating interests, and to mortgage, pledge or grant security interests in such mortgages of participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds;

WHEREAS, on March 10, 2022, the Governing Board adopted a resolution designating signature authority to reflect the structure of the Department; and

WHEREAS, organizational changes have occurred to remove Monica Galuski as Director of Bond Finance and Chief Investment Officer and include Heather Hodnett as Interim Director of Bond Finance, such that the Governing Board has now determined that its resolution adopted March 10, 2022, designating signature authority, should be superseded by a new resolution designating signature authority in order to conform to the Department's current organizational structure, working titles, and operations;

NOW, THEREFORE, it is hereby

RESOLVED that the Governing Board makes changes to its resolution adopted March 10, 2022, as shown below.

SECTION 1 – Supersession of the Prior Signature Authority. The Governing Board hereby supersedes its prior resolution, adopted March 10, 2022, designating signature authority by adopting this new resolution.

SECTION 2 – Designation of Signature Authority for Bond and Indenture-Related Transactions. The Governing Board hereby authorizes and designates the Board Secretary, the Assistant Board Secretary, the Executive Director, the Director of Administration, the Director of Financial Administration, the Interim Director of Bond Finance, the Director of Multifamily Bonds, and each of them as signatories for single family and multifamily bond and indenture-related transactions as well as transactions under the Department’s “to be announced” or TBA program including, but not limited to letters of instruction, officer's certificates, bond transactional documents and all other documents and certificates executed in connection with such transactions. In addition, the Governing Board authorizes and designates Senior Bond Financial Analysts within the Bond Finance division as signatories for day-to-day operations activities related to advances taken through the Federal Home Loan Bank of Dallas (FHLB) for the purchase of loan participations from the Idaho Housing and Finance Association (IHFA), the Department’s Master Servicer, including directing the wiring of such advances from FHLB to IHFA.

SECTION 3 – Designation of Signatory Authority for Real Estate Transactions. The Governing Board hereby authorizes and designates the following persons holding the positions described and each of them to execute and deliver, as specified, earnest money contracts, deeds or conveyances of title, leases of real property, settlement statements on purchase or sale of real property, deposits and disbursements on agency bank accounts, real estate transactional documents and all other documents executed in connection with real estate or real estate-related transactions. Every reference to a signatory office or title herein includes any person serving in an acting or interim capacity:

- (a) Executive Director, Deputy Executive Director of Programs, Deputy Executive Director of Program Controls and Oversight, Director of Administration, Board Secretary, and Assistant Board Secretary: All real estate or real estate related transactions;
- (b) Director of Financial Administration: All real estate or real estate-related transactions administered by the Financial Administration Division;
- (c) Director of Multifamily Programs: All real estate or real estate-related transactions administered by the Multifamily Programs Division;
- (d) Director of Multifamily Asset Management: All real estate or real estate-related transactions administered by the Multifamily Asset Management Division;
- (e) Interim Director of Bond Finance: All real estate or real estate-related transactions administered by the Bond Finance Division;
- (f) Director of Multifamily Bonds: All real estate or real estate-related transactions administered by the Multifamily Bonds, and Texas Homeownership Divisions, and 4% Housing Tax Credit transactions;
- (g) Director of Texas Homeownership Program: All real estate or real estate-related transactions administered by the Texas Home Ownership Division;
- (h) Director of Single Family and Homeless Programs: All real estate or real estate-related transactions administered by the Single Family and Homeless Programs, which includes HOME, Housing Trust Fund (HTF); Office of Colonia Initiatives (OCI); and Neighborhood Specialization Program (NSP);

- (i) Director of Section 811 Program: All transactions administered by the Section 811 Program;
- (j) CDBG CARES Director: All transactions administered by the Community Development Block Grant CARES Program;
- (k) Director of Texas Rent Relief Program: All transactions administered by the Texas Rent Relief Program;
- (l) Director of Housing Stability Services: All transactions administered by the Housing Stability Services Program;
- (m) Director of the HOME-ARP Program: All transactions administered by the HOME-ARP Program;
- (n) Director of Texas Homeowner Assistance Fund: All transactions administered by the Texas Homeowner Assistance Fund Program;
- (o) Signatory authority on deposits and disbursements on agency bank accounts is limited to those persons designated on the applicable signature cards, as specified by the Executive Director; provided however, that no person may be so designated other than the Executive Director, Director of Administration, or a Director.

SECTION 4 – Designation of Signatory Authority for Fund Transfers. The Governing Board hereby authorizes and designates the following persons and each of them to execute and deliver any necessary fund transfer documents, including letters of instruction, in the manner prescribed below.

Fund transfers require dual signatures, consisting of one signatory from each of the following two groups:

- (a) Director of Administration, or Director of Financial Administration; and
- (b) Executive Director, Deputy Executive Director of Program Controls and Oversight, or Deputy Executive Director of Programs.

SECTION 5 – Execution of Documents. The Governing Board hereby authorized the Executive Director, or in his absence the Director of Administration, the Deputy Executive Director of Programs, or the Deputy Executive Director of Program Controls and Oversight, to execute, on behalf of the Department, any and all documents, instruments reasonably deemed necessary to effectuate this resolution.

SECTION 6 – Effective Date. This Resolution shall be in full force and effect from and upon its adoption until and unless it is revoked or superseded.

#### BACKGROUND

This Resolution updates and designates signature authority to reflect the current organizational structure of the Department and the current working titles for the positions designated. The update allows for the Interim Director of Bond Finance to sign documents related to the Bond Finance Division, and keeping previous authorizations the same.

Incumbency Certificate

I, James "Beau" Eccles, the duly appointed and serving Secretary of the Governing Board of the Texas Department of Housing and Community Affairs (the Department), do hereby certify that Robert "Bobby" Wilkinson is the duly appointed Executive Director of the Department, appointed by its governing board and approved by the Governor effective August 15, 2019, and set forth below opposite his name is his true and correct signature:

Bobby Wilkinson \_\_\_\_\_

Executed and seal of the Department affixed this \_\_\_\_ day of \_\_\_\_\_, 2022 at Austin, Texas.

\_\_\_\_\_

James "Beau" Eccles

(SEAL)



Certificate

I, Robert "Bobby" Wilkinson, the duly appointed Executive Director of the Texas Department of Housing and Community Affairs (the Department), do hereby certify that set forth below is a true and correct listing setting forth specific positions within the Department, the name of the person currently designated by me to hold each such position, and, opposite their name, their true and correct signature. Each person listed currently holds the position indicated:

Board Secretary	_____
	James "Beau" Eccles
Assistant Board Secretary	_____
	Michael Lyttle
Director of Administration	_____
	David Cervantes
Director of Financial Administration	_____
	Jose Guevara
Interim Director of Bond Finance	_____
	Heather Hodnett
Director of Multifamily Bonds	_____
	Teresa W. Morales
Director of Multifamily Programs	_____
	Cody Campbell
Director of Texas Homeownership Program	_____
	Cathy Gutierrez
Deputy Executive Director of Programs	_____
	Brooke Boston
Director of Multifamily Asset Management	_____
	Rosalio Banuelos
Director of Single Family and Homeless Programs	_____
	Abigail Versyp
Director of Section 811 Program	_____
	Spencer Duran
CDBG CARES Director	_____
	Rudy Bentancourt
Director of Texas Rent Relief Program	_____
	Mariana Salazar
Director of Housing Stability Services	_____
	Cate Tracz
Director of the HOME-ARP Program	_____
	Naomi Cantu
Director of Texas Homeowner Assistance Fund	_____
	Tanya Birks
Deputy Executive Director of Program Controls and Oversight	_____
	Homero V. Cabello, Jr.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2022 at Austin, Texas.

\_\_\_\_\_  
Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs

2a



## TDHCA Outreach and Media Analysis, February 2022

A compilation of TDHCA media analysis designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public, and outreach activities, such as trainings and webinars. The following is an analysis of print and broadcast news, and social media reporting for the time period of February 1 through February 28, 2022 (news articles specifically mentioned the Department and/or Texas Rent Relief Program).

Total number of articles referencing TDHCA: 99

Breakdown by Medium:<sup>1</sup>

- Print: 36 (Editorials/Columnists = 0)
- Broadcast: 21
- Trade, Government or Internet-Based Publications: 42

Figure 1 News Tone

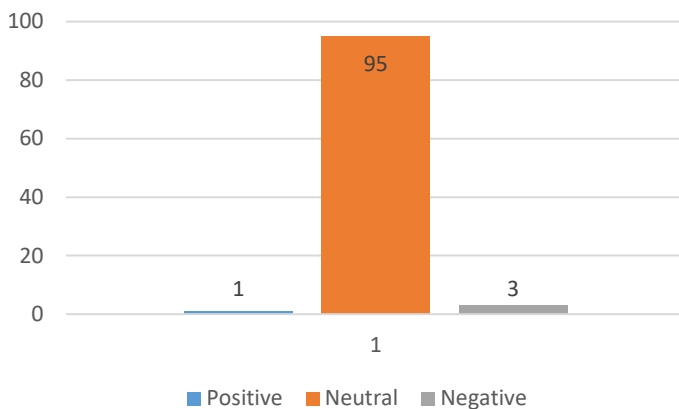
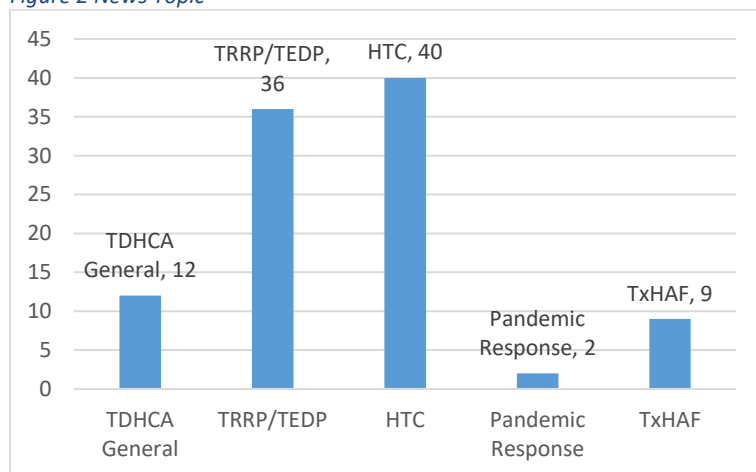
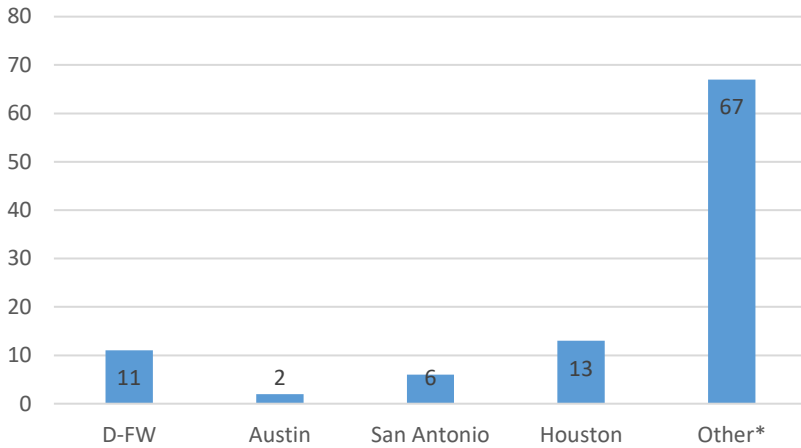


Figure 2 News Topic



<sup>1</sup> Broadcast numbers may represent instances in which TDHCA was referenced on a television or radio station's website, rather than in a specific broadcast news segment

Figure 3 Media Market

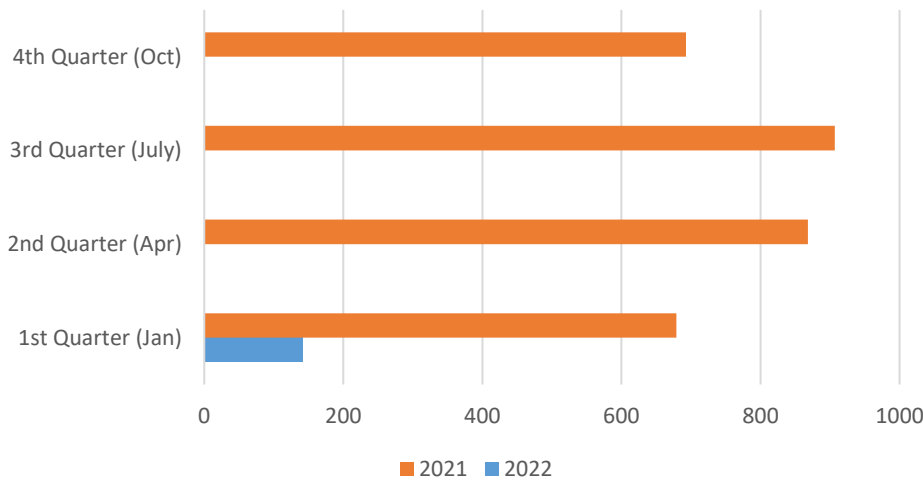


**Summary:**

Reporting on Department activities by the news media totaled 99 references in February 2022. TDHCA’s 2022 9% HTC cycle accounted for the most news mentions, and the Texas Homeowner Assistance Fund received several mentions (references to launch date of February 21; not per TDHCA). Articles referencing the Texas Rent Relief Program made up nearly a third of the total number of articles.


The following table illustrates the number of news mentions during each month or quarter of 2022 compared to 2021. The Texas Rent Relief (TRR) Program launched in February 2021 with significant media attention. In February 2021, there were more than 550 news mentions of TDHCA and/or TRR. February 2022 news mentions equal less than one-fifth of the total from a year ago; however, the number is significantly higher than 2020 accounting for a 37 percent increase in the total number of TDHCA mentions.

TDHCA News Trends




**Social media:**

Through February 2022, TDHCA has 3,200 followers to its Twitter account and 6,500 followers to its Facebook account. TDHCA’s YouTube channel had more than 1,800 views in February. The following is a summary analysis of TDHCA’s efforts to engage stakeholders and the public on federal and state resources, initiatives and programs.

					
Month/Yr	Posts	Clicks	Engagements	Shared posts	Liked posts
January 2022	35	14	118	12	46
February 2022	47	70	42	2	16

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post

					
Month/Yr	Tweets	Clicks	Engagements	Retweets	Liked posts
January 2022	35	128	20	7	13
February 2022	47	186	14	7	4

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post



Month	Views	Watch time (hours)	Avg. view duration	Impressions	Impressions click-through rate
January 2022	3,478	176.9	3:03	19,871	4.0%
Feb. 2022	1,839	125.2	4:05	15,141	3.4%

**February 2022**

Video	Views ↓	Watch time (hours)	Subscribers	Impressions	Impressions click-through rate
<input type="checkbox"/> <b>Total</b>	<b>1,839</b>	<b>125.2</b>	<b>24</b>	<b>15,141</b>	<b>3.4%</b>
<input type="checkbox"/> Texas Rent Relief Program Tutorial – Setting Up Bill.com Account f...	462 25.1%	7.2 5.7%	9 37.5%	948	4.3%
<input type="checkbox"/> Texas Rent Relief Program Completing Application Tutorial	348 18.9%	3.4 2.7%	2 8.3%	1,959	5.6%
<input type="checkbox"/> Texas Rent Relief Program Registration Tutorial	122 6.6%	0.8 0.7%	2 8.3%	370	1.4%
<input type="checkbox"/> Texas Rent Relief Program Landlord Tips	112 6.1%	1.9 1.5%	1 4.2%	1,987	2.2%
<input type="checkbox"/> Texas Rent Relief Program Landlord Application Tutorial	87 4.7%	2.4 1.9%	0 0.0%	1,072	2.8%
<input type="checkbox"/> Texas Eviction Diversion Program Overview – September 9, 2021	83 4.5%	7.8 6.2%	2 8.3%	544	5.5%
<input type="checkbox"/> 20 IncomeDeterminationTraining	58 3.2%	7.6 6.1%	0 0.0%	99	10.1%
<input type="checkbox"/> Fair Housing 101: The Basics of Fair Housing in Texas	58 3.2%	12.6 10.1%	1 4.2%	391	5.4%
<input type="checkbox"/> ERA2 Housing Stability Services NOFA Application Webinar	40 2.2%	10.3 8.3%	1 4.2%	624	2.7%
<input type="checkbox"/> Housing Stability Services Contract Implementation Webinar	36 2.0%	6.2 5.0%	0 0.0%	225	6.2%
<input type="checkbox"/> Utility Allowance Training - May 5, 2021	35 1.9%	3.0 2.4%	1 4.2%	157	8.9%
<input type="checkbox"/> Fair Housing Special Topics: How to Create an Affirmative Marketin...	32 1.7%	7.2 5.8%	0 0.0%	167	4.2%
<input type="checkbox"/> Texas Emergency Mortgage Assistance Program TEMAP Webinar - ...	31 1.7%	1.8 1.4%	0 0.0%	348	2.9%

<input type="checkbox"/>	Compliance Monitoring & Tracking System (CMTS) Training	30	1.6%	2.3	1.9%	1	4.2%	1,068	1.5%
<input type="checkbox"/>	Low Income Household Water/Wastewater Assistance Program (LI...	29	1.6%	3.2	2.5%	1	4.2%	439	4.1%
<input type="checkbox"/>	Accessing Texas Department of Aging and Disability Services	22	1.2%	1.1	0.9%	0	0.0%	244	7.4%
<input type="checkbox"/>	Fair Housing Special Topics: The Violence Against Women Act in F...	21	1.1%	13.4	10.7%	0	0.0%	246	6.9%
<input type="checkbox"/>	TDHCA's Multifamily Direct Loan Training - Sept. 24, 2020	21	1.1%	6.5	5.2%	0	0.0%	167	6.6%
<input type="checkbox"/>	Average Income Webinar - Sept. 2, 2020	20	1.1%	9.0	7.2%	0	0.0%	168	3.0%
<input type="checkbox"/>	Housing Contract System and TEMAP Monthly Reporting Webinar ...	19	1.0%	2.4	1.9%	0	0.0%	114	0.9%
<input type="checkbox"/>	Fair Housing Special Topics: Reasonable Accommodations, Modifi...	17	0.9%	2.6	2.1%	0	0.0%	272	4.4%
<input type="checkbox"/>	Overview of Updates to Compliance, Affirmative Marketing and Writ...	14	0.8%	1.6	1.3%	0	0.0%	118	5.1%
<input type="checkbox"/>	Fair Housing Special Topics: Assistance Animals, Service Animals, ...	14	0.8%	2.7	2.2%	0	0.0%	279	3.2%
<input type="checkbox"/>	TEMAP Implementation Workshop - June 8, 2021	14	0.8%	2.4	1.9%	0	0.0%	217	0.5%
<input type="checkbox"/>	Texas Community Resiliency Program (CRP) NOFA & Application W...	12	0.7%	0.2	0.2%	0	0.0%	165	2.4%
<input type="checkbox"/>	Housing Stability Services Reporting and Housing Contract System...	12	0.7%	1.6	1.3%	0	0.0%	233	1.3%
<input type="checkbox"/>	Como Completar Su Aplicación para el Programa de Asistencia de ...	10	0.5%	0.1	0.1%	0	0.0%	116	3.5%
<input type="checkbox"/>	Introduction to the Low Income Water/Wastewater Assistance Pro...	9	0.5%	1.2	1.0%	0	0.0%	329	1.8%
<input type="checkbox"/>	Como Registrarse Para el Programa de Asistencia de Pago de Rent...	9	0.5%	0.1	0.1%	1	4.2%	99	5.1%
<input type="checkbox"/>	Consejos para la solicitud del propietario	7	0.4%	0.1	0.1%	0	0.0%	80	1.3%
<input type="checkbox"/>	Fair Housing Special Topics: Limited English Proficiency and Langu...	6	0.3%	0.4	0.3%	0	0.0%	36	8.3%
<input type="checkbox"/>	TDHCA Utility Allowance Roundtable - Oct. 13, 2020	6	0.3%	0.8	0.6%	0	0.0%	112	1.8%
<input type="checkbox"/>	TERAP Application Workshop	6	0.3%	0.0	0.0%	0	0.0%	221	1.8%
<input type="checkbox"/>	TEMAP NOFA 2 Implementation Workshop	5	0.3%	0.2	0.2%	1	4.2%	141	2.8%
<input type="checkbox"/>	Section 811 PRA Updates for Referral Agents	4	0.2%	0.4	0.3%	0	0.0%	44	2.3%
<input type="checkbox"/>	TEMAP Monthly Reporting Webinar for Part C Programs - October ...	4	0.2%	0.2	0.1%	0	0.0%	163	0.6%
<input type="checkbox"/>	For Sec. 811 Referral Agents - PRA Barrier Busting Funds	4	0.2%	0.3	0.2%	0	0.0%	32	3.1%
<input type="checkbox"/>	TDHCA Governing Board meeting - June 17, 2021	3	0.2%	0.0	0.0%	0	0.0%	84	0%
<input type="checkbox"/>	Digital Outreach Webinar	3	0.2%	0.0	0.0%	0	0.0%	62	0%
<input type="checkbox"/>	TDHCA Governing Board meeting - July 22, 2021	2	0.1%	0.0	0.0%	0	0.0%	78	2.6%
<input type="checkbox"/>	Cost Certification Roundtable - November 18, 2020	2	0.1%	0.1	0.1%	0	0.0%	40	0%
<input type="checkbox"/>	Consejos para la solicitud de inquilinos	2	0.1%	0.0	0.0%	0	0.0%	86	2.3%
<input type="checkbox"/>	TERAP Implementation Workshop	2	0.1%	0.0	0.0%	0	0.0%	89	1.1%
<input type="checkbox"/>	Rental Assistance	1	0.1%	0.0	0.0%	0	0.0%	31	0%
<input type="checkbox"/>	Energy Assistance	1	0.1%	0.0	0.0%	0	0.0%	19	0%
<input type="checkbox"/>	Accessing Texas Department of State Health Services	1	0.1%	0.0	0.0%	0	0.0%	23	4.4%
<input type="checkbox"/>	TERAP Webinar on Monthly Reporting and Duplication of Benefits	1	0.1%	0.0	0.0%	0	0.0%	73	0%
<input type="checkbox"/>	TERAP Demographics Reporting Update Workshop	1	0.1%	0.0	0.0%	0	0.0%	106	0.9%
<input type="checkbox"/>	TERAP Monthly Reporting Workshop - March 1, 2021	1	0.1%	0.0	0.0%	0	0.0%	43	2.3%
<input type="checkbox"/>	TDHCA Board Audit & Finance Committee - June 17, 2021	—	—	—	—	—	—	76	0%

### TDHCA Outreach February 2022

A compilation of outreach activities such as meetings, trainings and webinars.

Last Name	Meeting Date	Meeting Title	Attendees (includes organizer)
-----------	--------------	---------------	--------------------------------

Compliance	Feb 8, 2022	Virtual Income Determination Training held in conjunction with Texas Apartment Association	62
SF and Homeless Programs	Feb 10, 2022	CARES Conversation: Managing An Emergency Shelter During COVID	62
Community Affairs – CEAP	Feb 15, 2022	Quarterly network Call- All WAP Subrecipients	88
Compliance	Feb 15, 2022	Virtual Housing Tax Credit Training held in conjunction with Texas Apartment Association	145
SF and Homeless Programs	Feb 16, 2022	ESG Rules Roundtable – CoC & HMIS Leads	23
SF and Homeless Programs	Feb 17, 2022	ESG Rules Roundtable- Annual Allocation Subrecipients	90
SF and Homeless Programs	Feb 17, 2022	ESG Rules Roundtable- General Session	71
Texas Home Ownership Program	Feb 17, 2022	Monthly Lender Lunch and Learn Series	201
Community Affairs - CSBG	Feb 24, 2022	Case Management TTA City of Austin	12

2b





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

**TDHCA One-Time or Temporary Allocations – Pandemic Response and Other Initiatives  
Report for April 14, 2022**

This report has now been updated to include other one-time or temporary federally awarded allocations of funds, in addition to those funds reflected in this report in the past that were focused specifically on the programs TDHCA has targeted to assist with Texas’ response to COVID-19. Programs reflected include those that were reprogramming of existing funds and those awarded through the administration of federal bills.

*Shaded rows reflect completed programs for which assistance is no longer available.*

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)	Other Notes
<b>EARLY REPROGRAMMING OF EXISTING TDHCA PROGRAM FUNDS</b>								
<b>HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR</b>	NA: Reservation Agreements	<p>Program provided 3-6 months of rental assistance through existing or new HOME subrecipients.</p> <p><i>Geography:</i> Was available where subrecipients applied. 23 administrators covered 120 counties</p> <p><i>Income Eligibility:</i> Households at or below 80% AMFI based on current circumstances</p>	All necessary waivers for this activity were authorized by the OOG and HUD via HUD’s mega-waiver of April 10, 2020. The HUD waivers were extended by HUD in December 2020 to expire September 30, 2021.	<b>COMPLETED*</b>	No added TDHCA staffing  No added admin funds	2,612 households	\$11,026,701* \$11,026,701 <b>100%</b> \$11,026,701 <b>100%</b>	* Total Program Funding was originally authorized up to \$11,290,076. Ultimately 97.7% of that (\$11,026,701) was obligated and utilized.
<b>Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds</b>	<ul style="list-style-type: none"> <li>Board approval March 2020</li> <li>Recipients contracts were effective March 26, 2020</li> <li>Expenditure Deadline was August 31, 2020</li> </ul>	<p>Used the existing network of Community Action Agencies to provide direct client assistance to low income households economically impacted by COVID-19</p> <p><i>Geography:</i> Available statewide (excluding CWCCP and CSI) <i>Income Eligibility:</i> 200% poverty (normally is 125%)</p>	None	<b>COMPLETED</b>  100% expended	No added TDHCA staffing  No added admin funds	9,468 persons	\$1,434,352 1,434,352 <b>100%</b> \$1,434,352 <b>100%</b>	38 CAA subs

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>Recaptured 2018/2019 HHSP</b>	<ul style="list-style-type: none"> <li>Board approval March 2020</li> <li>2018 had to be spent by August 31, 2020; 2019 had to be spent by December 31, 2020</li> </ul>	<p>Allow subrecipients to perform HHSP eligible activities in addressing homelessness and those at risk of homelessness</p> <p><i>Geography:</i> Available 9 largest metro areas <i>Income Eligibility:</i> Generally 30% AMFI if applicable</p>	Approval from Comptroller granted	<b>COMPLETED</b> 100% expended	No added TDHCA staffing  No added admin funds	462 persons	\$191,939.53 \$191,939.53 <b>100%</b> \$191,939.53 <b>100%</b>	9 subs
<b>CARES ACT FUNDS</b>								
<b>CSBG CARES</b>	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>Must expend 90% by August 31, 2022</li> <li>45 day closeout period</li> </ul>	<p>90% to CAAs using regular CSBG formula for households affected by COVID-19; 2% (\$949,120) to Texas Homeless Network<sup>1</sup>; 7% for an eviction diversion pilot program; 1% for state admin</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 200% of poverty (normally is 125%)</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted.	All contracts are in progress. The Eviction Diversion program has been completed.	1 Art. IX FTE for CSBG reporting  1% admin (\$474,560)	136,815 persons	\$48,102,282 \$48,102,282 <b>100%</b> \$41,913,872 87%	40 CAA subs
<b>LIHEAP CARES</b>	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>Must expend by September 30, 2021</li> <li>45 day closeout period</li> </ul>	<p>99% to CEAP subs for households affected by COVID-19; 1% for state admin (no weatherization)</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted	<b>COMPLETED</b>	1 Art. IX FTE for CEAP TA/capacity (1 Filled)  1% admin (\$892,670)	181,215 persons	\$94,023,896 \$93,483,658 99% \$64,347,342 69%	An estimated \$29,676,554 was not expended by subrecipients by the deadline. Unused funds were returned to HHS.

<sup>1</sup> The award to THN is to address homelessness and those at risk of homelessness as a result of COVID-19.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>CDBG CARES – Phases I, II and III</b>	<p>Board approved general use of the funds for CDBG Phase I in April 2020 and Plan Amendments in October 2020, January 2021, and July 2021</p> <p>80% of funds must be expended by November 3, 2023; remaining 20% by November 3, 2026</p> <p>90-day closeout period</p>	<p>Planned Usage: rental assistance in 40 cities/counties; mortgage payment assistance in 40 counties; legal services; assistance for providers of persons with disabilities; food expenses; community resiliency activities; and possible HMIS data warehouse funds. <i>See Also Attached Report.</i></p> <p><i>Geography:</i> Varies by activity type.</p>	<p>HUD agreement executed November 3, 2020. All Plan Amendments approved.</p>	<p><i>See Attached Report.</i></p> <p>Staff has been receiving technical assistance from HUD’s TA provider. Awards for final program, Community Resiliency Program, on the April Board agenda.</p>	<p>CDBG Director position filled. 7 other positions filled.</p> <p>All FTES are Art. IX</p> <p>Up to 7% admin and TA budget (\$9,929,238)</p>	<p>274,783 persons</p>	<p>1<sup>st</sup> allocation: \$40,000,886 2<sup>nd</sup> Allocation: \$63,546,200 3<sup>rd</sup> Allocation: \$38,299,172</p> <p>Total: \$141,846,258</p> <p>\$98,503,793* 69.44%</p> <p>\$49,697,314* 35.04%</p>	<p><i>Income Eligibility:</i> For persons at or below 80% of AMI. * Figure includes TDHCA admin funds.</p>
<b>ESG CARES – Phase I &amp; 2</b>	<ul style="list-style-type: none"> <li>Board approved programming plan for ESG1 on April 2020. ESG1 awards made July 23, 2020 and ESG2 awards made January 14, 2021.</li> <li>Deadline to expend 80% by March 31, 2022 was removed by HUD</li> <li>Expend by September 30, 2022</li> <li>90 day closeout period</li> </ul>	<ul style="list-style-type: none"> <li>ESG1: Existing subs were offered funds. ESG Coordinators decided via local process for their CoC, in three areas without ESG Coordinators awards offered to CoC awardees. Also used for Legal/ HMIS.</li> <li>ESG2: Funds for use for Homelessness Prevention, Rapid Rehousing, HMIS, Street Outreach &amp; Emergency Shelter.</li> <li><i>Geography:</i> Locations of all funded grantees</li> <li><i>Income Eligibility:</i> 50% AMI for homeless prevention</li> </ul>	<ul style="list-style-type: none"> <li>HUD mega-waivers accepted</li> <li>HUD signed grant 1<sup>st</sup> agreement in May 2020 and 2<sup>nd</sup> agreement in October 2020.</li> <li>Plan amendments to HUD in May 2020 and October 2020.</li> </ul>	<ul style="list-style-type: none"> <li>152 contracts executed: 120 active, 30 closed, 2 expired pending closure.</li> <li>Actively evaluating providers for contract performance</li> <li>Obligated balance updates ongoing due to reallocation of funds</li> </ul>	<p>4 Art. IX FTE (for all phases of ESG)</p> <p>Up to 5 % admin (\$4,894,981). This number may shift over time if unused funds are shifted to subrecipient contracts.</p>	<p>75,886 persons</p>	<p>\$97,792,616</p> <p>\$97,538,980* 99.74%</p> <p>\$58,835,474* 60.16%</p> <p>*Includes TDHCA admin</p>	<p>Note that this row now reflects ESG CARES 1 <u>and</u> 2; HUD reporting combines these two programs.</p>

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>Housing Choice Voucher Program Admin</b>	Expend by December 31, 2021  1 <sup>st</sup> Award: \$117,268 2 <sup>nd</sup> Award: \$140,871 (8/10/2020)	<ul style="list-style-type: none"> <li>Software upgrades with Housing Pro to allow more efficient remote interface</li> <li>Landlord incentive payments</li> <li>Ordered 3 tablets for inspections</li> <li>October 2020 Board approved use of funds for retention payments to existing owners to ensure their ongoing participation in the program</li> </ul>	Received HUD interpretation that using funds for software upgrades are acceptable. \$11,620 was paid for the system purchase.	<b>COMPLETED*</b>	No added TDHCA staffing.	142 Landlord renewals  17 new landlords added	\$258,139  \$83,700 32.42%  \$83,700 32.42%	* These admin funds were not fully utilized. \$174,439 is being returned to HUD. Funds were not allowed to be used for direct household assistance nor were there higher admin expenses.
<b>Housing Choice Voucher Program MVP</b>	Have to issue vouchers by December 31, 2021.  Orig. Allocation: \$105,034*	15 additional MVP vouchers consistent with our award of MVP, which for TDHCA is for Project Access households.  Received award from HUD. Issued the 15 vouchers on May 22, 2020. All 15 were leased.	None needed.	<b>COMPLETED</b>  100% of vouchers utilized	No added TDHCA staffing.  No added admin funds.	15 families in current leases	\$110,302  <u>HAP Paid*</u> \$53,664 48.65%	Effective December 31, 2021, the funding authority for the 15 housed families has now been rolled into TDHCA's regular yearly HAP authority. While not all allotted HAP was used, all vouchers will continue to be funded.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>CORONAVIRUS RELIEF BILL – PART OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2021</b>								
<b>Texas Rent Relief (TRR) Program (Funded with ERA1 and ERA2)</b>	<p>The program dedicates funds through Treasury specifically for rental and utility assistance. The first allocation through the Consolidated Appropriations Act is called ERA1. The second allocation from the American Rescue Plan Act, Section 3201, is called ERA2.</p> <p>ERA1: Required to expend all funds by September 30, 2022. ERA2: Required to expend all funds by September 30, 2025.</p>	<p>Program provides up to 15 months of rental and utility assistance including arrears for ERA1 (up to 18 months for ERA2). Households must reapply every 3 months. Program is run by the state with no subrecipients. 10% of funds are for Housing Stability Services (see following row). Established a 10% set-aside for eviction diversion; households facing eviction and utility disconnections are prioritized for processing. Treasury has provided periodic updated FAQs as informal guidance – most recently August 25, 2021.</p> <p><i>Geography:</i> Statewide. <i>Income Eligibility:</i> For households at or &lt;80% AMI.</p>	<p><u>Treasury Reallocation:</u> Based on performance, TRR is eligible to receive additional funds recaptured from other ERA grantees. To date, TRR has received \$31M in reallocated funds from local/county programs in Texas and is anticipating \$47M in funds reallocated by the Treasury.</p>	<p>As of February 25, 2022, TRR has committed 99.9% of its total funding available. The TRR application portal was closed on 11/05/21. On March 14, 2022, Treasury announced it would award TDHCA \$47,786,322.86 in reallocated ERA1 funds. This allocation will be used to fund applications previously submitted to TRR. TRR has not yet received these funds, and as a result they are not reflected in the “Total Program Funding” column.</p>	<p>Positions filled include Director and 20 positions. Staffing now includes a team for the Housing Stability Services activity.</p> <p>All FTES are Art. IX</p> <p><i>Admin Allowed:</i> 10% ERA1 15% ERA2 \$274,285,279</p>	<p>310,723 households served (As of 03/31/22)</p>	<p><u>Allocations</u> ERA1: \$1,308,110,630 ERA2: \$1,079,786,857 Reallocated: \$31,135,178 Interest*: \$2,652,665</p> <p>Available for Rent/Utility Payments** \$1,998,235,278</p> <p>Expended*** \$1,997,317,453 99.9%</p> <p>Admin. Expended**** \$160,916,261 59%</p>	<p>* Interest was Allocated on 12/2/21 ** Amount is total allocation less funds for HSS and Adm. *** Expended per Internal Report of March 31, 2022, reflects all payments made, plus payments in process. **** Figure is per Internal Report as of March 31, 2022.</p>
<b>Housing Stability Services (HSS) Program (funded by ERA1 and 2)</b>	<p>These funds are a subset of the ERA funds in the row above. Up to 10% of the funds from ERA1 and ERA2 are authorized for housing stability.</p> <p>ERA1: Expend funds by September 30, 2022 ERA2: Must expend funds by September 30, 2025</p>	<p>Program provides funds to local communities or nonprofits for them to provide eligible Texans with a variety of services that help household maintain or obtain stable housing including legal services, outreach services, shelter services, community services, and services offered at permanent supportive housing properties</p> <p><i>Geography:</i> Available where Subrecipients are located. <i>Income Eligibility:</i> For households at or below 80% AMI.</p>	<p>Treasury has provided periodic updated FAQs as informal guidance – most recently August 25, 2021. As they are released, HSS policies are adjusted.</p>	<p>All ERA1 contracts are executed with Subrecipient service providers. MOU with TVC executed for ERA1 and approved for ERA2. ERA2 contract with the THN executed to support work on EHV program. ERA2 awards approved at the Board meeting of March 10, 2022; this action obligated \$104,000,000 to 45 organizations. Contracts pending execution.</p>	<p>See above</p>	<p>18,865 households served 283,802 meals served</p>	<p>Total \$163,552,903</p> <p><u>HSS ERA1</u> Avail: \$71,552,903</p> <p>Obligated: \$71,363,823 99.7%</p> <p>Expended: \$19,807,526.81 27.8%</p> <p><u>HSS ERA2</u> Avail: \$105,328,160</p> <p>Obligated: \$104,750,000 99.5%</p> <p>Expended: \$17,500 0.02%</p>	

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>Low-Income Household Water Assistance Program (LIHWAP1)</b>	Part of the appropriation bill; provides dedicated funds through HHS for the Low-Income Household Drinking Water and Wastewater Emergency Assistance Program  Must obligate and expend funds by: September 30, 2023	Program provides funds to assist low-income households by providing funds to owners/operators of public water and treatment systems to reduce arrearages charged. HHS has encouraged that grantees model the LIHEAP program and utilize their LIHEAP networks of subs.  <i>Geography:</i> Statewide <i>Income Eligibility:</i> TBD	Executed agreement for funds on April 22, 2021. HHS approved TDHCA's LIHWAP Plan on October 22, 2021.	Contracts have not been released as of February 28. CA Contract System is under revisions to accommodate the new program.	3 Art. IX FTEs  Admin 15% Any FTEs will be Art. IX	0	\$51,801,876 \$44,031,595 85%* \$0 0%	\$638M Nationally  *Remaining 15% is for admin. All program funds are obligated.
<b>AMERICAN RESCUE PLAN (ARPA) – Public Law 117-2</b>								
<b>HOME ARP Program</b>	Passed as Section 3205 of the American Rescue Plan, the program dedicates funds through HUD allowing flexible uses that can include typical HOME activities as well as homeless services and non-congregate shelter  Must expend funds by September 30, 2030	Funds can be used for tenant based rental assistance, development of supportive rental housing, supportive services, non-congregate shelter, and operating costs/capacity building for eligible nonprofit organizations. <i>Geography:</i> Available where Subrecipients are located <i>Households Eligibility:</i> (See Other Notes)	The existing waiver from the Governor relating to limits on using the funds in rural areas will be utilized to allow the funds to assist homeless persons in urban and rural areas.	HUD released guidance September 13, 2021. Grant agreement signed on September 23, 2021 and program has access to an initial 5% of funds. Plan was updated based on HUD guidance and program design updates and is expected to be presented to Board on April 14, 2022 for submission to HUD.	A HOME-ARP Division has been established. Director and Manager have been hired; other positions are being filled.  All FTEs are Art. IX  10% for admin/planning (\$13,296,915)	0	*\$119,672,232 \$0 0% \$0 0%	\$5B nationally *Excludes admin. Eligibility: homeless, at risk of homelessness with incomes up to 50% AMI, those fleeing Domestic Violence, populations with housing instability
<b>LIHEAP ARP</b>	Passed as Section 2911 of the American Rescue Plan, dedicates funds through HHS for home energy costs.  Must expend funds by: September 30, 2022	99% of funds were programmed in April 2021 to CEAP subs using a modified formula; 1% for state admin.  <i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty	None needed.	Contracts have been executed. On March 1, 2022, flexibilities were granted and TRR applicant pool data was provided.	FTEs noted under CARES LIHEAP will be utilized for both allocations.  1% admin (TBD)	45,474	\$134,407,308 \$129,720,641 96.5 \$25,198,981 19.4%	\$4.5B nationally.



Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>Homeowner Assistance Fund (HAF)</b>	<p>Passed as section 3206 of the American Rescue Plan, dedicates funds through Treasury specifically for preventing mortgage delinquencies, defaults, foreclosures, loss of utilities and displacement.</p> <p>Must expend funds by September 30, 2026</p>	<p>The HAF Plan includes: 1) a Reinstatement Program to reinstate delinquent mortgage loans, including principal and interest, as well amounts advanced by the servicer for property charges (taxes, insurance, condo and homeowner association fees, and other related expenses advanced to protect lien position, 2) a Loan Modification with HAF Contribution Program to reduce the monthly PITI for delinquent mortgage loans, and 3) a Property Charge Default Resolution Program, to bring current delinquent property charges, including past due property taxes, insurance premiums, condo and homeowner association fees, and cooperative maintenance or common charges, including up to 90 days of upcoming property charges.</p>	<p>Treasury approved the HAF Plan on January 28, 2022.</p> <p><i>Geography:</i> Statewide <i>Income Eligibility:</i> Household income at or below greater of 100% AMI or 100% of national median income.</p>	<p>All funding has been received.</p> <p>The program became available statewide on March 2, 2022.</p>	<p>10 to date. Additional hires are in process.</p> <p>All FTES are Art. IX</p> <p>Up to 15% (\$126,332,101) for admin, planning, community engagement and needs assessment</p>	1,335	<p>\$842,214,006</p> <p><u>Expended</u> \$10,048,661 1.2%</p>	\$9.9B nationally.
<b>LIHWAP2</b>	<p>Passed as Section 2912 of the American Rescue Plan, dedicates funds through HHS for home water costs</p> <p>Must obligate and expend funds by: September 30, 2023</p>	<p>See LIHWAP1 above. HHS will administer LIHWAP1 and 2 under one LIHWAP Plan. Because of the different funding sources, separate contracts will be required</p> <p><i>Geography:</i> Statewide <i>Income Eligibility:</i> TBD</p>	<p>Executed agreement for funds on April 22, 2021. HHS approved TDHCA's LIHWAP Plan on October 22, 2021</p>	<p>Contracts will be released when the first round of LIHWAP is expended.</p>	<p>FTEs noted under Appropriation Act LIHWAP will be utilized for both allocations.</p> <p>Admin % not yet known</p>	0	<p>\$40,597,082</p> <p>\$0 0%</p> <p>\$0 0%</p>	\$500M Nationally

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>Emergency Housing Vouchers (EHV)</b>	<p>Passed as Section 3202 of the American Rescue Plan, dedicates vouchers through HUD for emergency rental assistance.</p> <p>HUD Authority to Recapture May Occur as Early As: 1 Year from Funding (if vouchers are unissued)</p> <p>Initial Funding Term Expires: Dec. 31, 2022</p> <p>Can Reissue EHV until: Sept. 30, 2023</p> <p>Renewal Funds Available for 'Occupied Units' through: Sept. 30, 2030</p>	<p>TDHCA was allocated 798 vouchers by HUD. The award includes funds for the vouchers (\$7,933,560) plus funds to provide services (\$2,793,000) and funds for admin (\$763,788). Vouchers are for households who are: (1) homeless, (2) at risk of homelessness, (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or (4) recently homeless.</p> <p><i>Geography:</i> TDHCA is working with CoC partners and HUD to make a final service area determination based on the number of vouchers allocated to the Department and input from CoC partners</p> <p><i>Income Eligibility:</i> Not to exceed 50% of AMI</p>	<p>Significant waivers have been authorized by HUD. TDHCA will seek to maximize its use of these waivers to the extent that households will not be offered a voucher if they would be ineligible at renewal.</p> <p>TDHCA has a request to HUD pending on how vouchers not committed to the 2 CoCs will be used.</p> <p>TDHCA is required to update its PHA Admin Plan to reflect our plan for the service fee (see last column) and other program elements.</p>	<p>Executed contracts with CoC partners: the Heart of Texas Homeless Coalition and Texas Homeless Network (the Balance of State CoC).</p> <p>Vouchers Issued: 14</p>	<p>Program is being administered jointly by the Section 8 and Section 811 areas due to the unique nature of the program.</p> <p>3-4 positions to be filled. To be paid for by EHV Admin and CSBG Admin.</p> <p>FTES are Art. IX</p> <p>Admin fee structure is complex, variable and tied to timing of household having found a unit, hence the use of CSBG Admin to support the positions.</p>	0	<p>Total \$11,490,348</p> <p>Rent Payments Avail: \$7,933,560</p> <p>Obligated: \$0 0%</p> <p>Expended: \$0 0%</p> <p>Service Contracts Avail: \$2,793,000</p> <p>Obligated: \$1,504,868 53.88%</p> <p>Expended: \$0 0%</p>	<p>\$5 billion Nationally</p> <p>A service fee of \$3,500 per unit is authorized separate from the rental assistance payment. The fee total is not tied to each voucher, but is a combined total of funds for services. Services may include: housing search assistance; deposits, holding fees, and application fees; owner-related uses; and other eligible uses.</p>
<b>INFRASTRUCTURE INVESTMENT AND JOBS ACT – Public Law 117-58</b>								
<b>LIHEAP</b>	<p>Passed as Section 501 of the Infrastructure Investment and Jobs Act, dedicates funds through HHS for home energy costs.</p> <p>Must expend funds by: September 30, 2026</p>	<p>Funds nationally to be released in annual increments of \$100 million each year for the next 5 years. These funds will be made available to each state as part of its annual LIHEAP allocation; the Department therefore will handle these as part of our annual allocation.</p> <p><i>Geography:</i> Available statewide</p> <p><i>Income Eligibility:</i> 150% of poverty</p>	Not yet known.	Not yet available.	<p>No FTEs will be added as these funds will be part of a regular annual administration of the LIHEAP.</p> <p>1% admin (TBD)</p>	0	TBD	\$500 million nationally



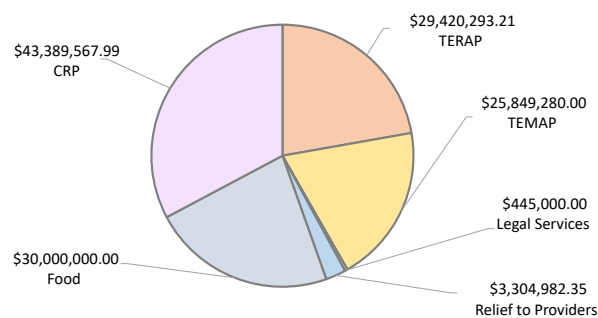
Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<p><b>BIL WAP</b> (Bipartisan Infrastructure Law Weatherization Assistance Program)</p>	<p>Passed as Section 40551 of the Infrastructure Investment and Jobs Act (Public Law 117-58), dedicates funds through Department of Energy for home weatherization.</p> <p>Law has no date by which funds must be expended; DOE strongly recommends activities be completed within 5 years of receipt of the funds.</p>	<p>Single family and multifamily weatherization of units.</p> <p>Additional restrictions added to the program through the bill beyond typical DOE WAP include Davis-Bacon, Buy American, NEPA, etc. In addition, DOE has applied several Administration priorities, including a focus on workforce development and diversity, and inclusion and equity on delivering funds.</p> <p>Because this award amount is more than 20 times the typical annual DOE award, staff obtained Board authority in December 2021 to procure a statewide DOE WAP administrator to augment the work of the network.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 200% of poverty</p>	<p>Not yet known.</p>	<p>On March 30, 2022, DOE released guidance on the program including the requirement that a 5-Year Plan be submitted by July 1, 2022, using their recommended workbook. A public hearing is required.</p> <p>Statewide provider procurement is in drafting.</p>	<p>FTEs will be added once further guidance and information is available from DOE.</p> <p>Admin. TBD</p>	<p>0</p>	<p>\$173,162,598</p> <p>(\$142,944,233 for Program and \$30,218,365 for Training and TA)</p>	<p>15% of grant made available initially.</p>



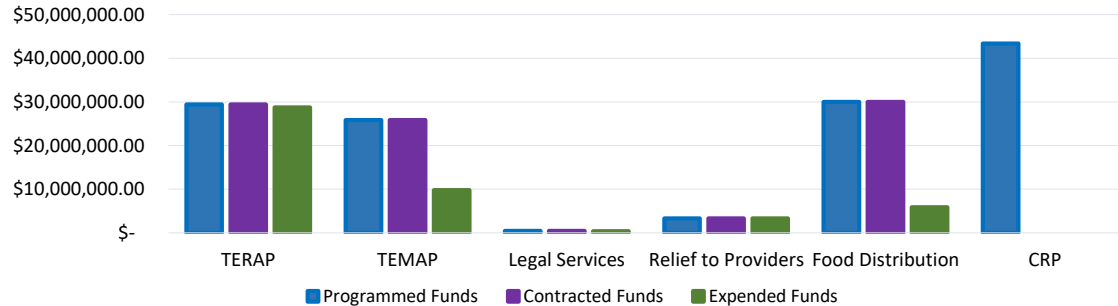
# Texas Department of Housing and Community Affairs CDBG CARES (Coronavirus Aid, Relief, and Economic Security) Act Programs

Texas Emergency Rental Assistance Program (TERAP)	Texas Emergency Mortgage Assistance Program (TEMAP)	Legal Services to Persons with Disabilities	Relief to Service Providers for Persons with Disabilities	Food Distribution	Community Resiliency Program
<b>COMPLETED</b> Rental assistance (up to six months, including arrears) to income-eligible households impacted by COVID-19 to help provide housing stability during the pandemic. Funds can also be used for eviction diversion, which provides rental assistance to tenants who have been sued for eviction. TERAP was initially funded for \$33,981,073.89, however small amounts of funds have been unused or deobligated*.	Mortgage assistance (up to six months, including arrears) to income-eligible homeowners who have been economically impacted by COVID-19 to help provide housing stability during the pandemic.	Legal services assistance for persons with disabilities to obtain or retain housing as a result of COVID-19. Legal services include legal advice and legal representation by licensed attorneys in good standing with the State Bar of Texas.	<b>COMPLETED</b> Assistance to help providers continue serving residential persons with disabilities during the pandemic by reimbursing for allowable expenses undertaken to prevent, prepare for, or respond to COVID-19. Assistance was initially programmed for \$5,000,000, but \$1,695,017.65 was unused and deobligated by the administrator*.	Assistance to eligible food bank providers that have been economically impacted by COVID-19. Funds will be utilized to reimburse food banks for bulk food purchases to be distributed statewide.	Assistance to low- and moderate-income persons, and rural and small metro communities, to create, expand or enhance public facilities that provide medical care, social services, and/or emergency housing to prevent the transmission of COVID-19 and allow for adequate social distancing or remote access.
<b>Start Date:</b> January 15, 2021 <b>Persons Assisted:</b> 16,606	<b>Start Date:</b> June 15, 2021 <b>Persons Assisted to Date:</b> 6,387	<b>Start Date:</b> April 1, 2021 <b>Persons Assisted to Date:</b> 509	<b>Start Date:</b> April 15, 2021 <b>Persons Assisted:</b> 3,592 <b>Providers Assisted:</b> 50	<b>Start Date:</b> October 1, 2021 <b>Persons Assisted to Date:</b> 247,689	<b>NOFA Release Date:</b> October 1, 2021 <b>NOFA Deadline Date:</b> January 19, 2022
<b>Program Administrators:</b> 41 entitlement city and county governments throughout Texas	<b>Program Administrators:</b> 48 cities, counties and other local and regional service providers	<b>Program Administrator:</b> Disability Rights Texas	<b>Program Administrator:</b> My Health My Resources of Tarrant County	<b>Program Administrator:</b> Feeding Texas, a network of 21 member food banks	<b>Program Administrators:</b> Awards expected in April 2022
<b>Service Area:</b> 41 entitlement cities and counties	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service Area:</b> Non-Entitlement communities
<b>Programmed Funds:</b> \$29,420,293.21	<b>Programmed Funds:</b> \$25,849,280.00	<b>Programmed Funds:</b> \$445,000.00	<b>Programmed Funds:</b> \$3,304,982.35	<b>Programmed Funds:</b> \$30,000,000.00	<b>Programmed Funds:</b> \$43,389,567.99
<b>Contracted Funds:</b> \$29,420,293.21	<b>Contracted Funds:</b> \$25,849,280.00	<b>Contracted Funds:</b> \$445,000.00	<b>Contracted Funds:</b> \$3,304,982.35	<b>Contracted Funds:</b> \$30,000,000.00	<b>Contracted Funds:</b> \$0.00
<b>Expended Funds:</b> \$28,723,124.96	<b>Expended Funds:</b> \$9,795,492.15	<b>Expended Funds:</b> \$386,441.05	<b>Expended Funds:</b> \$3,304,982.35	<b>Expended Funds:</b> \$5,851,337.91	<b>Expended Funds:</b> \$0.00

CDBG CARES Funds by Program



CDBG CARES Program Funds by Status



\* In the case of funds unused by administrators or deobligated, funds will be reprogrammed and used for awards under the Community Resiliency Program or another existing program.

2c

BOARD REPORT ITEM  
 BOND FINANCE DIVISION  
 APRIL 14, 2022

Report on the Department’s 2<sup>ND</sup> Quarter Investment Report relating to funds held under Bond Trust Indentures

BACKGROUND

- The Department’s Investment Policy excludes funds invested under a bond trust indenture for the benefit of bond holders because the trustee for each trust indenture controls the authorized investments in accordance with the requirements of that indenture. Management of assets within an indenture is the responsibility of the Trustee. This internal management report is for informational purposes only and, while not required under the Public Funds Investment Act, it is consistent with the prescribed format and detail as required by the Public Funds Investment Act. It details the types of investments, maturity dates, carrying (face amount) values, and fair market values at the beginning and end of the quarter.
- Overall, the portfolio carrying value increased by approximately \$179.3 million (see page 3), resulting in an end of quarter balance of \$1,960,251,680.

The portfolio consists of those investments described in the attached Bond Trust Indentures Supplemental Management Report.

	<u>Beginning Quarter</u>	<u>Ending Quarter</u>
Mortgage Backed Securities (MBS)	74%	70%
Guaranteed Investment Contracts/Investment Agreements	2%	2%
Repurchase Agreements (Cash Equivalents)	11%	16%
Account Control Agreements (Cash Equivalents)	1%	1%
Municipal Bonds	4%	1%
Treasury Backed Mutual Funds	6%	6%
Treasury Notes / Bonds / SLGs	2%	4%

The decrease in percentage of MBS and increase in Repurchase Agreements is due to the issuance of single family bond proceeds deposited in overnight repurchase agreements. The decrease in Municipal Bonds is due to the draw of expenditure of multifamily bond proceeds and the increase in Treasury Notes, Bonds and SLGs is due to the issuance of two multifamily bond transactions.

Portfolio activity for the quarter:

- The MBS purchases this quarter were approximately \$123.4 million, due to the issuance of single family and multifamily bonds and the investment of proceeds in MBS.
- The maturities in MBS were approximately \$44.2 million, which represent loan repayments or payoffs.

The table below shows the trend in MBS activity.

	2nd Qtr FY 21	3rd Qtr FY 21	4th Qtr FY 21	1st Qtr FY 22	2nd Qtr FY 22	Total
Purchases	\$ 38,099,830	\$ 127,225,566	\$ 77,639,238	\$ 67,227,078	\$ 123,480,568	\$ 433,672,280
Sales						\$ -
Maturities	\$ 35,950,129	\$ 30,205,496	\$ 40,977,810	\$ 39,701,230	\$ 44,208,870	\$ 191,043,535
Transfers						\$ -

- The process of valuing investments at fair market value identifies unrealized gains and losses. These gains or losses do not impact the overall portfolio because the Department typically holds MBS investments until maturity.
- The fair market value (the amount at which a financial instrument could be exchanged in a current transaction between willing parties) decreased \$39.8 million (see pages 3 and 4), with fair market value being greater than the carrying value. The national average for a 30-year fixed rate mortgage, as reported by the Freddie Mac Primary Mortgage Market Survey as of February 28, 2022 was 3.89%, up from 3.10% at the end of November 2021. Various factors affect the fair market value of these investments, but there is a correlation between the prevailing mortgage interest rates and the change in market value.
- Given the current financial environment, this change in market value is to be expected. However, the change is cyclical and is reflective of a general movement toward higher yields in the bond market as a whole.
- The ability of the Department's investments to provide the appropriate cash flow to pay debt service and eventually retire the related bond debt is of more importance than the assessed relative value in the bond market as a whole.
- The more relevant measures of indenture parity are reported on page 5 in the Bond Trust Indenture Parity Comparison. This report shows parity (ratio of assets to liabilities) by indenture with assets greater than liabilities in a range from 102.60% to 108.77%, which would indicate the Department has sufficient assets to meet its obligations.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 BOND FINANCE DIVISION  
 BOND TRUST INDENTURES  
 Supplemental Management Report  
 Quarter Ending February 28, 2022

	FAIR VALUE (MARKET) @ 11/30/21	CARRYING VALUE @ 11/30/21	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 02/28/22	FAIR VALUE (MARKET) @ 02/28/22	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT REC'BL @ 02/28/22	RECOGNIZED GAIN
<b>INDENTURE RELATED:</b>											
Single Family	895,439,606	848,749,927	102,593,346	(96,496,644)	(30,003,550)		824,843,079	858,364,967	(13,167,791)	2,280,727	-
RMRB	356,694,893	334,688,109	206,068,071	(5,327,314)	(10,976,036)		524,452,829	540,320,675	(6,138,939)	1,139,947	-
Taxable Mortgage Program	2,500,907	2,500,907	93	(249)			2,500,751	2,500,751	-	888,691	-
Multi Family	616,713,062	595,029,700	90,439,305	(73,784,700)	(3,229,284)		608,455,021	609,589,817	(20,548,566)	802,485	-
	1,871,348,468	1,780,968,643	399,100,814	(175,608,908)	(44,208,870)	-	1,960,251,680	2,010,776,209	(39,855,296)	5,111,849	-

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:

David Cervantes completed 8.0 hrs. of training on the Texas Public Funds Investment Act on October 18 and 19, 2021

Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 5, 2021

DocuSigned by: <i>David Cervantes</i> 2AC1F65095194A4	Date 3/30/2022
David Cervantes Director of Administration	
DocuSigned by: <i>Monica Galuski</i> 208B978E21CA47	Date 3/30/2022
Monica Galuski Director of Bond Finance/Chief Investment Officer	

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS  
 BOND FINANCE DIVISION  
 BOND TRUST INDENTURES  
 Supplemental Management Report  
 Quarter Ending February 28, 2022

INVESTMENT TYPE	FAIR VALUE (MARKET) @ 11/30/21	CARRYING VALUE @ 11/30/21	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 02/28/22	FAIR VALUE (MARKET) @ 02/28/22	CHANGE IN FAIR VALUE (MARKET)	RECOGNIZED GAIN
INDENTURE RELATED:										
Mortgage-Backed Securities	1,392,526,361	1,302,277,906	123,480,568	-	(44,208,870)	-	1,381,549,604	1,432,738,602	(39,059,457)	-
Guaranteed Inv Contracts	33,030,439	33,030,439	3,649,955	(5,296)	-	-	36,675,097	36,675,097	-	-
Investment Agreements	803,737	803,737	884,159	-	-	-	1,687,896	1,687,896	-	-
Treasury-Backed Mutual Funds	116,090,042	116,090,042	23,041,797	(24,078,653)	-	-	115,053,185	115,053,185	-	-
Account Control Agreements	13,033,046	13,033,046	9	(4,758,917)	-	-	8,274,138	8,274,138	-	-
Municipal Bonds	68,036,016	67,904,647	2,070,172	(39,878,884)	-	-	30,095,935	29,945,652	(281,653)	-
Repurchase Agreements	194,374,460	194,374,460	216,300,873	(101,818,911)	-	-	308,856,421	308,856,421	-	-
SLG Securities	14,028,356	14,028,356	-	-	-	-	14,028,356	14,028,356	-	-
Treasury Notes / Bonds	39,426,012	39,426,012	29,673,282	(5,068,246)	-	-	64,031,048	63,516,863	(514,185)	-
	<u>1,871,348,468</u>	<u>1,780,968,643</u>	<u>399,100,814</u>	<u>(175,608,908)</u>	<u>(44,208,870)</u>	<u>-</u>	<u>1,960,251,680</u>	<u>2,010,776,209</u>	<u>(39,855,296)</u>	<u>-</u>

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:

David Cervantes completed 8.0 hrs. of training on the Texas Public Funds Investment Act on October 18 and 19, 2021

Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 5, 2021

DocuSigned by: <i>David Cervantes</i> 2AC1F6609E104A4	Date <u>3/30/2022</u>
David Cervantes Director of Administration	
DocuSigned by: <i>Monica Galuski</i> 289BF978EETC4AT	Date <u>3/30/2022</u>
Monica Galuski Director of Bond Finance/Chief Investment Officer	

**Texas Department of Housing and Community Affairs**  
**Bond Finance Division**  
**Executive Summary**  
*As of February 28, 2022*

	Single Family Indenture Funds	Residential Mortgage Revenue Bond Indenture Funds	Multi-Family Indenture Funds	Combined Totals
<b><i>PARITY COMPARISON:</i></b>				
PARITY ASSETS				
Cash	\$ 146,313	\$ -	\$ 44,848,746	\$ 44,995,059
Investments <sup>(1)</sup>	\$ 101,166,899	\$ 242,434,389	\$ 651,202,303	\$ 994,803,591
Mortgage Backed Securities <sup>(1)</sup>	\$ 723,162,488	\$ 281,553,364		\$ 1,004,715,852
Loans Receivable <sup>(2)</sup>	\$ -		\$ 924,768,641	\$ 924,768,641
Accrued Interest Receivable	\$ 2,280,727	\$ 1,139,947	\$ 3,625,738	\$ 7,046,412
<b>TOTAL PARITY ASSETS</b>	<b>\$ 826,756,427</b>	<b>\$ 525,127,700</b>	<b>\$ 1,624,445,428</b>	<b>\$ 2,976,329,555</b>
PARITY LIABILITIES				
Notes Payable	\$ -	\$ 10,000,000	\$ 330,221,031	\$ 340,221,031
Bonds Payable <sup>(1)</sup>	\$ 772,863,612	\$ 470,884,952	\$ 971,378,951	\$ 2,215,127,515
Accrued Interest Payable	\$ 9,608,471	\$ 1,886,015	\$ 3,694,150	\$ 15,188,636
Other Non-Current Liabilities <sup>(3)</sup>			\$ 277,950,605	\$ 277,950,605
<b>TOTAL PARITY LIABILITIES</b>	<b>\$ 782,472,083</b>	<b>\$ 482,770,967</b>	<b>\$ 1,583,244,737</b>	<b>\$ 2,848,487,787</b>
PARITY DIFFERENCE	\$ 44,284,344	\$ 42,356,733	\$ 41,200,690	\$ 127,841,767
<b>PARITY</b>	<b>105.66%</b>	<b>108.77%</b>	<b>102.60%</b>	<b>104.49%</b>

(1) Investments, Mortgage Backed Securities and Bonds Payable reported at par value not fair value. This adjustment is consistent with indenture cashflows prepared for Also, the CHMRB Bonds were redeemed in full in January 2019.

(2) Loans Receivable include whole loans only. Special mortgage loans are excluded.

(3) Other Non-Current Liabilities include "Due to Developers" (for insurance, taxes and other operating expenses) and "Earning Due to Developers" (on investments).

Note: Based on preliminary and unaudited financial statements, subject to change in audited financial statements.



2d

BOARD REPORT ITEM  
FINANCIAL ADMINISTRATION DIVISION  
APRIL 14, 2022

Report on the Department's 2nd Quarter Investment Report in accordance with the Public Funds Investment Act

BACKGROUND

The Department's investment portfolio consists of two distinct parts. One part is related to bond funds under trust indentures that are not subject to the Public Funds Investment Act (PFIA), and the remaining portion is related to accounts excluded from the indentures but covered by the PFIA. The Department's total investment portfolio is \$2,014,190,633 of which \$1,960,251,680 is not subject to the PFIA. This report addresses the remaining \$53,938,953 (see page 1 of the Internal Management Report) in investments covered by the PFIA. These investments are deposited in the General Fund, Housing Trust Fund, Compliance, and Housing Initiative accounts, which are all held at the Texas Treasury Safekeeping Trust Company (TTSTC), primarily in the form of overnight repurchase agreements. These investments are fully collateralized and secured by U.S. Government Securities. A repurchase agreement is the daily purchase of a security with an agreement to repurchase that security at a specific price and date, which in this case was March 1, 2022, with an effective interest rate of 0.02%. These investments safeguard principal while maintaining liquidity. The overnight repurchase agreements, subject to the PFIA, earned \$1,860 in interest during the quarter.

Below is a description of each fund group and its corresponding accounts.

- The General Fund accounts maintain funds for administrative purposes to fund expenses related to the Department's ongoing operations. These accounts contain balances related to bond residuals, fee income generated from the Mortgage Credit Certificate (MCC) Program, escrow funds, single family and multifamily bond administration fees, and balances associated with the Below Market Interest Rate (BMIR) Program.
- The State Housing Trust Fund accounts maintain funds related to programs set forth by the Housing Trust Fund funding plan. The Housing Trust Fund provides loans and grants to finance, acquire, rehabilitate, and develop decent and safe affordable housing.
- The Compliance accounts maintain funds from compliance monitoring fees and asset management fees collected from multifamily developers. The number of low income units and authority to collect these fees is outlined in the individual Land Use Restriction Agreements (LURAs) that are issued to each Developer. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the monitoring and administration of these properties.

- The Housing Initiative accounts maintain funds from fees collected from Developers in connection with the Department's Tax Credit Program. The majority of fees collected are application fees and commitment fees. The authority for the collection of these fees is outlined in the Department's Multifamily Rules. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the administration of the Tax Credit Program.
- The Ending Homelessness Trust Fund account maintains funds from donations collected from individuals through the Texas Department of Motor Vehicles in connection with the Department's Ending Homelessness Program. The authority for the collection of these donations is outlined in House Bill 4102, 85<sup>th</sup> Texas Legislature, Regular Session. These donations are collected and disbursed for the purpose of providing grants to counties and municipalities to combat homelessness.

This report is in the format required by the Public Funds Investment Act. It shows in detail the types of investments, their maturities, their carrying (face amount) values, and fair values at the beginning and end of the quarter. The detail for investment activity is on Pages 1 and 2.

During the 2<sup>nd</sup> Quarter, as it relates to the investments covered by the PFIA, the carrying value increased by \$5,275,553 (see page 1) for an ending balance of \$53,938,953. The change is described below by fund groups.

**General Fund:** The General Fund increased by \$250,284. This consists primarily of \$559,119 received in multifamily bond fees, \$39,950 in MCC Fees and \$930,083 proceeds from sale of NSP properties, offset by disbursements including \$1,221,173 to fund the operating budget.

**The State Housing Trust Fund:** The Housing Trust Fund increased by \$1,346,531. This consists primarily of \$1,986,291 received in loan repayments offset by disbursements including \$702,950 for loans, grants, and escrow payments.

**Compliance:** Compliance funds increased by \$2,558,637. This consists primarily of \$4,519,255 received in compliance fees offset by disbursements of \$1,903,052 transferred to fund the operating budget.

**Housing Initiative:** Housing Initiative funds increased by \$1,044,209. This consists primarily of \$2,358,540 received in fees related to tax credit activities offset by disbursements of \$1,259,119 transferred to fund the operating budget.

**Ending Homelessness Fund:** Ending Homelessness funds increased by \$75,892. This consists of \$88,466 in donations and interest earnings on current investment balances, offset by disbursements of \$12,579 for grants.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
HOUSING FINANCE DIVISION

PUBLIC FUNDS INVESTMENT ACT  
INTERNAL MANAGEMENT REPORT (SEC. 2256.023)  
QUARTER ENDING FEBRUARY 28, 2022

Texas Department of Housing and Community Affairs  
 Non-Indenture Related Investment Summary  
 For Period Ending February 28, 2022

Investment Type	Issue	Current Interest Rate	Current Purchase Date	Current Maturity Date	Beginning Carrying Value 11/30/2021	Beginning Market Value 11/30/2021	Accretions/Purchases	Amortizations/Sales	Maturities	Transfers	Ending Carrying Value 2/28/2022	Ending Market Value 2/28/2022	Change In Market Value	Recognized Gain
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	385,352.71	385,352.71	420,466.89	0.00	0.00		805,819.60	805,819.60	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	0.02	0.02	0.00	0.00	0.00		0.02	0.02	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	138,443.57	138,443.57	0.00	(91,660.40)	0.00		46,783.17	46,783.17	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	1,045,083.19	1,045,083.19	66,118.46	0.00	0.00		1,111,201.65	1,111,201.65	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	3,160,972.56	3,160,972.56	99,598.37	0.00	0.00		3,260,570.93	3,260,570.93	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	651,803.99	651,803.99	0.00	(244,276.15)	0.00		407,527.84	407,527.84	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	239,765.14	239,765.14	8.91	0.00	0.00		239,774.05	239,774.05	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	750,076.88	750,076.88	28.02	0.00	0.00		750,104.90	750,104.90	-	0.00
Repo Agmt	General Fund	0.02	2/28/2022	3/1/2022	75.45	75.45	0.00	0.00	0.00		75.45	75.45	-	0.00
General Fund Total					6,371,573.51	6,371,573.51	586,220.65	(335,936.55)	0.00	0.00	6,621,857.61	6,621,857.61	0.00	0.00
Repo Agmt	Housing Trust Fund	0.02	2/28/2022	3/1/2022	215,986.09	215,986.09	41,719.94	0.00	0.00		257,706.03	257,706.03	-	0.00
Repo Agmt	Housing Trust Fund	0.02	2/28/2022	3/1/2022	3,631.00	3,631.00	0.00	(59.13)	0.00		3,571.87	3,571.87	-	0.00
Repo Agmt	Housing Trust Fund	0.02	2/28/2022	3/1/2022	540,748.62	540,748.62	39,632.75	0.00	0.00		580,381.37	580,381.37	-	0.00
Repo Agmt	General Revenue Appn	0.02	2/28/2022	3/1/2022	53,263.79	53,263.79	0.00	(28,959.47)	0.00		24,304.32	24,304.32	-	0.00
Repo Agmt	General Revenue Appn	0.02	2/28/2022	3/1/2022	1,218,457.40	1,218,457.40	37,613.81	0.00	0.00		1,256,071.21	1,256,071.21	-	0.00
Repo Agmt	General Revenue Appn	0.02	2/28/2022	3/1/2022	1,857,817.75	1,857,817.75	0.00	(461,601.33)	0.00		1,396,216.42	1,396,216.42	-	0.00
Repo Agmt	General Revenue Appn	0.02	2/28/2022	3/1/2022	231,061.96	231,061.96	0.00	(44,568.57)	0.00		186,493.39	186,493.39	-	0.00
Repo Agmt	General Revenue Appn	0.02	2/28/2022	3/1/2022	228,497.90	228,497.90	0.00	0.00	0.00		228,497.90	228,497.90	-	0.00
Repo Agmt	Housing Trust Fund-GR	0.02	2/28/2022	3/1/2022	141,642.52	141,642.52	0.00	(19,085.00)	0.00		122,557.52	122,557.52	-	0.00
Repo Agmt	Housing Trust Fund-GR	0.02	2/28/2022	3/1/2022	215,788.92	215,788.92	0.00	(24,310.00)	0.00		191,478.92	191,478.92	-	0.00
Repo Agmt	Housing Trust Fund-GR	0.02	2/28/2022	3/1/2022	511,685.04	511,685.04	0.00	(205,817.57)	0.00		305,867.47	305,867.47	-	0.00
Repo Agmt	Bootstrap -GR	0.02	11/30/2021	12/1/2021	181,906.42	181,906.42	0.00	(181,906.42)	0.00				-	0.00
Repo Agmt	Bootstrap -GR	0.02	2/28/2022	3/1/2022	818,798.87	818,798.87	0.00	(521,798.87)	0.00		297,000.00	297,000.00	-	0.00
Repo Agmt	Bootstrap -GR	0.02	2/28/2022	3/1/2022	2,802,000.00	2,802,000.00	0.00	(247,500.00)	0.00		2,554,500.00	2,554,500.00	-	0.00
Repo Agmt	Bootstrap -GR	0.02	2/28/2022	3/1/2022	1,000,000.00	1,000,000.00	2,155,666.14	0.00	0.00		3,155,666.14	3,155,666.14	-	0.00
Repo Agmt	Bootstrap -GR	0.02	2/28/2022	3/1/2022	966,618.00	966,618.00	807,504.35	0.00	0.00		1,774,122.35	1,774,122.35	-	0.00
Housing Trust Fund Total					10,987,904.28	10,987,904.28	3,082,136.99	(1,735,606.36)	0.00	0.00	12,334,434.91	12,334,434.91	0.00	0.00
Repo Agmt	Multi Family	0.02	2/28/2022	3/1/2022	1,044,304.01	1,044,304.01	0.00	(11,822.46)	0.00		1,032,481.55	1,032,481.55	-	0.00
Repo Agmt	Multi Family	0.02	2/28/2022	3/1/2022	934,198.48	934,198.48	105,874.46	0.00	0.00		1,040,072.94	1,040,072.94	-	0.00
Repo Agmt	Low Income Tax Credit Prog. Compliance Total	0.02	2/28/2022	3/1/2022	7,909,070.08	7,909,070.08	2,464,585.17	0.00	0.00		10,373,655.25	10,373,655.25	-	0.00
Compliance Total					9,887,572.57	9,887,572.57	2,570,459.63	(11,822.46)	0.00	0.00	12,446,209.74	12,446,209.74	0.00	0.00
Repo Agmt	Asset Management	0.02	2/28/2022	3/1/2022	1,965,799.83	1,965,799.83	33,217.24	0.00	0.00		1,999,017.07	1,999,017.07	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	0.02	2/28/2022	3/1/2022	5,625.00	5,625.00	41,625.00	0.00	0.00		47,250.00	47,250.00	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	0.02	2/28/2022	3/1/2022	1,910,745.01	1,910,745.01	408,084.07	0.00	0.00		2,318,829.08	2,318,829.08	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	0.02	2/28/2022	3/1/2022	16,583,313.98	16,583,313.98	561,270.51	0.00	0.00		17,144,584.49	17,144,584.49	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	0.02	2/28/2022	3/1/2022	340,802.89	340,802.89	12.45	0.00	0.00		340,815.34	340,815.34	-	0.00
Housing Initiatives Total					20,806,286.71	20,806,286.71	1,044,209.27	0.00	0.00	0.00	21,850,495.98	21,850,495.98	0.00	0.00
Repo Agmt	Homelessness - HB4102	0.04	8/31/2020	9/1/2020	610,062.87	610,062.87	75,891.47	0.00	0.00		685,954.34	685,954.34	-	0.00
Homelessness - HB4102 Total					610,062.87	610,062.87	75,891.47	0.00	0.00	0.00	685,954.34	685,954.34	0.00	0.00
Total Non-Indenture Related Investment Summary					48,663,399.94	48,663,399.94	7,358,918.01	(2,083,365.37)	0.00	0.00	53,938,952.58	53,938,952.58	0.00	0.00

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 HOUSING FINANCE DIVISION  
 PUBLIC FUNDS INVESTMENT ACT  
 Internal Management Report (Sec. 2256.023)  
 Quarter Ending February 28, 2022

	Investment Type	FAIR VALUE (MARKET) @ 11/30/21	CARRYING VALUE @ 11/30/21	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 02/28/22	FAIR VALUE (MARKET) @ 02/28/22	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT RECVBL @ 02/28/22	RECOGNIZED GAIN
NON-INDENTURE RELATED:												
General Fund	Repurchase Agreements	6,371,573.51	6,371,573.51	586,220.65	(335,936.55)			6,621,857.61	6,621,857.61	-	3.71	-
Housing Trust Fund	Repurchase Agreements	10,987,904.28	10,987,904.28	3,082,136.99	(1,735,606.36)			12,334,434.91	12,334,434.91	-	7.17	-
Compliance	Repurchase Agreements	9,887,572.57	9,887,572.57	2,570,459.63	(11,822.46)			12,446,209.74	12,446,209.74	-	6.91	-
Housing Initiatives	Repurchase Agreements	20,806,286.71	20,806,286.71	1,044,209.27				21,850,495.98	21,850,495.98	-	12.34	-
Ending Homelessness Trust Fund	Repurchase Agreements	610,062.87	610,062.87	75,891.47				685,954.34	685,954.34	-	0.76	-
<b>NON-INDENTURE RELATED TOTAL</b>		<b>48,663,399.94</b>	<b>48,663,399.94</b>	<b>7,358,918.01</b>	<b>(2,083,365.37)</b>	<b>0.00</b>	<b>0.00</b>	<b>53,938,952.58</b>	<b>53,938,952.58</b>	<b>0.00</b>	<b>30.89</b>	<b>0.00</b>

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:

David Cervantes completed 8.0 hrs. of training on the Texas Public Funds Investment Act on October 18 and 19, 2021

Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 5, 2021

DocuSigned by: <i>David Cervantes</i> 2A61F05085194A4...	Date: 3/30/2022
David Cervantes Director of Administration	
DocuSigned by: <i>Monica Galuski</i> 2A08F978EE1C4A7...	Date: 3/30/2022
Monica Galuski Director of Bond Finance/Chief Investment Officer	

# ACTION ITEMS

3



# ORAL PRESENTATION

4

**BOARD ACTION REQUEST**

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM DIVISION**

**APRIL 14, 2022**

Presentation, discussion, and possible action on the Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act Community Resiliency Program Awards

**RECOMMENDED ACTION**

**WHEREAS**, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law which provides relief for individuals and businesses negatively impacted by COVID-19;

**WHEREAS**, Title XII of the CARES Act provides supplemental formula funding of at least \$5 billion to states to carry out activities under the Community Development Block Grant program (CDBG CARES) or CDBG-Coronavirus (CDBG-CV) among other programs to prevent, prepare for, and respond to COVID-19;

**WHEREAS**, the Department received \$141,846,258 in three allocations of CDBG CARES funding from the U.S. Department of Housing and Urban Development, to prevent, prepare for, and respond to COVID-19;

**WHEREAS**, as required by the funding agreement with the U.S. Department of Housing and Urban Development (HUD), the Department is required to allocate the amount of the first allocation, \$40,000,886, of CDBG CARES funding to non-entitlement units of general local government;

**WHEREAS**, the Board approved a third substantial amendment to the 2019 State of Texas Consolidated Plan: One-Year Action Plan on July 8, 2021, which set aside \$38,180,317.03 to fund the Community Resiliency Program (CRP);

**WHEREAS**, on October 1, 2021, the Department released a Notice of Funding Availability (NOFA) for approximately \$38,180,300, with the authority to increase the amount should funds become available, to identify successful applicants to be awarded funding for the CRP;

**WHEREAS**, since the time of the NOFA's release, based on funds unutilized from other non-CRP CDBG-CV activities, an additional \$5.2 million is available to be used to make awards to CRP applications

**WHEREAS**, 50 applications were received by the deadline, of which eight were disqualified; all remaining applications were reviewed for eligibility and scoring; and applicants were notified of their score and provided an opportunity to appeal;

**WHEREAS**, staff is now recommending the Board authorize the attached list of fifteen awards, conditioned on EARAC recommendation or recommendation with conditions, totaling \$43,389,567.99 in CDBG CARES awards; and

**WHEREAS**, staff is also recommending that the Board authorize a Waiting List to be composed of all Applications that have not been approved by the Board;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director, and his designees, are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the listed fifteen awards totaling \$43,389,567.99 for CDBG CARES CRP funding, conditioned on Executive Award Review Advisory Committee (EARAC) review and approval or approval with conditions prior to contract execution; and

**FURTHER RESOLVED**, should any other CDBG CARES funds from CRP or other CDBG CARES activities be returned, deobligation, allocated by HUD, or otherwise made available, those funds may be utilized by staff to make one or more awards to the next highest scored CRP applicants whose request for funds can be fully funded with the award until December 31, 2022, or as may be extended in the Executive Director's sole determination, subject to EARAC review and approval or approval with conditions.

### **BACKGROUND**

On March 27, 2020, the CARES Act was signed into law. The CARES Act provides for \$5 billion to be distributed through the CDBG Program nationally and includes waivers of certain provisions of the CDBG regulations. The CDBG Program is a HUD-funded program designed to provide decent housing and a suitable living environment, and expand economic opportunities, principally for low- and moderate-income persons. The response by HUD to address the Coronavirus Pandemic under CDBG CARES allows the funding to be used for a range of eligible activities which prevent, prepare for, or respond to the spread of infectious diseases such as the coronavirus disease 2019 (COVID-19).

With the approval of the Department's Third Substantial Amendment to the 2019 State of Texas Consolidated Plan One Year Action Plan on July 8, 2021, a Community Resiliency Program (CRP) was established and a Notice of Funding Availability (NOFA) was released statewide on October

1, 2021, for approximately \$38,180,300. The application period closed on January 19, 2022. The scoring for the CRP applications was released on February 22, 2022.

Since the time of the NOFA’s release, based on funds unutilized from other non-CRP CDBG-CV activities, an additional \$5.2 million is available and will be used to make awards to CRP applications, as indicated in the table below:

<b>Program Activity</b>	<b>Recommended Allocation to CRP</b>
Community Resiliency Program – per Plan	\$38,180,317.03
Relief for Providers – unused; program completed	\$1,695,017.65
TERAP – unused; program completed	\$2,143,288.30
TEMAP – deobligated funds	\$174,845.00
Unobligated CDBG CARES funds	\$1,196,100.01
<b>TOTAL AVAILABLE FOR CRP</b>	<b>\$43,389,567.99</b>

As a requirement by HUD, the Department must allocate no less than the amount of the first allocation, \$40,000,886, of the CDBG CARES funding to non-entitlement units of general local government. The CDBG-CV CRP NOFA was specifically developed to address this requirement and made funds available to non-entitlement units of general local governments (“UGLGs”) with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000. These non-entitlement UGLGs are not already participating in the HUD-administered CDBG entitlement program or receiving CDBG-CV funds either as a direct entitlement, or as part of an Urban County consortium.

Funding dedicated to the CRP allows low- and moderate-income, and rural and small metro communities to address gaps in their ability to prevent future coronavirus outbreaks as well as to prepare and respond to coronavirus now and in the future. The CDBG-CV CRP NOFA limited eligible activities to include public facilities and improvements and public services. Examples of recommended activities for funding are senior centers, a food pantry, community resiliency centers, wellness/health centers, facility for abuse and neglected children, fire station rehabilitation, EMS facility, and the purchase of emergency medical services vehicles.

On January 19, 2022, the Department received 50 applications in response to the CDBG-CV CRP NOFA, requesting a total amount of \$141,784,192.26. Of the 50 applications received, eight were disqualified for not meeting the eligibility threshold. The remaining 42 were eligible for funding based on the NOFA requirements.

All applications were reviewed for required threshold requirements. The applications were also reviewed for the completeness of their project concept, the applicant’s administrative and financial capacity, and overall project readiness. When needed, staff requested that an applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in their application to assist staff in evaluating the application. Each application was reviewed

and scored by two teams of CDBG CARES staff and scores were confirmed by program management. The applications were then ranked based on the total score of the application using the scoring criteria and based solely on the application, as submitted, by each non-entitlement community according to the NOFA scoring criteria.

Applicants were provided the right to appeal the Department's scoring in accordance with 10 TAC §1.7. Four applicants appealed to the Executive Director within the allowed seven days of the scoring posting. Of the four appeals submitted each were denied their appeals and the scores remained. None of the appealing applicants requested to have their appeal heard by the Board.

With this action item, TDHCA will award \$43,389,567.99 to 15 applicants for the projects listed on the table of Attachment A. Should any other CDBG CARES funds from CRP or other CDBG CARES activities be returned, deobligation, allocated by HUD, or otherwise made available, those funds will be utilized by staff to make one or more awards from the Waiting List.

Staff is also recommending that the Board approve a CRP Waiting List to be composed of all eligible Applications that have not been approved by the Board for CRP funds and that have not been terminated by the Department or withdrawn by the Applicant. The Waiting List will be ranked based on score in descending order of priority. Applications will be awarded from the waiting list to the next highest scored CRP applicant(s) whose request for funds can be fully funded with the award. This may mean that a higher scoring application whose request exceeds the funds available is skipped over to fully fund a lower scored application. In the interest of time, an award from the Waiting List will not be presented to the Board, but awarded as soon as funds are available until December 31, 2022, or as may be extended by the Executive Director.

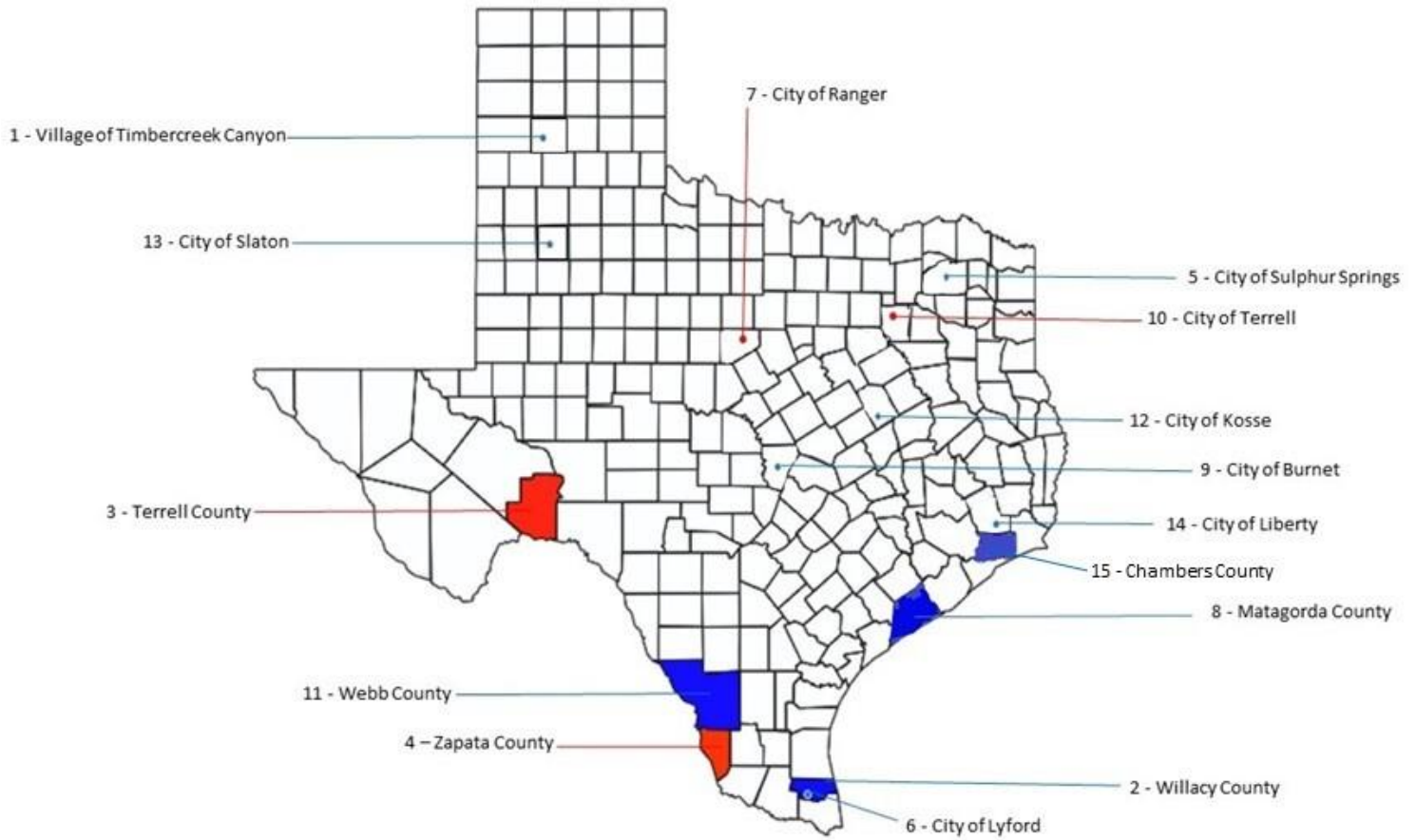
Staff recommends the awards conditioned on EARAC recommendation or recommendation with conditions, as reflected herein and in the Attachment, and approval of the Waiting List. Contracts will not be executed until such EARAC approval or approval with conditions.

**Attachment A – Award Recommendations through CRP**

Rank	Applicant	Description of Activity	Conditions*	Funding Request
1	Village of Timbercreek Canyon	New construction of senior center	Final Budget Negotiations, Title Report, Environmental Review	\$ 1,500,000.00
2	Willacy County	New construction of wellness resource center/clinic	Final Budget Negotiations, Title Report, Environmental Review	\$ 4,999,050.00
3	Terrell County	Purchase emergency medical services ambulance	Final Budget Negotiations, Environmental Review	\$ 351,000.00
4	Zapata County	Purchase two emergency medical service vehicles	Final Budget Negotiations, Environmental Review	\$ 349,837.92
5	City of Sulphur Springs	New construction of senior activity center	Final Budget Negotiations, Title Report, Environmental Review	\$ 2,420,000.00
6	City of Lyford	New construction of community resiliency center	Final Budget Negotiations, Title Report, Environmental Review	\$ 5,000,000.00
7	City of Ranger	Purchase emergency medical services ambulance	Final Budget Negotiations, Environmental Review	\$ 325,500.00
8	Matagorda County	New construction of food pantry	Final Budget Negotiations, Title Report, Environmental Review	\$ 873,699.75
9	City of Burnet	New construction of services facility for abused/neglected children	Final Budget Negotiations, Title Report, Environmental Review	\$ 4,976,605.88
10	City of Terrell	Purchase mobile health clinic	Final Budget Negotiations, Environmental Review	\$ 765,658.44
11	Webb County	New construction of health center	Final Budget Negotiations, Title Report, Environmental Review	\$ 4,600,000.00
12	City of Kosse	New construction to expand health clinic w/ parking	Final Budget Negotiations, Title Report, Environmental Review	\$ 2,228,216.00
13	City of Slaton	New construction of senior center	Final Budget Negotiations, Title Report, Environmental Review	\$ 5,000,000.00
14	City of Liberty	New construction/Rehab of Fire Station #2	Final Budget Negotiations, Title Report, Environmental Review	\$ 5,000,000.00
15	Chambers County	New construction of EMS facility	Final Budget Negotiations, Title Report, Environmental Review	\$ 5,000,000.00
				<b>\$ 43,389,567.99</b>

\* Conditions generally must be fulfilled within 90 days of the award announcement.

# CDBG-CARES: Community Resiliency Program - Award Recommendations





5a

BOARD ACTION REQUEST  
BOND FINANCE DIVISION  
APRIL 14, 2022

Presentation, discussion, and possible action on Resolution No. 22-021 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt the attached resolution.

BACKGROUND

To begin the issuance of tax exempt single family mortgage revenue bonds, the Department must submit an application to the Texas Bond Review Board to draw down private activity bond authority, also known as volume cap. Staff is requesting authorization to submit one or more applications for a maximum reservation of \$205,200,000 of volume cap to be used for the issuance of Single Family Mortgage Revenue Bonds, 2022 Series A (the 2022A Bonds). Staff expects that 2022A Bonds will use bond authority that has been carried forward for this purpose.

Final approval of the issuance of the 2022A Bonds is being considered by the Board under item 5b.

## RESOLUTION NO. 22-021

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AUTHORIZING STATE DEBT APPLICATION; 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 from time to time (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low and very 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) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and (d) to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department; and

WHEREAS, Section 103 and Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance owner-occupied residences will be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e)

of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act requires the Department, in order to reserve a portion of the State ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a certified copy of the resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation in the maximum aggregate amount of \$205,200,000 with respect to qualified mortgage bonds; and

WHEREAS, the Board further desires to approve an application to the Bond Review Board for approval of state bonds;

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

## ARTICLE 1

### APPROVAL OF CERTAIN ACTIONS

Section 1.1 Applications for Reservation. The Board hereby authorizes Bracewell LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation in the maximum aggregate amount of \$205,200,000 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of one or more Reservations.

Section 1.2 State Debt Application. The Board hereby authorizes and approves the submission of the application for approval of state bonds to the Bond Review Board on behalf of the Department in accordance with Chapter 1231, Texas Government Code.

Section 1.3 Authorization of Certain Actions. The Authorized Representatives of the Department named in this Resolution are hereby authorized to take such actions on behalf of the Department as may be necessary to carry out the purposes of this Resolution, including the submission of any carryforward designation requests for such Reservations.

Section 1.4 Authorized Representatives. The following persons are 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 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Manager of Single Family Finance 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

### GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 Section 2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14th day of April, 2022.

5b

BOARD ACTION REQUEST

BOND FINANCE DIVISION

APRIL 14, 2022

Presentation, discussion, and possible action on Resolution No. 22-022 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2022 Series A, approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

On February 24, 2022, the Department issued \$190,000,000 Residential Mortgage Revenue Bonds, 2022 Series A (Non-AMT) (Social Bonds). The issue was exceptionally well-received, and all proceeds have been fully committed. Market conditions remain conducive to the issuance of tax-exempt, single family mortgage revenue bonds (SFMRBs) to finance mortgage loans for low, very low, and moderate income homebuyers.

With this item, staff is seeking approval for the issuance of Texas Department of Housing and Community Affairs, Single Family Mortgage Revenue Bonds, 2022 Series A (the 2022A Bonds).

2022A Bonds

The 2022A Bonds will be issued in a maximum par amount of \$190 million; total bond proceeds (par amount of bonds plus bond premium) will not exceed \$205,200,000. Proceeds of the 2022A Bonds will be used to purchase Ginnie Mae mortgage-backed securities (MBS) backed by tax-exempt eligible mortgage loans, to pay all or a portion of the costs of issuance related to the 2022A Bonds, and to finance a portion of the down payment assistance, lender compensation, and second loan servicing fees related to the underlying mortgage loans. The 2022A Bonds are expected to be offered as traditional SFMRBs, with serial bonds, premium serial bonds, term bonds, and premium Planned Amortization Class (PAC) bonds. Depending on market conditions, proceeds of the 2022A Bonds may be invested in a Guaranteed Investment Contract (GIC) until expended; otherwise, proceeds will be invested in overnight obligations that meet indenture requirements. The 2022A Bonds are anticipated to be designated as "Social Bonds" and are expected to receive an Independent Second Party Opinion related thereto provided by Kestrel Verifiers.

### 2022A Mortgage Loans

Mortgage loans will be 30-year, fixed rate loans guaranteed by FHA, VA, or USDA and pooled into Ginnie Mae MBS. Initially, borrowers will have the choice of three to five points of down payment assistance (DPA), subject to modification in response to borrower demand or market conditions. Borrowers will choose how their DPA is structured: (1) repayable, where the DPA is provided as 0% interest, non-amortizing, 30-year second mortgage loan that is due on sale or refinance of the first loan, or (2) forgivable, where the DPA is provided as a 0% interest, non-amortizing, second mortgage loan that is fully repayable for the first three years, and forgiven three years after loan closing. The repayable option typically offers a mortgage rate on the first mortgage loan that is .25% to .375% lower than the forgivable option. Depending on borrower demand and market condition, the Department may also offer an unassisted mortgage loan option with a rate estimated based on current market conditions to be .25% to .375% lower than repayable DPA loans. The issuance of \$190 million in par amount of 2022A Bonds will provide for \$190 million in par amount of mortgage loans to be originated. The associated down payment assistance, lender compensation, and servicing fees for the second loans are expected to total approximately \$13.8 million.

### Underwriting Team

Jefferies will serve as senior manager, with Barclays and RBC Capital Markets serving as co-senior managers. Morgan Stanley, Piper Sandler, and Ramirez & Co. are co-managers for this transaction.

### Timing

Preliminarily, the key events are as follows:

04/22/2022	Preliminary Official Statement is Released
05/03/2022	Bonds Priced and Bond Purchase Agreement is Executed
05/10/2022	Official Statement is Released
06/14/2022	Bond Closing

### Department Contribution

The contribution by the Department will not exceed \$10 million, which will be used to fund a portion of the down payment and closing cost assistance and costs related to the acquisition of qualifying mortgage loans (including the payment of lender compensation and servicing fees for second mortgage loans) and to pay all or a portion of the costs of issuance of the 2022A Bonds. The contribution will be funded from amounts on deposit in the SF indenture. Capitalized interest of up to \$6 million may be paid from the SF indenture as necessary. As with prior transactions, these amounts are maximums; the actual contribution and capitalized interest expense are expected to be less than that approved by the Board.

### Summary

Staff will continue to work with the Department's financing team to ensure the economic viability of the 2022A Bonds. Depending on market conditions and other factors, the amount of 2022A Bonds issued may be less than approved by the Board.



### Exhibits

The Exhibits for Resolution 22-023 can be found online at the Department's Board Meeting Information Center website: <http://www.tdhca.state.tx.us/board/meetings.htm>.

## RESOLUTION NO. 22-022

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS SINGLE FAMILY MORTGAGE REVENUE BONDS, 2022 SERIES A; APPROVING THE FORM AND SUBSTANCE OF RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; 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 (the "Act"), as amended from time to time, for the purpose of providing for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to issue revenue bonds, to provide money to (i) make and acquire mortgage loans or participations therein, (ii) fund or increase the Department's reserves or funds (iii) pay the costs and expenses of issuing the bonds and (iv) pay interest on the bonds; and (b) to pledge all or part of the revenues, income or resources of the Department, including the revenues to be received by the Department from the mortgage loans or participations therein, to secure the payment of the principal, interest or redemption premium on the bonds; and

WHEREAS, the Department and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), have executed and delivered that certain Amended and Restated Single Family Mortgage Revenue Bond Trust Indenture dated as of June 1, 2017 (as amended and supplemented from time to time, the "Single Family Indenture"), providing for the issuance from time to time by the Department of one or more series of its Single Family Mortgage Revenue Bonds; and

WHEREAS, the Department has a single family mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production; and

WHEREAS, pursuant to Resolution No. 17-003, the Board approved Program Guidelines setting forth the general terms of the mortgage loans to be originated under the Program (the "Mortgage Loans") and authorized execution and delivery of (i) a Mortgage Acquisition, Pooling and Servicing Agreement setting forth the terms under which Idaho Housing and Finance Association (the "Servicer"), will review, acquire, package and service the Mortgage Loans, and (ii) a Master Mortgage Origination Agreement in connection with the acceptance of new lenders in the Program (collectively, the "Program Documents"); and

WHEREAS, pursuant to Resolution No. 22-002, the Board approved certain modifications to the Program and the execution of revised Program Documents in connection therewith to authorize the making of forgivable Mortgage Loans for down payment and closing costs assistance; and

WHEREAS, Section 302 of the Single Family Indenture authorizes the issuance of additional Bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves, payments of certain Department expenses and refunding bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department's Single Family Mortgage Revenue Bonds, to be known as its Single Family Mortgage Revenue Bonds, 2022 Series A (the "Bonds") pursuant to the Single Family Indenture for the purpose of providing funds to make and acquire qualifying Mortgage Loans through the purchase of mortgage backed securities ("Mortgage Certificates"), to provide down payment and closing cost assistance and to pay a portion of the costs of issuance related thereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Seventy-Second Supplemental Single Family Mortgage Revenue Bond Trust Indenture (the "Supplemental Indenture") in substantially the form attached hereto relating to the Bonds; and

WHEREAS, the Board has further determined that the Department should enter into a Bond Purchase Agreement relating to the sale of the Bonds (the "Bond Purchase Agreement") with Jefferies LLC, as representative of the group of underwriters listed in the Bond Purchase Agreement (the "Underwriters"), in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriters; and

WHEREAS, the Board has determined to authorize the execution and delivery of a 2022 A Supplement to Depository Agreement relating to the Bonds (the "Depository Agreement"), by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company (the "Trust Company"), in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities relating to the Bonds; and

WHEREAS, the Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Bonds (the "Official Statement") and the Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") relating to the Bonds in substantially the form attached hereto between the Department and the Trustee; and

WHEREAS, the Board has determined to authorize the investment of a portion of the proceeds of the Bonds and any other amounts held under the Single Family Indenture with respect to the Bonds in one or more guaranteed investment contracts (the "GICs") on or after

the closing date or in such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Board desires to approve the use of an amount not to exceed \$10,000,000 of Department funds for any purpose authorized under the Act and the Single Family Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying Mortgage Loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay a portion of the costs of issuance; and

WHEREAS, the Board desires to authorize the use of an amount not to exceed \$6,000,000 of funds on deposit under the Single Family Indenture to fund capitalized interest on the Bonds; and

WHEREAS, Chapter 1371, Texas Government Code, as amended ("Chapter 1371") authorizes the Department to take certain actions described in this Resolution related to the issuance of the Bonds; and

WHEREAS, the Board desires to approve the form of the Supplemental Indenture, the Bond Purchase Agreement, the Depository Agreement, the Official Statement and the Continuing Disclosure Agreement and find 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 to further its programs in accordance with such documents by authorizing the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

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 any or all of the Bonds is hereby authorized, all under and in accordance with the Single Family Indenture, and that, upon execution and delivery of the Supplemental 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 Texas (the "Attorney General") for approval, the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Bonds to or upon the order of the Underwriters.

Section 1.2 Authority to Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Authorized Representatives of the Department are hereby authorized and empowered, in accordance with Chapter 1371, to fix and determine the interest rates, principal amounts and maturities of the Bonds, and the prices at which the Department will sell the Bonds to the Underwriters, all of which determinations shall be conclusively evidenced by the execution

and delivery by an Authorized Representative of the Bond Purchase Agreement; provided, however, that: (a) the interest rate on the Bonds shall not exceed 6.00% per annum; (b) the aggregate principal amount of the Bonds shall not exceed \$190,000,000; (c) the final maturity of the Bonds shall occur not later than March 1, 2054; (d) the price at which the Bonds are sold to the Underwriters shall not exceed 108% of the aggregate principal amount thereof; and (e) the Bonds shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term debt instrument. In no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 1.3 Approval, Execution and Delivery of the Supplemental Indenture. That the form and substance of the Supplemental Indenture are hereby approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Supplemental Indenture and to deliver the Supplemental Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters.

Section 1.5 Official Statement. That the Official Statement, in substantially the form presented to the Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, are hereby authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Bonds, with such changes therein as an Authorized Representative may approve in order to permit such Authorized Representative, for and on behalf of the Board, to deem the Official Statement final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as an Authorized Representative may approve, such approval to be conclusively evidenced by such Authorized Representative's execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.6 Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Trust Company.

Section 1.7 Approval of Continuing Disclosure Agreement. That the form and substance of the Continuing Disclosure Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, and if requested, attest and affix the Department's seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 1.8 Approval of GIC Broker; Approval of Investment in GICs. That the Authorized Representatives are each hereby authorized to select a GIC broker, if any, and that the investment of funds held under the Single Family Indenture in connection with the Bonds in GICs is hereby approved and that the Authorized Representatives are hereby authorized to complete arrangements for such investment in GICs or such other investments as the Authorized Representatives may approve.

Section 1.9 Authority to Designate Bonds as Social Bonds. That the Authorized Representatives are each hereby authorized to designate the Bonds as "social bonds," and if such designation occurs, "(Social Bonds)" shall be added at the end of the name of the Bonds.

Section 1.10 Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, and to take such other acts, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the Single Family Indenture, the Bonds, the Supplemental Indenture, the Bond Purchase Agreement, the Depository Agreement and the Continuing Disclosure Agreement.

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, or in the opinion of Bracewell LLP, Bond Counsel to the Department ("Bond Counsel"), 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 A – Supplemental Indenture
- Exhibit B – Bond Purchase Agreement
- Exhibit C – Official Statement
- Exhibit D – Depository Agreement
- Exhibit E – Continuing Disclosure Agreement

Section 1.13 Authorized Representatives. 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 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Manager of Single Family Finance of the Department and the Secretary or 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.

Section 1.14 Department Contribution. That the contribution of Department funds in an amount not to exceed \$10,000,000 to be used for any purpose authorized under the Act and the Single Family Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying Mortgage Loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay all or a portion of the costs of issuance of the Bonds is hereby authorized.

Section 1.15 Use of Single Family Indenture Funds. That the use of an amount not to exceed \$6,000,000 of funds on deposit under the Single Family Indenture to fund capitalized interest on the Bonds is hereby authorized.

## **ARTICLE 2**

### **APPROVAL AND RATIFICATION OF CERTAIN ACTIONS**

Section 2.1 Submission to the Attorney General of Texas. That the Board hereby approves the submission by Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.2 Engagement of Other Professionals. That the Authorized Representatives are each authorized to engage an accounting firm or firms to perform such functions, audits, yield calculations, verifications and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Bonds and Bond Counsel to the Department, provided such engagement is done in accordance with applicable State law.

Section 2.3 Certification of the Minutes and Records. That the Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for its single family mortgage revenue bond program, the issuance of the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agencies. That the Authorized Representatives and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and S&P Global Ratings, a division of S&P Global Inc.

Section 2.5 Ratifying Other Actions. That all other actions taken or to be taken by the Authorized Representatives and the Department's staff in connection with the issuance of the Bonds are hereby ratified and confirmed.

Section 2.6 Authorized to Invest Funds. That pursuant to Section 1371.102, Texas Government Code, and the Act, the Authorized Representatives are each hereby authorized to undertake all appropriate actions required under the Single Family Indenture and the Depository Agreement and to provide for investment and reinvestment of all funds held under the Single Family Indenture in accordance with the Single Family Indenture.

### **ARTICLE 3 CERTAIN FINDINGS AND DETERMINATIONS**

Section 3.1 Purpose of Bonds. That the Board hereby determines that the purpose for which the Department may issue the Bonds constitutes "public works" as contemplated by Chapter 1371.

### **ARTICLE 4 GENERAL PROVISIONS**

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the Single Family Indenture to secure payment of the bonds issued under the Single Family Indenture and payment of the Department's costs and expenses for its single family mortgage revenue bond program thereunder and under the Single Family Indenture, 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.

Section 4.3 Purposes of Resolution. That the Board has expressly determined and hereby confirms that the issuance of the Bonds and the furtherance of the purposes contemplated by this Resolution accomplish a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 4.4 Notice of Meeting. That this Resolution was considered and adopted at a meeting of the 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 Section 2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 4.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 14th day of April, 2022.





## **EXHIBITS**

ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE BONDS.

6

**BOARD ACTION REQUEST**

**HOME-ARP DIVISION**

**APRIL 14, 2022**

Presentation, discussion and possible action for approval of the HOME American Rescue Plan Allocation Plan as modified from the March 10, 2022, Board approval for submission to the U.S. Department of Housing and Urban Development

**RECOMMENDED ACTION**

**WHEREAS**, under Section 3205 of the American Rescue Plan (ARP) Act, the Texas Department of Housing and Community Affairs (TDHCA) was allocated \$132,969,147 of HOME-ARP Program funds from the U.S. Department of Housing and Urban Development (HUD);

**WHEREAS**, the Board approved the Draft HOME-ARP Plan on January 13, 2022, and the Plan was made available for 17 days of public comment with two public hearings;

**WHEREAS**, comments were received from 15 persons, and staff has made several responsive revisions and clarifications to the HOME-ARP Plan; and

**WHEREAS**, the Board approved the Plan to be submitted to HUD on March 10, 2022; and

**WHEREAS**, staff has identified several additional program design changes that will improve program flexibility in relation to the non-congregate shelter and non-profit capacity building/operating cost assistance activities and is therefore presenting the Plan to the Board again reflective of such changes; and

**WHEREAS**, staff has further identified clarifications needed per guidance from HUD regarding the wording and consistency of the preferences, added an additional option for referral methods, and added a list of organizations consulted during Plan development;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to proceed with submission to HUD of the Plan as presented at this meeting.

**BACKGROUND**

TDHCA was allocated \$132,969,147 of funds from the U.S. Department of Housing and Urban Development (HUD) under Section 3205 of the American Rescue Plan Act, which HUD has called

the HOME-ARP Program. HUD issued waivers and new activities from HOME annual funds for HUD-ARP per CPD Notice 21-10.

The draft HOME-ARP Plan programmed funds into acquisition/development or rehabilitation of non-congregate shelters, development of affordable rental housing including capitalized operating reserves, nonprofit operating funds, non-profit capacity building funds, and administration /planning.

After Board approval but prior to submission to HUD, staff determined that additional flexibility was needed in the non-congregate shelter and nonprofit capacity building/operating cost assistance in the Plan. The total award amount per application is revised to go potentially up to the total amount available in the NCS NOFA. Shelter development or rehabilitation funding of this scope is rarely available; allowing flexibility for more expansive projects may allow substantial changes in the provision of shelter.

In addition, staff established that the application process for the nonprofit capacity building and operating funds may need to be independent of the NCS or Rental Housing activities to fully utilize the benefit of capacity building. In this light, a minimum request of \$50,000 was established, and the maximum amount provides the possibility for an award of the greater of up to 50% of an organization's operating budget or \$50,000.

A summary of the primary revisions to the HOME-ARP plan as a result of public comment or made by staff to add clarity is listed below. The first five points are flexibilities provided after the March 10, 2022 Plan was approved by the Board. Items 6 through 13 were previously presented to the Board.

1. Staff has increased the maximum award amount for the non-congregate shelter activity. The NCS amounts requested potentially may be as high as the total amount available in the NCS NOFA to allow for large-scale developments.
2. Staff added to an existing clarification for nonprofit capacity building and operating funds, further clarifying that the application process of the non-profit capacity building and operating funds may be independent of the NCS or Rental Housing activities. In addition, a minimum amount of \$50,000 was set, and flexibility of an award to the greater of 50 percent of an organization's operating budget or \$50,000 may be offered.
3. Staff has made the preferences for NCS and rental housing more uniform, and revised wording in response to HUD's guidance. While several edits were made, most preferences remain but in a different wording to conform to terms used by HUD. For example, "Persons Fleeing Domestic Violence" was removed because this population is included in the "Persons with Violence Against Woman Act (VAWA) Protections and Human Trafficking" preference. Likewise, "Youth Aging out of the Foster Care System" was removed because this population is included in the "Persons Exiting Institutions or Systems of Care/Reentry" preference. It was clarified that Veterans and Families with Children preferences could be established if these populations were also experiencing homelessness or at-risk of homelessness. Only Public Housing Residents were deleted from the original plan, due to a statutory prohibition between the two funding sources in this regard.
4. Staff has clarified that Coordinated Entry can be used in conjunction with other referral methods. If this option is used, the Owner would establish prioritization criteria between

the Coordinated Entry and other referral methods and maintain any waitlists in chronological order.

5. Staff has added Appendix A, which lists the organizations consulted during the plan development.
6. Direct Awards of HOME-ARP for National Housing Trust Fund (NHTF) Developments will be allowed. To expedite delivery of HOME-ARP units into rental developments more quickly than will be the case for new applications, and to preserve existing Department investments in NHTF-funded developments that may otherwise be at risk of not being completed, the Plan has been revised to designate that up to \$10 million of HOME-ARP funds may be directly awarded, without competition, to certain Department awardees of NHTF. These developments will be required to submit an abbreviated application upon approval of the Plan from HUD, but will not be required to compete for funds under the HOME-ARP Rental Development Notice of Funding Availability (NOFA).
7. To better conform to HUD guidance, it has been clarified that Applicants will be required to demonstrate the unmet need of qualifying populations in their geographical area.
8. The Plan has been revised to reflect that funds are initially intended to be made available statewide, but should certain state waivers expire prior to funds being awarded, the funds are limited by state regulations to serve primarily rural areas of the state, which may not be where the greatest concentrations of qualifying populations are located.
9. The maximum award amount per application for rental housing was increased from \$10 million to \$15 million. Although, a lesser maximum award amount may be included in a NOFA.
10. Clarification has been added that the maximum award amount per application is inclusive of capitalized operating costs.
11. Clarification has been added that the rental housing NOFA will allow for a variety of loan options, and specific terms will depend on the financial structure of the development and contract terms.
12. The Plan now reflects that HOME-ARP units can float or be fixed in the Development, as may be limited in the NOFA or abbreviated application.
13. More detail was added to the needs and gaps assessment.
14. Additional preferences are added; while optional, shelters and properties will have the ability to designate that the developments will prioritize persons experiencing homelessness, persons formerly homeless and temporarily housed, and persons referred through Coordinated Entry for non-congregate shelter and rental housing.
15. Clarification has been added that use of only Coordinated Entry and not a project-specific waitlist must meet all the requirements in HUD Notice 21-10, including sufficient referrals, inclusion of all qualified populations, and coverage of the primary market area.
16. More detail was added to the Plan regarding unused non-profit capacity building and non-profit operating cost assistance, which will be offered as non-congregate shelter or rental housing development activity funds.

Staff requests authority for the Executive Director to proceed with submission of the Plan to HUD as further clarified and approved by the Board as presented. After HUD approval of the Plan, staff will develop NOFAs for HOME-ARP Rental Housing, HOME-ARP Non-Congregate Shelter, and non-profit capacity building/nonprofit operating cost assistance.

Attachment A



**Texas Department of Housing and Community Affairs  
HOME-ARP Allocation Plan**

**Adopted for Submission to HUD on April 14, 2022**

TDHCA was allocated \$132,969,147 of funds from the U.S. Department of Housing and Urban Development (HUD) under Section 3205 of the American Rescue Plan Act, which HUD has called the HOME-ARP Program. The following document is the Department's Plan for these funds which will be submitted to HUD for approval.

Items in the Plan in *italics* are instructions from HUD for a given section or item.

**Participating Jurisdiction:** Texas Dept. of Housing and Community Affairs (TDHCA)

**Date:** [To Be Added Date of Submission]

## I. CONSULTATION PROCESS AND INPUT

### Consultation

*Before developing its plan, a PJ must consult with the CoC(s) serving the jurisdiction’s geographic area, homeless and domestic violence service providers, veterans’ groups, public housing agencies (PHAs), public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities, at a minimum. State PJs are not required to consult with every PHA or CoC within the state’s boundaries; however, local PJs must consult with all PHAs (including statewide or regional PHAs) and CoCs serving the jurisdiction.*

### **Summarize the consultation process:**

TDHCA held 9 consultations to garner initial input on the state’s planning of HOME-ARP funds. The consultations were held from October 7 to October 22, 2021. In all consultations information on the program was shared with those attending and often many questions were asked and answered. In the interest of brevity, the consultation feedback summaries following the table below do not include questions posed or answers provided, but focus on summarizing input and comments made.

### **List the organizations consulted, and summarize the feedback received from these entities.**

<b>Agency/Org Consulted</b>	<b>Type of Agency/Org</b>	<b>Method of Consultatio</b>	<b>Feedback</b>
Mobile Loaves and Fishes – Community First Village	Nonprofit Homeless Provider	Video Conference (October 7)	See summary below
Haven for Hope	Nonprofit Homeless Provider	Video Conference (October 7)	See summary below
Multiple (see Appendix A)	Continuums of Care and Domestic Violence Providers	Video Conference (October 13)	See summary below
Foundation Communities and New Hope Housing	Nonprofit Perm. Supp. Housing Developers	Video Conference (October 15)	See summary below
Multiple (see Appendix A)	Public Housing Authorities	Webinar (October 15)	See summary below



Agency/Org Consulted	Type of Agency/Org	Method of Consultation	Feedback
Multiple (see Appendix A)	TX Interagency Council for Homelessness	TICH Meeting also hosted as consultation (October 19)	See summary below
Multiple (see Appendix A)	Fair Housing and Disability Advocates	Webinar (October 20)	See summary below
Multiple (see Appendix A)	Veterans Services Providers	Webinar (October 22)	See summary below
Multiple (see Appendix A)	Homelessness Services Providers	Webinar (October 22)	See summary below

### Consultation with Mobile Loaves and Fishes

Mobile Loaves and Fishes (MLF) operates Community First! Village, a master planned community that provides affordable, permanent housing and a supportive community for men and women coming out of chronic homelessness in Austin.

- MLF shared that they are expanding their village of RV/park homes and micro-homes; they estimate that 80% of the population will fall into the definition of chronically homeless. They estimate it will take approximately \$150 million of capital investment; some of those funds have been committed already by Travis County. MLF indicated that most of their referrals come from CoCs or other referring agencies but not all come through Coordinated Entry (CE).
- MLF has a successful model in place in which households pay a flat monthly rent for a specific unit type, and that amount is often more than 30% of their income. They indicated they would likely not find these funds attractive for their plans if households were limited to paying only 30% of their income.
- Uses of the Funds: MLF supported a focus on capital investment with the funds. They would like to see that capital investment is used for both tiny home models and associated congregate facilities (kitchens, baths). It was discussed that varied types of units have varying levels of kitchen or bathroom facilities (with robust shared facilities) such that HOME-ARP may be able to be used for some unit types but perhaps not others. It was also discussed that TDHCA would need to confirm with HUD that such models would be allowable. MLF also supported some funds for capacity building as they ramp up operations.
- Populations/Preferences: MLF indicated they would like to see the most vulnerable populations assisted with these funds; they suggested that a preference should be allowed for the chronically homeless and that funds not just go to the households that could be seen as more sympathetic, such as families with children and veterans.
- Use of Coordinated Entry (CE): MLF did not want to be limited to only taking those

households that score the highest in the CE assessment. They tend to assist persons with a variety of vulnerability levels and do not prefer that all housed with HOME-ARP be referred only through CE.

#### Consultation with Haven for Hope

Haven for Hope (HFH) is a San Antonio nonprofit operating as a “one stop” campus for people who are experiencing homelessness, bringing together service providers in a single location.

- HFH shared that doing NCS as an activity is a challenge without operating expenses being provided to help support it, but did note that they would be interested if in fact operating funds could be assured. They indicated that HFH most needed flexible spending to use on housing for households that don't qualify for CE, particularly for older persons with disabilities, who are awaiting a voucher or other benefits, something that could be an extension of rapid rehousing.
- HFH discussed the unique role some of their shelter staff play as they are both operational staff, but also trained in client-facing assistance roles such as case work and other services identified in 24 CFR §578.53. These Life Safety Officers also have access to HMIS and HFH would hope to classify these staff as case management and service provision, although they are also serving in an operational role.
- HFH discussed that the reason for not being more interested in NCS with hotel conversions as an activity is that the maintenance and upkeep is extreme, they feel it is preferable to just do new construction. They also feel that hotel conversions are better for Permanent Supportive Housing (PSH), and that while there is a need for PSH, only a fraction of their clients go to PSH.
- HFH provided that past criminal eviction history hurts clients seeking units and suggested that any HOME-ARP funds used for rental housing should require a lower standard for entry into the housing.
- When discussing the possible idea of serving the role of a sponsor who could access a block of units through a master lease, they felt that while this would be attractive to have a guarantee, it was not ideal because it adds undue risk for the nonprofit and also does not allow the person being housed to establish a direct lease relationship with the landlord, which they find important.
- Services needed include housing specialists, intake, housing navigation and bridge psychiatric services that can provide a quick diagnosis and access to medications on an outpatient basis in close coordination with the local Mental Health Authority. HFH specifically noted that funds for these needs would not be fully addressed through the ERA2 Housing Stability Services funds, of which there is approximately \$84 million being released for competition through TDHCA in the fall of 2021. They thought some of the HOME-ARP funds should be used for this purpose also to address the long term effects of the pandemic.
- Uses of the Funds: As noted in the bullets above, HFH felt for them the best use of funds would be for TBRA and supportive services with long contract terms, such as at least a 3 year contract for TBRA to serve as a bridge to households accessing a permanent

voucher.

- Populations/Preferences: HFH felt that high priority groups included older persons currently homeless or at risk of homeless, often with disabilities, who don't qualify for CE and those awaiting vouchers or benefits. Shelters are not the most appropriate place for these persons. They have about 30 people who need a nursing home in terms of the level of care required but don't qualify for Medicaid. They also felt that families are the biggest unmet need because many are newly homeless or doubled up so don't rank as high need on CE.
- Use of Coordinated Entry (CE): HFH did not support being restricted to only allowing CE and feels it is very important for these housing funds to be able to assist those not in CE, or not ranking highly in CE.

#### Consultation with Continuums of Care (CoCs) and Domestic Violence (DV) Providers

Representatives from the San Antonio/Bexar County CoC; Dallas City and County, Irving CoC; Fort Worth, Arlington/Tarrant County CoC; the El Paso City and County CoC; the Houston, Pasadena, Conroe/Harris, Fort Bend, Montgomery Counties CoC; the Balance of State CoC represented by the Texas Homeless Network (THN); and the Texas Council on Family Violence were in attendance.

- Significant focus has been on rapid rehousing and bridging folks to permanent housing (Houston, El Paso, Dallas) and some noted an interest in more rental assistance to support these efforts (Houston), or to support gaps in services (Houston, El Paso). Houston discussed going from homelessness to housed and not needing to use shelter facilities.
- However, other CoCs felt they had sufficient funds for the vouchers/rental assistance and services, and felt the highest need was in actual production of units (PSH) as there are challenges in finding units for voucher holders (Tarrant, Dallas, San Antonio). Some noted interest in allowing small acquisition/rehabilitation developments that they thought could be brought online more quickly and others were specific that the PSH should include units for large families and deeply affordable units (below 30%). There was discussion of use of HOME-ARP to bring units up to Uniform Physical Condition Standards.
- There was support for funds to support capacity building for homeless services providers, especially in rural areas of the state.
- Several CoCs felt that a priority/scoring preference should include that the applicant is connected to housing authority resources and other subsidies (Houston, Dallas) although the BoS noted that this would be more challenging since they have less access to other funds. There was also discussions in how to use HOME-ARP to address racial disparities.
- Commenters felt there needed to be ways to incentivize the developers to give second chances for poor rental and credit/criminal history and these funds should not allow anything more restrictive than the local housing authority. Others felt the housing authority's barriers were too high.
- There was possible interest in NCS if it could be 'flexed' for use as PSH and interest in

NCS for the domestic violence (DV) population.

- They wanted to be able to consider those At-Risk as a broader definition than that provided by HUD, also noting that often DV cases do not classify as At-Risk but need housing to leave their abuser.
- There was fairly unanimous support that having at least coordinated with the CoC should be an application requirement.

Uses of the Funds: Because the needs of the CoCs varied there was interest in keeping the funds flexible. The most common request for the uses of HOME-ARP was development of supportive housing and NCS. There was greatest interest in NCS and development of units from the Balance of State (BoS) CoC. There were also requests to use the funds for TBRA and services and capacity building, though requests for these activities were not as common as for capital funds.

- Populations/Preferences: There was support for allowing subrecipients to establish preferences, but not limiting the funds at the state policy level to only certain populations. Preferences suggested included: persons experiencing literal homelessness, persons with disabilities, persons fleeing Domestic Violence, unsheltered homeless, and those with a history of homelessness.
- Use of Coordinated Entry (CE): CoCs from larger areas preferred CE be used and felt it ensured there is coordination and alignment. Alternatively for DV and the BoS they did not want to see the program limited to only CE.

#### Consultation with Developers of Permanent Supportive Rental Housing

Foundation Communities and New Hope Housing are two of the primary PSH developers in the state. The summary below also include comments received in writing from a PSH consultant, True Casa Consulting, who could not attend the session.

- Providers felt that the 70% of rental units that are required to serve qualified households would have to be underwritten as zero income so felt the biggest challenges related to operating. While they realized and appreciated that HOME-ARP allows for capitalized operating expenses they felt it would need to be for the whole affordability period. Additionally, they voiced concern for the residents of those units at the end of the 15-year HUD affordability period; as soon as the HUD operating subsidy and LURA restriction ends, for the properties to support operations on the units they would have to increase the rents on those households from 30% of their income to either market rate or the rent level of any other affordability term (likely housing tax credits).
- Two of the commenters also noted that their models of housing did not generally support having market rate units at the property to subsidize the other units (due to lack of interest by market rate tenants).
- Commenters raised concern and felt strongly that to do such transactions requires significant experience not just with supportive housing development, but also in serving the specific populations, and they felt there should be a standard or requirement relating to experience.
- Regarding leasing criteria they noted that their fair housing counsel advises that they not have different leasing criteria for some units, so whatever criteria they would have

for HOME-ARP would need to be the same as all the units and therefore acceptable to the other funders as well. They did not want to see the state dictate what the leasing criteria should be. One commenter did suggest that barriers for criminal history should be reduced.

- Regarding sizes of the developments, commenters felt that smaller size properties for PSH are not able to achieve sufficient economies of scale with the ideal size being 120-150 units. They note that because of local processes, smaller deals do not necessarily get done any faster, and that a small deal would almost certainly need a more robust subsidy.
- While not specifying that funds should be used for services, one commenter did note that gaps in services include behavioral health, transportation, health and dental, peer support, case management and housing subsidies.
- It was noted that clients should not have burdensome documentation requirements.
- Uses of the Funds: Commenters supported use of the funds for rental housing development. They provided input that the program would need to have no debt requirements. They supported the possibility of the funds being grants, or allowing the funds to be passed through to a sponsor entity to limit the tax event for the property. The one activity they proposed other than rental and capitalized operating, was to possibly allow for capitalized services as they will have to guarantee to the investor sufficient funds for service provision (capitalized service reserves).
- Populations/Preferences: Because these types of developments often have to layer financing from different funders, each with their own priorities and preferences, they felt it would be important for the funds to not limit preferences at the state level, but allows preferences at the property level. Preferences contemplated for the plan would include older adults with one or more ADL needs, adults with disabilities, chronically homeless, unstably housed and at-risk of homelessness and low income (at 200% or below federal poverty level).
- Use of Coordinated Entry (CE): They would find a preference for CE acceptable, or having it as an option, but not as a requirement as they want to see a range of tenants gaining access to their properties, not only chronically homeless.

#### Consultation with Public Housing Authorities

Outreach for this consultation was targeted to public housing authorities; more than 62 registered to attend the virtual session, and 34 actually logged on to the session. The summary below includes several comments received in writing from PHAs who could not attend the session.

- Across the PHAs on the call, there was support for capital development for more rental units in good condition. There was support for these funds to be used to ‘buy down’ 60% HTC units to 30% units or to add soft financing, as well as off-site costs. There was interest in layering with RAD conversions, allowing sponsorship structures, and for giving an award preference for those rehabilitating large properties to make them deeply affordable. Others asked if there could be point preferences for larger developments, and if HOME-ARP could be used for infrastructure to the development. For rental

development there was interest in making sure that PHAs could use these funds in conjunction with issuing 'Faircloth' vouchers on a private development or other public housing and that it was important to make funds available for rural areas.

- There was support voiced for the funds to be used as rental assistance like HOME TBRA and TDHCA's COVID TBRA Program, for services such as security deposit assistances, furnishings and appliances, youth employment programs, job searches, assistance accessing benefits, financial literacy, parenting skills and scholarships for trade schools.
- There was not support for adding any state-required leasing criteria, or making them more lenient, but rather that it be flexible so it could be layered with other funding sources. One commenter suggested allowing alternate means for lowering barriers such as the tenant attending rehab classes, or being flexible on references.
- Uses of the Funds: As noted above the primary interest was for rental development, as well as more limited support for TBRA and services.
- Populations/Preferences: Support no preferences, or if any, persons experiencing homelessness and Domestic Violence households. There was interest in prioritizing any households below 80% AMI since those are often quick to become unstable.
- Use of Coordinated Entry (CE): There was not support for CE to be a requirement; in some areas CE is not readily available, and such a requirement would harm properties and those in need.

#### Consultation with Texas Interagency Council for the Homeless (TICH)

The TICH is a statutorily created council supported by TDHCA with public and private membership. The TICH meets quarterly and at its quarterly meeting in October 2021, a presentation was made on the HOME-ARP funds, and the opportunity for input was extended. While questions were asked, no specific comments were received in regards to planning of the funds.

#### Consultation with Fair Housing and Disability Advocates

Outreach for this consultation was targeted to fair housing and disability providers and advocates. More than 185 registered to attend the virtual session, and 91 actually logged on to the session. The summary below includes several comments received in writing from disability or fair housing advocates who could not attend the session or followed up with more information in writing.

- Most of the attendees that spoke indicated a significant need for more permanent supportive rental housing, most speaking of the need specifically for those with those with Intellectual or Development Disabilities (IDD) and Mental Health disorders (MH) to be stably housed in the community. Attendees emphasized the importance of services. There was support that such housing needs to be in high opportunity areas so that it was close to transportation, jobs, stores, services, and medical supports. Several commenters mentioned the needs of adult children with IDD/MH who the parents are no longer able to care for them. It was noted that any funds used for PSH should have robust targets for accessibility and visitability and a higher percentage of units built as fully accessible for physical disabilities than is required in the Housing Tax Credit (HTC)

program. Commenters noted that housing should be for low income housing (not workforce housing). They noted that it was important that capitalized operating subsidies be provided. There was also interest that the funds be able to be used for recovery housing.

- Alternatively, one commenter noted that because the need is pressing and urgent now, that some of the funds should go to 'right now' solutions such as rental assistance for persons with disabilities.
- Several comments also supported use of the funds for NCS and a focus on best practices that would allow NCS to transition to other uses.
- One comment supported use for TBRA and several supported use for services specifically service coordinators, resident coordinators, and landlord incentives.
- One commenter felt the funds should allow shared housing (roommate arrangements) and noted successes with that model in Connecticut; there was discussion around risk, leases, and the fact that currently this has not been used in affordable housing or with voucher holders.
- This group voiced frustration at landlord's unwillingness to accept voucher holders, the challenges in landlords not accepting those with criminal/credit history, and unreasonable minimum income requirements. One commenter felt the funds should be used for providing the payments needed to meet minimum income requirements.
- They suggested that the NOFA have an award preference for those with lowest barrier policies for those with justice involvement.
- Uses of the Funds: Most support for PSH and limited support for NCS, TBRA, and services.
- Populations/Preferences: There was interest for the provider to be able to identify preferences, but that the state should not do so which would limit flexibility. Wide support among the group for preferences for those with dual diagnoses (Mental Health Disorder (MH) and Intellectual/Developmental Disabilities (IDD)) and for seniors with disabilities, as they are seeing increases in IDD and MH folks that senior centers and Medicaid are not able to assist. Also interest in young adults aging out of foster care and veterans. There was also interest in allowing properties to grant a preference on their fully accessible units for those with a physical disability, in having a preference for those getting discharged for rehabilitation centers, psychiatric hospitals or released from incarceration to prevent them from exiting into homelessness. It was requested that these funds should definitely be allowed for seniors, particularly since 811 Program does not allow older than age 62.
- Use of Coordinated Entry (CE): There was some support of using CE but not as a mandatory requirement. Several speakers gave examples of where CE is not effective and would greatly limit the ability to assist including those in state hospitals for more than 90 days are no longer considered homeless upon exit under CE, many who need housing who don't get ranked highly enough in CE. Alternatively one commenter did think CE should be required and that CE assessments address racial inequities.

#### Consultation with Veterans Services Providers

(Outreach for this consultation was targeted to the Texas Veterans Commission and

veteran's services providers; 21 persons registered to attend the virtual session, and 12 actually logged on to the session.)

- This session focused significantly on answering questions including eligible uses of the funds, allowable service activities, and length of assistance. One commenter was interested in uses of the funds that were not eligible.
- It was noted that the funds should not require veterans to have a DD 214 or require that the veteran must be honorably discharged. There was discussion of different military discharge statuses. There was interest in assisting vets re-entering the community from incarceration.
- It was suggested that priority in awards be given to those willing to take those perceived as higher risk tenants.
- Uses of the Funds: Interest in capital investment for rental and NCS and in making sure funds are available rurally.
- Populations/Preferences: Veterans.
- Use of Coordinated Entry (CE): They wanted to be sure funds are not limited to those in CE as many in need will get overlooked.

#### Consultation with Homelessness Service Providers

Outreach for this consultation was targeted to providers of homeless services; more than 158 registered to attend the virtual session, and 117 actually logged on to the session. The summary below includes several comments received in writing from providers who could not attend the session or who followed up with more detail after the session.

- There was strong interest to use funds for one time capital investments for PSH and NCS. There was input that NCS is especially helpful for families, those fleeing domestic violence and those with MH or Post Traumatic Stress Disorder (PTSD) where congregate care can be detrimental to treatment. Most speakers felt there are sufficient resources for rental assistance, and there are those in need with vouchers in hand who can't find units; there is particularly need for the deepest income units. There was emphasis that the rental housing needed to come with operating reserves and allow for sponsorship structures. Commenters encouraged the construction funds be flexible so recipients can try to fund smaller properties or respond flexibly to families in crisis. Several attendees emphasized the importance of funds being made available for rural areas and that they not have to compete against urban areas.
- Several commenters noted that it would be important to not just fund capital investment, but to focus on long term supports including operations, homelessness prevention, case management, employment services, and landlord incentives (with thoughtful consideration relating to fair housing issues).
- One commenter supported sober living beds/transitional beds and some Single Room Occupancy (SRO) design.
- Because of the urgent need now, there was also interest from several providers for TBRA since other rental funds are starting to end. They also note that accessing rental assistance should not first require having an eviction status which is what is often required from other funding sources.



- One commenter supported the funds for nonprofit development and black-led organizations.
- One commenter suggested that awarding of projects should be prioritized for long term (20-30 year) shelter assistance.
- Uses of the Funds: While varied, there was strong support for PSH and NCS, with less significant support for TBRA, services, and nonprofit operations and capacity building.
- Populations/Preferences: Chronically homeless, disabled, and homeless youth (18-24 years old).
- Use of Coordinated Entry (CE): Most attendees felt strongly that CE should not be a requirement. However two commenters did think CE should be required. Because CE prioritizes persons with the highest scores, those with the greatest needs are getting assisted, but many who could be rapidly assisted are not captured in CE and have lower scores, including those activity working with case workers and in school.

## II. PUBLIC PARTICIPATION PROCESS AND INPUT

*PJs must provide for and encourage citizen participation in the development of the HOME-ARP allocation plan. Before submission of the plan, PJs must provide residents with reasonable notice and an opportunity to comment on the proposed HOME-ARP allocation plan of **no less than 15 calendar days**. The PJ must follow its adopted requirements for “reasonable notice and an opportunity to comment” for plan amendments in its current citizen participation plan. In addition, PJs must hold **at least one public hearing** during the development of the HOME-ARP allocation plan and prior to submission.*

*For the purposes of HOME-ARP, PJs are required to make the following information available to the public:*

- *The amount of HOME-ARP the PJ will receive,*
- *The range of activities the PJ may undertake.*

***Describe the public participation process, including information about and the dates of the public comment period and public hearing(s) held during the development of the plan:***

Upon approval of a draft Plan by the TDHCA Board, the draft plan was released for a 17 day public comment period from January 14, 2022 to January 31, 2022. TDHCA adhered to its citizen participation plan. Two hearings were held during the comment period.

### Virtual Hearing

Friday, January 21, 2022 at 10:00 a.m. Austin Local Time. There were 51 individuals registered to attend, and 38 attendees. Seven persons commented.

### In-Person Hearing

Thursday, January 27, 2022 at 2:00 pm in Austin, Texas. There were no in-person attendees.

After the Plan was presented to the Board for approval to submit to HUD on March 10, 2022, staff determined that several additional revisions were needed, based in part on further guidance from HUD. While not vastly different from the version approved by the Board initially, the Plan was returned to the Board on April 14, 2022 for its approval. Notice of the Plan being re-presented to the Board was made prior to the meeting, and the public was given the opportunity to again comment on the Plan at the meeting of Board.

***Describe any efforts to broaden public participation:***

TDHCA held both an in-person hearing in Austin and a virtual hearing to accept comment. Notice of the hearings was published in the Texas Register and sent via TDHCA's subscription email lists to the homeless-focused topics and the multifamily topics, which reached approximately 9,700 subscribers. The notice included how individuals could request a language interpreter, auxiliary aids or services for the hearings. The information on how to request an interpreter was also included in Spanish. Comments were also accepted via mail or email. Finally, the plan was posted online for ease of access during the public comment period.

*A PJ must consider any comments or views of residents received in writing, or orally at a public hearing, when preparing the HOME-ARP allocation plan.*

***Summarize the comments and recommendations received through the public participation process:***

Fifteen persons commented on the HOME-ARP draft plan. The comments and staff changes to the plan have been summarized below, along with staff responses.

**1. Comment: Clarify if HOME-ARP can be used with National Housing Trust Fund (NHTF) in the same development**

Summary: Jennifer Hicks (*TrueCasa Consulting, Austin*) requested clarification on whether NHTF can be layered on the same development.

Staff response: While NHTF was not named specifically in the draft HOME-ARP Plan, NHTF was included in the umbrella category of "other federal funds" able to be layered with HOME-ARP. However, this question prompted several critical discussions among HOME-ARP and Multifamily staff. There may be developments previously awarded NHTF that face increased costs, putting the developments in jeopardy of not being able to be completed. If not completed, the Department may lose access to these NHTF funds. Prioritizing the use of the HOME-ARP funds to these developments allows the NHTF funds to remain in Texas, and also will expedite early delivery of some of the HOME-ARP units more quickly than will be the case for new applications. Therefore, staff revised the Plan to designate that up to \$10 million of HOME-ARP funds may be directly awarded, without

competition, to certain NHTF active applications or awardees. These developments will be required to submit an abbreviated application upon approval of the Plan from HUD, but will not be required to compete for funds under the HOME-ARP Rental Development Notice of Funding Availability (NOFA). Specifically, the following provisions are now included in the HOME-ARP Plan:

“Applications for HOME-ARP that are for developments with an active application for, or that were awarded, NHTF from the Department may be submitted directly and awarded non-competitively if the applicant:

- applied for NHTF in 2020 or 2021 and the application was not terminated by staff or voluntarily withdrawn by the applicant;
- can demonstrate cost increases that necessitate the need for additional investment;
- has not started construction or has previously received a 24 CFR Part 58 review if construction has started;
- the deferred developer fee does not decrease and developer fee does not increase; and
- returns HOME-ARP application materials to the Department within the timeframe provided by the Department and before the application due date of NOFAs for HOME-ARP rental housing.

Up to \$10 million in HOME-ARP funds will be available for NHTF awardees that meet the criteria in this section. If the Department receives less than \$10 million in applications by the time of the rental development NOFA application due date, the remaining funding will be used to increase the amount available for rental development awards. If the applications received for this limited pool exceed the total available, the applications will be processed based on their submission date. In the event that more than \$10 million is requested per application received on the same date, the Development with the lowest HOME-ARP capital cost per unit will be awarded.

In addition, applications layered with NHTF will also be accepted during the application cycle for HOME-ARP rental development. However, there may be programmatic limitations on having HOME-ARP and NHTF in the same unit.”

## **2. Comments: Support and clarification of TDHCA HOME-ARP availability in Participating Jurisdictions**

Summary: Two comments were received regarding the ability to use HOME-ARP in Participating Jurisdictions (e.g., areas of Texas that receive HOME-ARP funds directly from HUD).

One comment was from James Wooldridge (*Habitat for Humanity, Fort Hood*) who asked for clarification on availability within Participating Jurisdictions. The second comment was from Judy Telge (*Coastal Bend Center for Independent Living, Corpus Christi*) who encouraged use of HOME-ARP in Participating Jurisdictions.

Staff response: The HOME-ARP draft Plan stated that funds will be made available statewide. Staff has added a clarification that applicants must demonstrate the unmet need among qualifying populations for the type of housing proposed in their geographical area through a market assessment or other source of data for greater conformance to HUD's requirements. The Department will conduct outreach to encourage applications from both urban and rural areas to be submitted. Distribution may be affected by State laws or limitations, such as Tex. Gov't Code §2306.111(c), if at such time existing state waivers expire.

**3. Comment: Increase the maximum amount of HOME-ARP rental development awards to \$15 million**

Summary: Sabrina Butler (*Foundation Communities, Austin*) asked to increase the maximum amount of assistance for rental housing development from \$10 million to \$15 million. She stated a larger cap of \$15 million would be needed to be able to scale the rental housing program, which also can include operating subsidies.

Staff response: Staff agrees with the comment, and has increased the maximum award amount for rental housing from \$10 million to \$15 million, although this amount may be further limited in the NOFA.

In addition, staff has increased the maximum award amount for the NCS activity to the maximum amount released in the NOFA. This will encourage applicants to request their actual need; large-scale shelter innovations may allow for more impactful changes in access to shelter.

**4. Comment: Apply the per project maximum request to the capital request only for rental development**

Summary: Sabrina Butler (*Foundation Communities, Austin*) suggested applying the per project maximum request to the capital request, not including any additional operating reserve request.

Staff response: The Plan had not been specific on whether the per application cap did or did not include the operating reserves. Clarification was needed, however the clarification made to the Plan was not what was requested, but rather that the maximum per project award includes operating reserves. HUD CPD Notice 21-10 allows for capitalized operating costs to be used in conjunction with acquisition, rehabilitation, or construction of affordable rental housing. Operating costs are not a separate activity and, as such, will be included in the entire application amount. Further, with the limited funds available, the Department wants to stretch the dollars to assist more developments if possible.

**5. Comment: Allow HOME-ARP capital dollars to be loaned through a deferred forgivable loan at 0% interest**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested that HOME-ARP loans be structured as a deferred, forgivable loan at 0% interest, as the HOME-ARP units will not be able to support debt service.

Staff response: Staff anticipates offering a range of loan types in the NOFAs with different options that developments can choose from to suit their financial structure. One of those loan products will be a deferred forgivable loan at 0% interest. Clarification on the types of loans available is included in the Plan, and the specifics on the loan terms will depend on the financial structure of the application and contract terms described in further program guidance.

**6. Comment: Allow HOME-ARP units to float**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested that HOME-ARP units be allowed to float, unless otherwise restricted by additional funding sources on the development.

Staff response: Generally, TDHCA supports floating units unless prohibited by other federal sources. However, because a unit's nature as being fixed or floating affects the underwriting of the development, the NOFA will outline whether units must be fixed or floating.

**7. Comments: HOME-ARP rental housing should assist special needs populations**

Summary: Four commenters included their perspective on serving persons experiencing homelessness, and listed specific populations that would benefit from HOME-ARP rental housing.

Dr. Flora Brewer (*Paulos Foundation, PF Residential and Paulos Properties, Fort Worth*) and R. Steve Christian (*New Leaf Community Services, Fort Worth*) commented that funds should be programmed into creating housing especially for persons with long periods of homelessness, disabilities, chronic illness, behavioral health disorders, and those who are elderly.

Deirdre P. Browne (*MHMR Tarrant County Behavioral Health Services*) commented that HOME-ARP's rental housing should serve persons with long histories of homelessness, disabilities, chronic illness, and behavioral health disorders.

Judy Telge (*Coastal Bend Center for Independent Living, Corpus Christi*) commented that HOME-ARP should not be restricted to persons with disabilities who have senior status. She stated that there is need for affordable housing for younger individuals with disabilities.

Staff response: The populations listed by the commenters are within or could be a subset within populations listed already in the HOME-ARP Plan under preferences for

rental housing. It should also be noted that the draft Plan included “Persons with Disabilities” with no mention of age as a possible limiting factor. While the persons listed by commenters above were not added separately to the HOME-ARP Plan, the Plan has been revised to further describe the needs and gaps of the qualified populations, and adds three additional possible preference populations: persons who are experiencing homelessness, persons who were formerly homeless and temporarily housed, and persons prioritized through Coordinated Entry for non-congregate shelter and rental housing.

Furthermore, the wording and types of the preferences between the NCS and Rental Housing activities were made more uniform and revised in response to HUD’s guidance. While several edits were made, most preferences remained, but using different wording to conform to terms used by HUD. For example, “Persons Fleeing Domestic Violence” was removed because it is included in the “Persons with Violence Against Woman Act (VAWA) Protections and Human Trafficking” preference. Likewise, “Youth Aging out of the Foster Care System” was removed because this population is included in the “Persons Exiting Institutions or Systems of Care/Reentry” preference. The Plan also clarified that Veterans and Families with Children preferences could be established if these populations were also experiencing homelessness or at-risk of homelessness. The only preference population deleted was Public Housing Residents, which was deleted due to a statutory prohibition between the two funding sources in this regard.

In addition, staff added clarification regarding the use of the Coordinated Entry system. If a property is intending to use only Coordinated Entry and not a project-specific waitlist, the Coordinated Entry system must meet the requirements in HUD CPD notice 21-10, which requires sufficient referrals to the project and that all qualifying populations have an opportunity to participate within the project’s geographic region. This may mean the addition of certain qualifying populations and ensuring the Coordinated Entry includes the primary market area of the rental development, as defined in 11.303(d)(8). Coordinated Entry may also be used with other referral methods, if the Owner establishes prioritization criteria between the Coordinated Entry and other referral methods and maintain any waitlists in chronological order. If the requirements of 21-10 are not met, then a project-specific waitlist must also be used by the development. The project-specific waitlist must take persons in chronological order, with priority given to those with preferences stated in the written agreement between the developer and the Department. In addition, if up to 30% of the HOME-ARP units are reserved for low-income household who are not qualifying populations, a project-specific waitlist must be used for these units.

**8. Plan clarification:** Unused non-profit capacity building and non-profit operating cost assistance will be offered as non-congregate shelter or rental housing development activity funds, and the application process for the non-profit capacity building and operating funds may be independent of the other activities.

Clarification: The Plan was updated to provide a clarification on the flow of funds under the non-profit capacity building and operating cost assistance line items. While the NP Operating and NP Capacity Building are shown as one line item in the table for the purpose of receiving requests for either category, the Department will commit these activities to each project separately in IDIS as needed. The NP Operating and NP Capacity Building Assistance applications may be included as part of the NOFAs for NCS and Rental Housing development, or as separate NOFAs released in advance to assist nonprofits to strengthen capacity and planning prior to applying under the NCS or Rental Housing NOFAs. If awards for NP Operating and NP Capacity Building for NCS or Rental Housing do not fully utilize those funds, those unused funds may be shifted into NCS or Rental Housing for those activities.

In addition, because staff is establishing the application process of the non-profit capacity building and operating funds to be more independent of the NCS or Rental Housing activities, a minimum and maximum amount was established. An award may be offered for the greater of up to 50% of an organization's operating budget or \$50,000, or as further described in the NOFA.

***Summarize any comments or recommendations not accepted and state the reasons why:***

**9. Comments: Varied comments relating to the proportional amount of funds being allocated for rental housing and non-congregate shelter.**

Summary: There was one comment to support the current allocation in the draft plan, and eleven comments to move funds from non-congregate shelter to rental housing development. G. Roderick Henry (*Temple Chamber of Commerce*) wrote in support of the current allocation proposed in the draft, with the evenly allocated program funds of approximately \$56 million in both non-congregate shelter and rental housing development. He describes possible risks in congregate shelters and the possible struggle to maintain employment while at a congregate shelter. He makes a connection between shelters as a steppingstone toward permanent affordable housing. A letter of support with a similar comment was also submitted by State Representative Brad Buckley, Texas House District 54, outside of the official public comment period.

Alternatively, there were eleven comments to move funds from non-congregate shelter to rental housing development. The comments varied in the amounts to move from one category to the other.

There were five comments that supported moving an unspecified amount of funding from non-congregate shelter to rental housing development. These comments were from (1) Lauren King, (*Tarrant County Homeless Coalition*); (2) Sabrina Butler (*Foundation Communities, Austin*); (3) Jyme Gordy (*Presbyterian Night Shelter, Fort Worth*); (4) Toby Owen (*Presbyterian Night Shelter, Fort Worth*); and (5) Madeline Reedy (*CitySquare, Dallas*).

There were three comments that supported moving a moderate amount of funds from non-congregate shelter to rental housing development. Comments were received from (1) Ken Cates (*Habitat for Humanity, Fort Hood*), (2) Tara Perez (*City of Fort Worth*), and (3) Debbi Rabalais (*Presbyterian Night Shelter, Fort Worth*). Ken Cates commented that rental housing development should be budgeted at approximately \$60 million and non-congregate shelter would be approximately \$52 million. He stated that there is an opportunity for partners to combine non-congregate shelter and affordable housing options. Tara Perez and Debbi Rabalais both requested that approximately \$87 million be programmed into rental housing development and \$25 million be programmed into non-congregate shelter. Tara Perez gave an example of a hotel conversion to Permanent Supportive Housing (PSH) in Fort Worth that no longer needs to be supported by emergency shelter operating funds. The project created a reduction in homelessness metrics for the City of Fort Worth. Both Debbi Rabalais and Toby Owen of the Presbyterian Night Shelter also included the example of the hotel conversion in Fort Worth, commenting that the Presbyterian Night Shelter provides supportive services for persons in the newly-converted development. They encouraged a similar program in other HOME-ARP rental developments.

There were three comments that supported moving approximately \$56 million from the non-congregate shelter funds to rental housing development. This change would result in the non-congregate shelter activity budget being essentially zero. These comments were from: (1) Dr. Flora Brewer (*Paulos Foundation, PF Residential and Paulos Properties, Fort Worth*); (2) R. Steve Christian (*New Leaf Community Services, Fort Worth*); (3) Deirdre P. Browne (*MHMR Tarrant County Behavioral Health Services*). Dr. Flora Brewer and R. Steve Christian both told of their experience working to end homelessness, and were convinced that funding should be invested in housing. Deirdre P. Browne noted that rental housing and specialized wrap-around services are key to eliminating homelessness and returns to homelessness.

Staff response: While staff agrees that more permanent housing is necessary to alleviate homelessness, emergency shelter is also necessary in certain situations. The draft HOME-ARP Plan has a provision that if applications received in either non-congregate shelter or rental housing do not fully use the allocation, the funds may be shifted between the two categories. Considering this provision, staff recommends retaining the allocation levels between rental housing and non-congregate shelter as proposed in the draft. Therefore, no changes were made to the Plan as a result of the comment.

Staff agrees that successful rental housing developments may include partnerships between developers and non-profits that provide services. Staff also anticipates that there will be partnerships between non-congregate shelter providers and rental housing developments as well.

**10. Comment: HOME-ARP should be used for tenant-based rental assistance and supportive services**

Summary: Judy Telge (*Coastal Bend Center for Independent Living, Corpus Christi*) supported



the draft Plan's programming of funds into non-congregate shelter and rental housing development, and also requested for funding to be programmed into tenant based rental assistance (TBRA) and supportive services such as case management. She advocate for TBRA and supportive services to bridge gaps until the shelters or developments are constructed.

Staff response: While staff recognizes a range of support and housing options are needed, the overwhelming support for HOME-ARP through the consultations and public comments have been for non-congregate shelter and rental housing development. In addition, TDHCA offers other program sources for rental assistance and supportive services. The draft Plan also has a provision that if sufficient applications are not received for non-congregate shelter or rental housing, funds may be reprogrammed into supportive services or TBRA. No changes were made to the Plan as a result of this comment.

**11. Comments: Allow HOME-ARP to be used with project-based vouchers, tenant-based vouchers, and other types of rental subsidies.**

Summary: Jennifer Hicks (*TrueCasa Consulting, Austin*) asked for clarification regarding use of HOME-ARP with project-based vouchers or tenant based vouchers and gave several examples (found in Attachment C). She also asked for clarification of the rental amount for a qualified population with a tenant-based voucher.

Staff response: Both project-based vouchers and tenant-based rental assistance may be allowed in HOME-ARP projects, dependent on the overall financial structure and funding sources. A tenant who is in a qualified population would pay 30% of his/her income for rent; if that project also had a project-based subsidy or the tenant had a tenant-based rental subsidy, the payment for the tenant would still be 30% of his/her income, but the development could charge the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program). However, TDHCA will only underwrite to the project-based subsidy because that is the only subsidy that stays with the project. Other types of rental subsidies may potentially be allowed, depending on the source of funds and requirement. In addition, the use of project-based vouchers or rental subsidies may affect access to capitalized operating costs, underwriting (if known at the time of application), layering with HOME annual or NHTF, whether units are fixed versus floating, and mandatory services. Further program guidance on layering with types of rental assistance will be provided. No changes to the Plan were made as a result of this comment.

**12. Comment: Allow HOME-ARP to have a tax exemption**

Summary: Jennifer Hicks (*TrueCasa Consulting, Austin*) asked to pair HOME-ARP with 100% tax exemption for developments that are focused on the hardest to serve populations (she gave an example of persons experiencing chronic homelessness).

Staff response: HOME-ARP does not have the authority to grant tax exemptions, nor

does the Department want to limit applicants to only those that can attain such an exemption. Developers should pursue these exemptions from the appraisal district in which the property is located as needed. No changes to the Plan were made as a result of this comment.

**13. Comments: Further guidance or clarification is needed on how to assist the qualified populations in units with operating cost assistance after the federal affordability period and operating cost assistance ends**

Summary: Two commenters requested further guidance on how the development/owner would assist the qualified populations when the federal affordability period ends and the operating cost assistance ends. The qualified populations will be paying 30% of their income toward rent in units that may be supported by capitalized operating costs. Capitalized operating costs are sized to last until the end of the federal affordability period, which is 15 years. The state affordability period is a minimum of 30 years.

Sabrina Butler (*Foundation Communities, Austin*) suggested the use of HOME-ARP capitalized operating assistance to fund a reserve for after the federal affordability period ends at year 15, so that qualified populations could experience gradual rent increases up to post-HOME-ARP affordability standards. She also suggested finding an alternative funding source to pay for a portion of the higher rents until the qualified populations could pay the full rents under the state affordability period.

Jennifer Hicks (*TrueCasa Consulting, Austin*) asked for clarification if the owner would need to seek out other sources to cover the operating costs if the tenant is not able to pay more than 30% of his/her income for rent after year 15.

Staff response: HOME-ARP affordability period for rental development is 15 years. At the end of that period the tenants will be required to pay rents at the rent level established in the LURA for years 16 to the end of the state affordability period, because Tex. Gov't. Code 2306.185(a)(c) requires that most properties have affordability for at least 30 years. Accordingly, most properties will have to show viability through underwriting for the full state affordability period of at least 30 years at the time of application for HOME-ARP funding. The financial feasibility of HOME-ARP will likely require use of many different models and types of assistance, especially after the federal affordability period ends. In addition, the HUD notice 21-10 does not list rental assistance nor creation of a reserve for rental assistance as eligible costs for operating assistance. The operating assistance reserve is sized for costs throughout the 15-year federal affordability period. Using the capitalized operating costs to fund a reserve beyond the federal affordability period would not be in line with the size of the reserve (with the possible exception of payments into the replacement reserve for major systems, which is specifically listed in the HUD Notice 21-10 as eligible). The State must use the definition of operating costs in the HUD CPD Notice when calculating the size of the assistance. No changes were made to the Plan as a result of these comments.

**14. Comments: Maintain full HUD-allowed flexibility for the capitalized operating assistance**

Summary: Sabrina Butler (*Foundation Communities, Austin*) had several comments regarding the flexibility of the capitalized operating assistance.

One comment was to allow underwriting to determine the maximum per-project cap of the capitalized operating assistance, instead of creating a per-project maximum.

A second comment was to allow the operating cost assistance to fund the prorated share of HOME-ARP units' contribution to the capital replacement reserve.

Staff response: HUD notice 21-10 has no proposed maximum project capitalized operating cost. In addition, the HUD notices states that the operating cost assistance may fund the replacement reserve. However, HOME-ARP funds cannot be used to both capitalize a reserve for replacement and provide payments to the reserve for replacement from a capitalized operating reserve. The draft Plan does not create limits on the capitalized operating reserve beyond the regulations in HUD notice 21-10, other than the total limit for a development which includes both the development and operating reserves jointly. No changes to the Plan were made as a result of these comments.

**15. Comment: Allow the capitalized operating fund to be drawn based on projected deficits yearly**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested to draw on the operating reserve in advance of each calendar year based on projected deficits. She suggested establishing a process to allow for funds overdrawn or underdrawn to be reconciled at the end of the year, with an option to reconcile earlier if actual rents of the year are lower than projected and impact the development's short-term liquidity. This will help ensure sufficient cash on hand to cover monthly expenses throughout the year.

Staff response: HUD CPD Notice 21-10 requires TDHCA to review each requested distribution from the operating reserve, including supporting documentation. In addition, TDHCA must review the size of the operating reserve account annually to determine the account is appropriately sized. More details on the draw frequency and the process for periodic review of the reserve and its deficits will be issued with additional program guidance. No changes to the Plan were made as a result of this comment.

**16. Comment: Allow the capitalized operating fund to cover a reasonable vacancy rate**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested that operating reserves cover the fixed operating costs incurred even during HOME-ARP unit vacancy periods during initial lease-up and at unit turnover. She requested TDHCA apply a reasonable vacancy rate in sizing the reserve considering the market, the potential for lengthier unit re-leasing timelines depending on the target population, and source of applicant referrals.

Staff response: HUD-Notice 21-10 states that operating cost assistance is for HOME-ARP-assisted units restricted for occupancy by qualifying populations, which would account for up to 70% of the HOME-ARP units. The HUD notice does not specify whether the qualified population units need to be currently occupied in order to receive the operating cost assistance. In addition, HOME-ARP offers an optional initial operating reserve (not to exceed 12 months) for the low-income households, which would account for up to 30% of the HOME-ARP units in the development. The Department is seeking clarification from HUD on whether the capitalized operating costs can be used for vacant units either during lease-up for the first 12 months or when temporarily vacant. It should be noted that a vacancy rate is already applied during the underwriting process to ensure the Development is viable. Further guidance will be released once clarification is received from HUD and processes are established at the Department. No changes to the Plan were made as a result of this comment.

**17. Comment: Allow for underwriting to take into account capitalized operating costs.**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested for a waiver category for TDHCA underwriting infeasibility conclusions for projects that have HOME-ARP operating reserve funds, to the extent any projected deficit is mitigated by these reserve funds.

Staff response: HUD Notice 21-10 requires that capitalized operating cost assistance reserve be included in the underwriting. The capitalized operating costs assistance should mitigate certain projected deficits. No waiver to underwriting criteria would be necessary. No changes to the Plan were made as a result of this comment.

**18. Comment: Allow acquisition costs incurred prior to commitment to be an eligible cost**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested that, to the extent allowable under HUD rules, allowance of acquisition costs incurred prior to commitment be considered an eligible cost in the calculation of the maximum eligible HOME-ARP capital request.

Staff response: The draft Plan does not set any additional limitations on acquisition other than federal regulations. Note that the HOME-ARP Draft Plan specifically states that National Environmental Protection Act (NEPA) requirements apply to these funds, which is also included in HUD Notice 21-10. NEPA may affect the eligibility of acquisition costs, which is a choice limiting action and not allowed in most cases prior to commitment. Furthermore, 24 CFR §92.206(g) contains some limitations on costs incurred before the application for HOME-ARP funds is accepted. No changes to the Plan were made as a result of this comment.

**19. Comment: Allow for HOME-ARP funding to be awarded to a sponsor entity and passed through to an awardee of Housing Tax Credits.**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested allowing the HOME-ARP funding to be awarded to the sponsor entity and “passed through” to the tax credit

ownership entity. In this way the sponsor can apply a maturity date and interest rate (if required by investor) to avoid the forgivable loan being treated as taxable income.

Staff response: Awarding HOME-ARP funds to a sponsor to then enter into an agreement with a project owner is prohibited per HOMEfires Volume 16, Number 1. For HOME funds (including HOME-ARP), the agreement and provision of funds must be between the State and the owner. No changes to the Plan were made as a result of this comment.

**20. Comment: Require Applicants for rental housing to have meaningful involvement from a nonprofit**

Summary: Sabrina Butler (*Foundation Communities, Austin*) requested that applicants must demonstrate true, meaningful involvement from a nonprofit with deep experience serving the target population. She asked for a priority for nonprofit sponsorship, as developments intended to be served by this program are unlikely to generate a profit and will likely require additional fundraising to offset the cost of services.

Staff response: The Plan as drafted was designed intentionally to allow both supportive housing and general rental housing developments to apply for HOME-ARP. As such, meaningful involvement with a nonprofit that provides services may not be needed in all cases. No changes to the Plan have been made as a result of this comment.

**21. Comment: Scattered site general housing and supportive housing models should both be used with HOME-ARP, without priority of one over the other**

Summary: Jennifer Hicks (*TrueCasa Consulting, Austin*) stated that both scattered site general housing developments and supportive housing with wrap-around services are both needed for persons experiencing homelessness. One model should not be prioritized over the other.

Staff response: Staff agrees and the draft HOME-ARP Plan does not prioritize one type of development over another. No changes were made to the Plan as a result of this comment.

**22. Comments: Clarify proportionality of HOME-ARP units and allow for Applicants to designate more units**

Summary: Two comments were received regarding the minimum number of HOME-ARP units required.

One comment from Jennifer Hicks (*TrueCasa Consulting, Austin*) requested clarification on the number of HOME-ARP units required based on the proportional investment of HOME-ARP funds.

One comment from *Sabrina Butler (Foundation Communities, Austin)* suggested allowing developers to commit more units to HOME-ARP than the required minimum. By allowing a

higher level of commitment, more units can reach the deeper affordability of the HOME-ARP program and qualify for the operating reserve subsidy.

Staff summary: Applicants may be permitted to commit more HOME-ARP units than the minimum amount specified by applying cost allocation per CPD Notice 16-15. It is anticipated that HOME-ARP units designated for qualifying populations will be eligible for capitalized operating reserves; however, the additional investment of HOME-ARP funds will necessitate a revised cost allocation calculation and could trigger additional requirements such as Davis-Bacon or a longer affordability period.

### **23. Comments: Waive specific sections of Texas Administrative Code**

Summary: Two commenters included requests for waivers of existing Texas Administrative Code (TAC).

One comment from Sabrina Butler (*Foundation Communities, Austin*) asks for a waiver of the HOME max per-unit subsidy for HOME-ARP per 10 TAC §13.7(b)-(c).

One comment from Jennifer Hicks (*TrueCasa Consulting, Austin*) requested that TDHCA waive the criminal history criteria in the Supportive Housing definitions in the Qualified Allocation Plan (10 TAC §11.1(a)(122)(B)(v)). She stated that if a goal is to use the Coordinated Entry list, the screening criteria under the Supportive Housing definition may pose barriers.

Staff response: The draft HOME-ARP Plan does not specify any rules will be waived, however staff does plan to list any sections of the rules that will be waived in program guidance or the NOFA in order to allow the program to reflect the flexibility of the HUD Notice 21-10. No changes were made to the Plan as a result of this comment.

## **III. NEEDS ASSESSMENT AND GAPS ANALYSIS**

*PJs must evaluate the size and demographic composition of qualifying populations within its boundaries and assess the unmet needs of those populations. In addition, a PJ must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A PJ should use current data, including point in time count, housing inventory count, or other data available through CoCs, and consultations with service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services. The PJ may use the optional tables provided below and/or attach additional data tables to this template.*

**Homeless Needs Inventory and Gap Analysis Table - 1**

Homeless													
	Current Inventory					Homeless Population				Gap Analysis*			
	Family		Adults Only		Vets	Family HH (at least 1 child)	Adult HH (w/o child)	Vets	Victims of DV	Family		Adults Only	
	# of Beds	# of Units	# of Beds	# of Units	# of Beds					# of Beds	# of Units	# of Beds	# of Units
Emergency Shelter	5,385	1,463	8,285	N/A	972								
Transitional Housing	2,190	618	1,916	N/A	1,916								
Permanent Supportive Housing	4,847	1,695	9,950	N/A	5,633								
Other Permanent Housing						N/A	N/A	N/A	N/A				
Sheltered Homeless						5,783	8,234	1,117	2,242				
Unsheltered Homeless						506	12,686	831	744				
<b>Current Gap</b>										#	#	#	#

**Data Sources:** 1. 2020 Point in Time Count (PIT); 2. 2020 Continuum of Care Housing Inventory Count (HIC)

\*There may not be a direct correlation between the types of housing offered in this chart and the number of people experiencing homelessness, as not every person experiencing homelessness would need or want to use emergency shelter, transitional housing, or permanent supportive housing. Therefore, the gap analysis is not reflected in this chart, but possible gaps are discussed below.

### Housing Needs Inventory and Gap Analysis Table - 2

Non-Homeless			
	Current Inventory	Level of Need	Gap Analysis*
	# of Units	# of Households	# of Households
Total Rental Units	3,686,845		
Rental Units Affordable to HH at 30% AMI (At-Risk of Homelessness)	340,420		
Rental Units Affordable to HH at 50% AMI (Other Populations)	546,190		
0%-30% AMI Renter HH w/ 1 or more severe housing problems (At-Risk of Homelessness)		501,880	
30%-50% AMI Renter HH w/ 1 or more severe housing problems (Other Populations)		268,065	
<b>Current Gaps</b>			#

**Data Sources:** 1. 2015-2019 American Community Survey (ACS); 2. 2014-2018

Comprehensive Housing Affordability Strategy (CHAS)

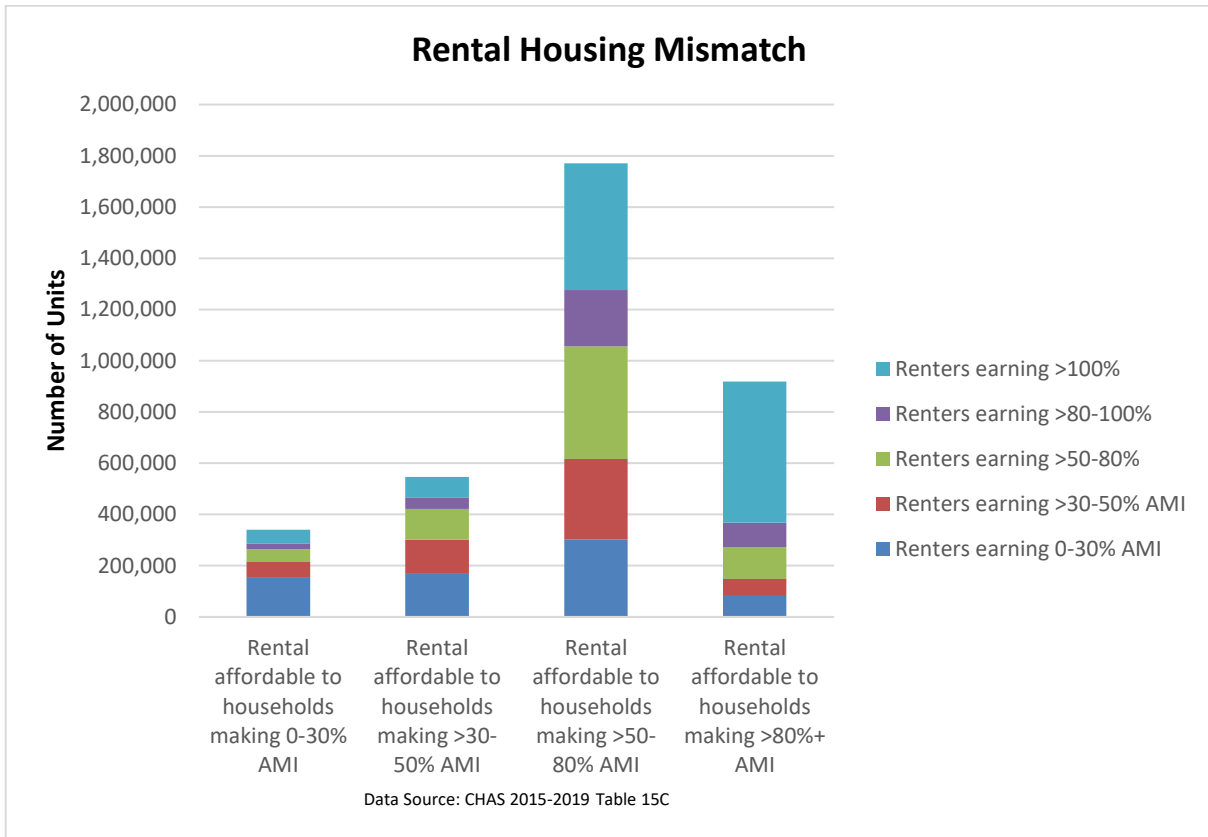
\*There may not be a direct correlation between the affordable rental units and the households with a housing problem at that income level; this chart does not reflect the housing mismatch, which shows the difference between the households that can afford the rental units and the households living in the rental units. A further analysis of this mismatch is discussed below.

### Rental Housing Mismatch Table – 3

Rental Housing Mismatch	Renters earning 0-30% AMI	Renters earning >30-50% AMI	Renters earning >50-80%	Renters earning >80-100%	Renters earning >100%	Total
Rental affordable to households making 0-30% AMI	155,585	61,075	47,650	21,135	54,975	340,420
Rental affordable to households making >30-50% AMI	167,530	134,250	119,555	44,755	80,100	546,190
Rental affordable to households making >50-80% AMI	301,075	315,540	439,685	219,140	495,335	1,770,775
Rental affordable to households making >80%+ AMI	81,435	66,655	124,645	95,715	550,090	918,540
<b>Total</b>	<b>705,625</b>	<b>577,520</b>	<b>731,535</b>	<b>380,745</b>	<b>1,180,500</b>	

**Data Source: 2014-2018 CHAS Data**





**1. Describe the size and demographic composition of qualifying populations within the PJ's boundaries:**

**Homeless**

For HOME ARP, two of the qualifying populations are persons/households experiencing homelessness, and households who have previously been qualified as “homeless” as defined in 24 CFR §91.5 who are housed due to temporary or emergency assistance and need additional housing assistance or supportive services to avoid a return to homelessness. According to HUD’s 2020 Point-in-Time count for Texas, there were approximately 22,544 Homeless Households comprised of 27,229 Homeless Persons. This is an increase of 5% from 2019 of Homeless Persons in the State of Texas.

In 2020, 58% of the counted homeless population in Texas identified as White, 37% identified as Black or African American, 0.75% identified as Asian, 1.3% identified as American Indian or Alaska Native, 0.32% identified as Native Hawaiian or Other Pacific Islander and 3% identified as being of multiple races.

Individuals who are identified as chronically homeless make up 14.8% of the State’s homeless population. Through consultation with stakeholders around the State of Texas it was noted that this segment of the population is often the hardest to reach and hardest to assist. It was also noted through consultation that often the chronically homeless are the most visible

segment of the homeless population as they often make up a large portion of unsheltered homeless individuals.

In addition, there were 1,948 homeless Veterans making up 7.2% of the State’s homeless population and 1,408 unaccompanied youth making up 5.2% of the homeless population.

The table below shows each Continuum of Care (CoC) in the State of Texas and the number of homeless individuals in the areas covered by each respective CoC based on data from the HUD 2020 Point-in-Time count.

**Table 4 – Population of Homeless Individuals by CoC**

<b>Metropolitan Area</b>	<b>Continuum of Care</b>	<b>Number of Homeless Individuals</b>	<b>Percent of all Homeless Individuals in the State</b>
Amarillo	Amarillo CoC	600	2.2%
Austin	Austin/Travis County	2,506	9.2%
Bryan/College Station	Bryan, College Station/Brazos Valley CoC	109	0.4%
Dallas	Dallas City & County, Irving CoC	4,471	16.4%
El Paso	El Paso City & County CoC	843	3.1%
Fort Worth	Fort Worth, Arlington/Tarrant County CoC	2,126	7.8%
Houston	Houston, Pasadena, Conroe/Harris, Fort Bend, Montgomery Counties CoC	3,974	14.6%
San Antonio	San Antonio/Bexar County CoC	2,932	10.8%
Waco	Waco/McLennan County	234	0.9%
Wichita Falls	Wichita Falls/Wise, Palo Pinto, Wichita, Archer Counties CoC	236	.09%
All other areas of Texas	Texas Balance of State CoC	9,198	33.7%
<b>Total Homeless Individuals in the State</b>		<b>27,229</b>	<b>100%</b>

As can be seen in Table 4 just under 60% of the State’s homeless population (58.8%) is located in the five largest Metropolitan areas, Austin, Dallas, Fort Worth, Houston and San Antonio. This is expected due to the large concentration of general population in these areas, close

proximity to public services, such as transportation, hospitals/clinics, other social services as well as a greater lack of affordable housing and increased cost of housing in these areas.

### **At-risk of Homelessness**

For HOME-ARP an individual or family is considered at-risk of homelessness if their income is below 50% area median family income, do not have sufficient resources or support networks, and have experienced housing instability. Below is an analysis of 0-30% AMI renters and 30-50% AMI renters.

Individuals or families with extremely low incomes (30% or below area median income) are often service sector workers, including those who earn minimum wage. Individuals or families at risk of homelessness are also often straining the willingness of their social networks to provide housing supports over an extended period, such as living with family or friends over an extended period.

There are 705,625 Renter Households in the State of Texas earning between 0 and 30% of Area Median Income (AMI) according to 2014-2018 HUD Comprehensive Housing Affordability Strategy (CHAS) data. This is roughly 20% of all Texas Renter Households. Of those 705,625, roughly 501,880 Households also have one or more of the four severe housing problems identified by HUD which are: 1. Lacks complete kitchen facilities, 2. Lacks complete plumbing facilities, 3. More than 1.5 persons per room (overcrowding), and 4. Cost burden over 50%. This means that 71% of 0-30% AMI renters are living with one of these serious housing problems that impact their daily lives in addition to being low income. 28% of renters with one or more of the severe housing problems identify as White, 24% identify as Black/African American and 42% identify as Hispanic.

There are an additional 577,520 Renter Households in the State of Texas earning between 30 and 50% of AMI according to 2014-2018 CHAS data. This is roughly 16% of all renter households. 46% or roughly 268,065 households have one or more of the four severe housing problems noted above. For renters at 30-50% AMI with one or more of the severe housing problems, 33% identify as White, 20% identify as Black/African America and 42% identify as Hispanic.

According to the data, there are currently 340,420 units of rental housing affordable to households making 0 to 30% AMI in the State of Texas and an additional 546,190 units of rental housing affordable to households making 30-50% AMI.

### **Other Families Requiring Services or Housing Assistance to Prevent Homelessness**

A qualifying population for HOME-ARP is defined as households who have previously qualified as homeless, are currently housed due to temporary or emergency assistance, and who need additional housing assistance or supportive services to avoid a return to homelessness. Broadly, assistance to persons experiencing homelessness may be time limited depending on the program requirements and the availability of funds. Specific to the homeless program resources in Texas, the Emergency Solutions Grants (ESG) Coronavirus Aid, Recovery, and

Economic Security (CARES) Act funds infused approximately 10 times more funds than the annual amount of ESG funds and have an initial expenditure deadline of September 30, 2022. TDHCA's ESG CARES program received approximately \$97 million, and other participating jurisdictions for ESG CARES in Texas received approximately \$148 million directly from HUD available in 2020.

One of the four activities of ESG/ESG CARES is rapid re-housing assistance, which is for services or housing assistance for persons experiencing homelessness and often associated with entry into housing. TDHCA's ESG CARES program served 5,821 unduplicated persons through rapid re-housing as of this writing. TDHCA anticipates that other persons who experienced homelessness received rapid re-housing through ESG CARES received by local jurisdictions. In cases where ESG CARES funding ends, there may be need for further supports or assistance that may be provided by several sources, including services through TDHCA's Housing Stability Services (funded through Treasury's Emergency Rental Relief), Emergency Housing Vouchers (authorized by ARPA), or HOME-ARP.

#### **At Greatest Risk of Housing Instability**

A qualifying population highlighted by the HOME-ARP program is households making 0-30% of AMI that are also severely cost burdened (paying 50% or more of their income in rent). There are 417,345 or roughly 60% of all 0-30% AMI renters paying more than 50% of their income in rent. According to 2014-2018 CHAS data 48% of all 0-50% AMI renter households in the state are paying more than 50% of their income in rent.

#### **Individual or family fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking**

It is recognized that domestic violence is one of the main factors of homelessness or being at-risk of homelessness for families. Texas Council on Family Violence provided consultation on the State of Texas 2020-2024 Consolidated Plan noting, "90% of survivors accessing family violence services experienced homelessness as a result of fleeing an abusive relationship at least once".

Domestic violence contributes to homelessness. When a person decides to leave an abusive relationship, they often have nowhere to go. This is particularly true of women with few resources. Lack of affordable housing and long waiting lists for assisted housing mean that many women and their children are forced to choose between abuse at home and life on the streets. Approximately 63% of homeless women have experienced domestic violence by an intimate partner in their adult lives according to the National Network to End Domestic Violence. Statistics released in the 2020 Domestic Violence Counts Report by National Network to End Domestic Violence show that Texas emergency shelters or transitional housing provided by local domestic violence programs served 5,950 victims of domestic violence in one day. 3,712 adult and child victims of domestic violence found refuge in emergency shelters, transitional housing, or other housing provided by local domestic violence programs. On this day, 948 Texas survivor's request for services went unmet, 341 of which were for housing and emergency shelter.

## **Veterans**

Veterans may qualify for HOME-ARP if they meet one of the qualifying population criteria. According to the 2019 5-year American Community Survey, there are approximately 1.4 million Veterans in Texas, which is about 5.1% of the total population. Veterans are overrepresented in homeless statistics compared to their share of the state population. According to the 2021 PIT count in Texas, there were 950 veterans in emergency shelter or transitional housing, which makes up 6.7% of the homeless population. There will likely be overlap between Veterans and the Qualifying Populations in HOME-ARP.

The State of Texas is not suggesting expanding the program eligibility beyond the populations noted above and those at greatest risk of housing instability (under 30% AMI and severely cost burdened), as provided by HUD.

### **2. Describe the unmet housing and service needs of qualifying populations, including but not limited to:**

- ***Sheltered and unsheltered homeless populations;***
- ***Those currently housed populations at risk of homelessness;***
- ***Other families requiring services or housing assistance or to prevent homelessness; and,***
- ***Those at greatest risk of housing instability or in unstable housing situations:***

Through analysis of the data presented in Tables 1, 2 and 3 above we can identify the unmet housing and service needs of the HOME-ARP qualifying populations.

## **HOUSING NEEDS**

As identified in Table 1 there are 12,686 unsheltered homeless adults without children and 506 unsheltered homeless families in the State of Texas at a point in time in January. This appears to indicate that there is a gap in housing options of at least 13,192 beds. This could be emergency shelter beds, transitional housing beds, permanent supportive housing beds, beds in private rental units, or beds in private rental units supported by rental assistance. Likewise, there are 8,234 sheltered adults without children and 5,783 sheltered families with children, which could indicate a gap in housing options for transitional housing beds, permanent supportive housing beds, beds in private rental units, or beds in private rental units supported by rental assistance in order to move the households out of emergency shelter into housing.

The need for more affordable units can be seen in the data in tables 2 and 3 above as well as in the Housing Mismatch Chart. As noted above there are 705,625 renter households in the state earning between 0-30% of the Area Median Income, of those 0-30% AMI renter households only 155,585 or 22% are living in a unit that is affordable to households making 0-30% AMI. In the state, according to 2015-2019 CHAS data there are only 340,402 units affordable to households making 0-30% AMI, this is only enough units to house 48% of all

households in the state with incomes between 0-30% AMI. 54% of housing stock that is affordable to households at 0-30% AMI is being occupied by households making between 30-100%+ of AMI, this is due to naturally occurring affordable housing that is not restricted by income being rented by households that can afford a more expensive unit. It is also due to the location of naturally occurring affordable housing, which is primarily found in areas with a lower cost of living. In Texas this equates to locations that are not near the largest metro areas in the state. Higher numbers of low-income households can be found in urban areas due to relative proximity to service jobs. This lack of affordable housing in metro areas leads to a majority of households in the 0-30% AMI range (78%) renting units that are not affordable to them with many in the state (43%) renting units that are considered affordable to households in the 50-80% AMI range, as seen in the housing mismatch chart above. This overall leads to a need of 520,790 units that are available to only renters making 0-30% of AMI.

As noted above 43% of the 0-30% AMI households are renting units affordable to households making 30-50% AMI, these lower income renters are occupying 30% of the housing stock intended for 30-50% AMI renters. This helps contribute to 66% of 30-50% AMI households renting housing that is not affordable to them. 28% of all rental housing affordable to 50%+ AMI households is occupied by households earning 0-50% of AMI. If all units affordable to 30-50% AMI households were occupied by households in the same income bracket only an additional 31,330 units would be needed for 30-50% AMI renter households.

One of the largest unmet needs of renter households in the state is the lack of efficiency or one-bedroom housing units. According to the 2015-2019 ACS, 26% of households in the state are non-family one-person households. Meaning for these persons to be housed efficiently and affordable they would only need access to efficiency and one-bedroom units. Currently, there are 1,206,627 efficiency and one-bedroom units being occupied, if all of those units were being occupied by a single person only 47% of one-person households would be living in a unit suitable to their needs. We know this is not the case and that multiple person households reside in efficiency and one-bedroom units, leading to a majority of one-person households to rent units that are larger and more expensive.

#### SERVICE NEEDS

Service needs for qualifying populations depends on a variety of factors, including length of time spent unsheltered and homeless subpopulation. For example, a person who meets the definition of chronic homelessness may need more or longer-term services than a person who is at-risk of homelessness. Survivors of domestic violence may need specific case management and support focused on safety. Persons who were formerly homeless and temporarily housed may need a service component if additional housing assistance is needed to avoid homelessness. Finally, extremely low income severely cost burdened households may need services to increase household income, along with affordable housing.

Services through existing homeless programs include, but are not limited to, case management, child care, education services, employment assistance, job training, outpatient health services, legal services, life skills training, mental health services, and transportation.

The range of services offered and the variety of organizations that provide this assistance shows that the services can be tailored to each individual household according to need.

#### GAPS

During the consultations listed above there were a few mentions of gaps in services, but the gaps primarily had to do with lack of funds for services, and not one particular service type. There were several inquiries into the Housing Stability Services Program, which was anticipated to release a NOFA for approximately \$105 million in legal services, outreach services, shelter services, community services, and services offered at permanent supportive housing properties.

Through each consultation, the greatest need was in actual units for persons experiencing homelessness, primarily the need for deeply affordable Supportive Housing units. The need for more supportive housing is of course not the need for every community. Through consultation, it was noted that some of the state's more rural communities may have a greater need for non-congregate shelter to help get people off the street and provide services so they can get back on their feet and then be able to transition to affordable units in their community. It should be noted, that a common theme through all consultations was the need for more affordable units.

***3. Identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing:***

Currently in the State of Texas, there is an unprecedented level of funding for Homeless related services and rental assistance. The State of Texas alone received \$97,792,616 in Emergency Solutions Grants (ESG) funding from the Coronavirus Aid Relief and Economic Security (CARES) Act, in addition to the roughly \$8 to 9 million annual appropriation received by the state. These amounts do not include funding provided to local Participating Jurisdictions directly from HUD. The state also received roughly \$2 billion as part of both the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act to provide Emergency Rental Assistance and Housing Stability Services (HSS), which the state is currently providing through its Texas Rent Relief and Housing Stability Services Program.

This increased amount of ESG and HSS funding provides local subrecipients crucial funds to help keep individuals and families housed through rapid rehousing and rental assistance for individuals and families who would have become homeless without the assistance and street outreach which has assisted local providers in reaching more unsheltered homeless during the pandemic. Currently, the State of Texas does not primarily use its annual allocation of ESG funds for shelter rehabilitation purposes, but does allocate funds to Emergency Shelter activities that help subrecipients operate shelters and continue to provide emergency shelter services to homeless individuals and families.

In addition to ESG funds the state also receives an annual allocation of HOME funds of which the state dedicates on average between \$6 and 8 million for Tenant Based Rental Assistance (TBRA), which is used to help low income individuals with rent and security deposits. During the pandemic additional funds from the state's annual allocation were added to support TBRA activities to assist households that were affected by the pandemic.

The primary method used by the state to fund Permanent Supportive Housing (PSH) is through the Low-Income Housing Tax Credit (LIHTC) program. This has helped fund 877 units of PSH in the State of Texas in the last two program cycles 2020 and 2021, and 2,385 units since 2012.

These elevated levels of funding received over the previous 18 months have been focused on prevention related activities to ensure that households that are have lost a job, seen a decrease in hours, lost a home, or are sick with no pay do not fall into homelessness. As can be seen from the analysis of shelter and housing inventory, more units are needed to help house more of the homeless and provide more affordability to those at-risk of homelessness.

**4. *Identify any gaps within the current shelter and housing inventory as well as the service delivery system:***

See response to #2 above.

**5. *Identify the characteristics of housing associated with instability and an increased risk of homelessness if the PJ will include such conditions in its definition of "other populations" as established in the HOME-ARP Notice:***

The State of Texas is not suggesting expanding the program eligibility beyond the populations noted above and those at greatest risk of housing instability (under 30% AMI and severely cost burdened) as provided by HUD in CPD Notice 21-10.

**6. *Identify priority needs for qualifying populations:***

Based on the consultations, priority needs include:

- Deeply affordable quality housing (particularly for those with 0-30% MFI);
- Accessible units;
- Housing subsidies so that no more than 30% of income goes to housing (not housing cost burdened);
- Reduced barriers to entry to rental housing;
- Mental Health and Behavioral Health services;
- Transportation services;
- Health and dental care; and
- Case management (geriatric case management, crisis case management, housing stability case management, financial case management, coordinating basic needs).



**7. Explain how the level of need and gaps in its shelter and housing inventory and service delivery systems based on the data presented in the plan were determined:**

The level of need and gaps in housing inventory and service delivery systems were determined through careful review and analysis of Census and CHAS data. In addition, qualitative information was provided at all the consultations noted in this plan that assisted in determining the focus of the State of Texas's HOME-ARP funds.

#### **IV. HOME-ARP ACTIVITIES**

**1. Describe the method for soliciting applications for funding and/or selecting developers, service providers, subrecipients and/or contractors and whether the PJ will administer eligible activities directly:**

TDHCA will primarily solicit applications through several NOFAs seeking developers or subrecipients. At this time, TDHCA does not plan to administer activities directly, but would do so if directed by its Board of Directors.

##### Rental Housing and Supportive Housing

HOME-ARP Rental Housing and Supportive Housing (RSHS) funds will be made available as follows and as further described in a NOFA:

- Funds will be made available competitively statewide. The allocations may include a set-aside, allocation, or priority for rural applications. Consistent with the guiding HUD Notice, Applicants must demonstrate the unmet need among qualifying populations for the type of housing proposed in their geographical area through a market assessment or other source of data. The Department will conduct outreach to encourage that applications from both urban and rural areas be submitted. Distribution may be affected by State laws or limitations, such as Tex. Gov't Code §2306.111(c), which requires that 95% of the HOME-ARP funds be used in non-participating jurisdictions, if existing state waivers of this section expire.
- Applications may be for Supportive Housing or for HOME-ARP Units within Multifamily Developments, including Developments with any Target Population, as defined in 10 TAC §11.1. If Applicants apply for Rental Housing, the NOFA may include additional points for the inclusion of services.
- Applications may be able to be layered with other local, state, or federal funds, including but not limited to HTC (both 9% and 4% credits). Per 24 CFR §92.206(g), there are some limitations on costs incurred before the application for HOME-ARP funds is accepted. National Environmental Protection Act (NEPA) requirements are applicable for these funds.
- Direct Awards of HOME-ARP for National Housing Trust Fund (NHTF) Developments. To expedite delivery of some of the HOME-ARP units into rental developments more

quickly than will be the case for new applications, and to preserve existing Department investments in NHTF-funded developments that may otherwise be at risk of not being completed, up to \$10 million of HOME-ARP funds may be directly awarded, without competition, to certain Department awardees of NHTF. These developments will be required to submit an abbreviated application upon approval of the Plan from HUD, but will not be required to compete for funds under the HOME-ARP Rental Development Notice of Funding Availability (NOFA).

Applications for HOME-ARP that are for developments with an active application for, or that were awarded, NHTF from the Department may be submitted directly and awarded non-competitively if the applicant:

- applied for NHTF in 2020 or 2021 and the application was not terminated by staff or voluntarily withdrawn by the applicant;
- can demonstrate cost increases that necessitate the need for additional investment;
- has not started construction or has previously received a 24 CFR Part 58 review if construction has started;
- the deferred developer fee does not decrease and developer fee does not increase; and
- returns HOME-ARP application materials to the Department within the timeframe provided by the Department and before the application due date of NOFAs for HOME-ARP rental housing.

Up to \$10 million in HOME-ARP funds will be available for NHTF awardees that meet the criteria in this section. If the Department receives less than \$10 million in applications by the time of the rental development NOFA application due date, the remaining funding will be used to increase the amount available for rental development awards. If the applications received for this limited pool exceed the total available, the applications will be processed based on their submission date. In the event that more than \$10 million is requested per application received on the same date, the Development with the lowest HOME-ARP capital cost per unit will be awarded.

In addition, applications layered with NHTF will also be accepted during the application cycle for HOME-ARP rental development. However, there may be programmatic limitations on having HOME-ARP and NHTF in the same unit.

- Units serving Qualified Populations are only able to charge a household 30% of the tenant's income.
- Applications may request and be awarded capitalized operating reserves. Amounts for operating reserves will be established by TDHCA and if approved, the costs may be capitalized at the time of closing or with the first draw. While the operating reserve per unit is not established based on the amount of rent 'lost' by only charging the household 30% of their income, it is estimated that roughly 80% or more of the expenses that would have been covered by those rents are eligible costs to be included in the capitalized operating reserves. Operating reserves for a unit will be for administrative expenses, property management fees, insurance, utilities, property taxes, maintenance of a unit, and other expenses described in HUD CPD Notice 21-10.

Operating costs cannot cover debt service for the HOME-ARP units.

- Applications must follow TDHCA's existing rules and policies for rental housing and/or Supportive Housing, unless otherwise described in the NOFA.
- At the end of the HOME-ARP affordability period and depletion of the capitalized operating reserves, units will not be required to only charge 30% of tenant's income, but will still have a state-required affordability period.
- Up to 30% of the HOME-ARP units may be for low-income households that are not Qualified Populations, as allowed by the HUD CPD Notice 21-10.
- HOME-ARP units may float or be fixed in the Developments per 24 CFR §92.252(j). However, the NOFA will outline whether units must be fixed or floating.
- TDHCA may adopt the utility allowance schedule for Developments in which awarded Applicants are using the PHA utility allowances, unless prohibited by other fund sources or any of the other allowable utility methods under TDHCA rules. TDHCA's maximum allowances for utilities and services will be updated annually. Awarded Applicants may choose to use the PHA utility allowance after notification to or approval of TDHCA during the compliance period.
- Minimum Request Amount: \$500,000
- Maximum Request Amount: \$15 million, up to 100% of the HOME-ARP eligible costs, and is inclusive of capitalized operating costs. However, the total maximum request may be further limited in the NOFA.
- Eligible award amounts will be capped at the proportional share of HOME eligible costs for the HOME-ARP units.
- Must designate at least the lesser of 50% of units or 10 units for HOME-ARP assistance.
- Funds may be loaned at amortizing, cash-flow, or deferred terms, and may be interest bearing or at 0% or other interest rate in order to meet underwriting requirements. Loan terms will depend on financial structure of the projects and contract terms.

#### Non-Congregate Shelter

- HOME-ARP NCS funds will be made available competitively statewide. The allocations may include a set-aside or priority for rural applications.
- This NOFA may be delayed from 12-18 months from the time of HUD Plan approval to allow nonprofits to first request and utilize capacity building funds to formalize their NCS solutions.
- Applications must show that there are sufficient non-governmental operating funds to support any NCS activity, including ongoing operating, as further described in the NOFA.
- Minimum Request Amounts: \$200,000
- Maximum Request Amount: Up to 100% of the funds allocated in the NOFA and not to exceed 100% of the HOME-ARP eligible costs. However, the total maximum request may be further limited in the NOFA.
- Must designate at least the lesser of 50% of units or 10 units for HOME-ARP assistance.
- Funds may be provided in the form of amortizing, cash flow or deferred term loans, and may be interest bearing or at 0% or other interest rate in order to meet

underwriting requirements if the shelter converts to permanent housing. Loan terms will depend on financial structure of the projects and contract terms.

#### Nonprofit Capacity and Operations Assistance

Nonprofit capacity and operations assistance will be made available as follows and as further described in NOFA(s):

- Nonprofit capacity building and operations assistance will be available for competition either combined in NOFAs with RSHH or NCS, or in separate NOFA(s). If nonprofit capacity building or operations assistance is awarded prior to a RSHH or NCS award, the application process will direct awards only to those organization for which it is reasonable to expect that the applicant organization will be provided RSHH or NCS funds within 24 months of award.
- In any fiscal year, nonprofit operating assistance or non-profit capacity building may not exceed the greater of 50% of the general operating expenses of the nonprofit organization, or \$50,000. If an organization applies for both operating assistance and capacity building assistance in any fiscal year, the aggregate total amount of assistance it may receive is the greater of 50 percent of the organization's total operating expenses for that fiscal year or \$75,000.
- Minimum Request Amount: \$50,000
- Maximum Request Amount: \$3,324,229. However, the total minimum and maximum request may be further limited in the NOFA.

*If any portion of the PJ's HOME-ARP administrative funds were provided to a subrecipient or contractor prior to HUD's acceptance of the HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the PJ's entire HOME-ARP grant, identify the subrecipient or contractor and describe its role and responsibilities in administering all of the PJ's HOME-ARP program:*  
Not applicable

*PJs must indicate the amount of HOME-ARP funding that is planned for each eligible HOME-ARP activity type and demonstrate that any planned funding for nonprofit organization operating assistance, nonprofit capacity building, and administrative costs is within HOME-ARP limits. The following table may be used to meet this requirement.*

**Use of HOME-ARP Funding**

	<b>Approx. Funding Amount*</b>	<b>Percent of the Grant</b>	<b>Statutory Limit</b>
Non-Congregate Shelters	\$56,511,887	42.5%	n/a
Affordable Rental Housing Incl. Capitalized Operating Reserves	\$56,511,887	42.5%	n/a
Non-Profit Operating/Non-Profit Capacity Building	\$6,648,458	5%	5%
Administration and Planning	\$13,296,915	10%	15%
<b>Total HOME ARP Allocation</b>	<b>\$132,969,147</b>	<b>100%</b>	

\* Based on the applications received, these amounts and percentages may fluctuate.

***Additional narrative, if applicable:***

While TDHCA agrees with much of the public input on the need for the variety of requested or suggested activities, unfortunately there is greater need than there are funds available. The consultation input was widely supportive of the need for development of Rental Housing with services, Supportive Housing and Non-Congregate Shelter and the data supports this need. TDHCA feels these unique one-time funds will have the greatest long-term impact for Texans by being used for acquisition and development of Non-Congregate Shelter (NCS), development of rental housing, and development of Supportive Housing (SH) with associated capitalized operating subsidies. After excluding the funds for Administration/Planning and Non-Profit Capacity/Operating, funds will initially be made available equally proportioned between Non-Congregate Shelter and Rental Housing; if applications received do not fully utilize those funds, funds may be shifted between those two categories.

NP Operating and Capacity Building Assistance will only be awarded to those organizations that it is reasonable to expect will be successful recipients of NCS or RSHH funds within 24 months of award. While the NP Operating and NP Capacity Building is shown as one line item in the table so that funds can be used for both, the Department will commit these activities to each project separately in IDIS as needed. The NP Operating and NP Capacity Building Assistance applications will be released within the NOFAs for NCS and Rental Housing development. If awards for NP Operating and NP Capacity Building do not fully utilize those funds related to building capacity or assisting with operating costs for nonprofits applying for NCS or RSHH, funds may be shifted into NCS or Rental Housing for those activities.

TDHCA will consider revising its rules to provide for a portion of its annual allocation of ESG to be used to support NCS shelter operations funded by HOME-ARP and such planning will be reflected in future One Year Action Plan submissions.

If all funds are not obligated for the activities reflected in the table above, TDHCA may reprogram the funds into Supportive Services and/or TBRA activities; however, it should be noted that any funds obligated later in the performance period with HUD will likely only be available in non-Participating Jurisdictions based on state law.

***Describe how the characteristics of the shelter and housing inventory, service delivery system, and the needs identified in the gap analysis provided a rationale for the plan to fund eligible activities:***

As noted in the Data Analysis section, Texas has significant need for both shelter and rental housing inventory to serve the eligible population for HOME-ARP. This was supported by the comments heard in the consultations.

### **HOME-ARP Production Housing Goals**

***Estimate the number of affordable rental housing units for qualifying populations that the PJ will produce or support with its HOME-ARP allocation:***

TDHCA estimates that with the funds programmed as reflected in the table above, 565 units of non-congregate shelter and 202 units of Rental Housing or Supportive Housing (including funded operating reserves) can be produced or supported.

***Describe the specific affordable rental housing production goal that the PJ hopes to achieve and describe how it will address the PJ's priority needs:***

TDHCA's goal will be to produce or support 202 units of Rental Housing or Supportive Housing, and 565 units of non-congregate shelter helping to create or support more housing across the state.

### **Preferences**

***Other qualifying criteria***

TDHCA does not intend to establish other qualifying criteria for persons to qualify for HOME-ARP.

***Identify whether the PJ intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project:***

- Preferences cannot violate any applicable fair housing, civil rights, and nondiscrimination requirements, including but not limited to those requirements listed in 24 CFR §5.105(a).
- PJs are not required to describe specific projects to which the preferences will apply.

TDHCA will not require any specific set-asides or preferences that must be applied to all

applicants, but may allow each NCS applicant to utilize any one or more of the following preference categories where one member of the household is from one of the categories, including combining categories if so reflected in their application and approved by TDHCA in the written agreement:

- Persons who are experiencing homelessness
- Persons who were formerly homeless but housed with temporary resources
- Persons With Disabilities (which includes Persons with Substance Use Disorders and Persons Living with HIV/AIDS)
- Persons With Violence Against Woman Act (VAWA) Protections and Human Trafficking
- Colonia Residents
- Farmworkers
- Chronically Homeless
- Homeless or At-Risk of Homelessness Veterans (including Wounded Warriors as defined by the Caring for Wounded Warriors Act of 2008)
- Homeless or At-Risk of Homelessness Families with Children
- Persons Impacted By A State Or Federally Declared Disaster
- Persons At-Risk of Homelessness
- Persons Exiting Institutions or Systems of Care/Reentry
- Persons referred through Coordinated Entry

For Rental Housing and SH, TDHCA will not require any specific set-asides or preferences. Applicants may request to establish a preference to serve the households with at least one member that contains the following special needs populations that will be reflected in the written agreement:

- Persons who are experiencing homelessness
- Persons who were formerly homeless but housed with temporary resources
- Persons With Disabilities (which includes Persons with Substance Use Disorders and Persons Living with HIV/AIDS)
- Persons With Violence Against Woman Act (VAWA) Protections and Human Trafficking
- Colonia Residents
- Farmworkers
- Chronically Homeless
- Homeless or At-Risk of Homelessness Veterans (including Wounded Warriors as defined by the Caring for Wounded Warriors Act of 2008)
- Homeless or At-Risk of Homelessness Families with Children
- Persons Impacted By A State Or Federally Declared Disaster
- Persons At-Risk of Homelessness
- Persons Exiting Institutions or Systems of Care/Reentry
- Persons referred through Coordinated Entry

For Rental Housing and SH, Applicants may also request to have a preference required by another federal fund source in the Development such as Veterans or a specific disability such

as Persons Living with HIV/AIDS.

If a property is intending to use only Coordinated Entry and not a project-specific waitlist, the system must meet the requirements in HUD CPD Notice 21-10, which requires that Coordinated Entry provide sufficient referrals for the project and that all qualifying populations have an opportunity to participate within the project's geographic region. If any of these factors are not met, then a project-specific waitlist must also be used. This may mean before Coordinated Entry can be used as the basis for a property's waitlist, the local system may have to add:

- persons who are at-risk of homelessness with incomes up to 50% AMI (not under 30% AMI, as is common in other federal homeless programs);
- persons who have income at or below 30% AMI and are paying more than 50% of monthly household income toward housing costs; and
- households who have qualified as homeless previously, are housed with temporary/emergency assistance, and who need additional housing assistance or supportive services to avoid a return to homelessness.

These three HOME-ARP qualifying populations are unique, and may not be included in other homelessness assistance programs; therefore, they may not already be incorporated into Coordinated Entry. In addition, the geographic region for the project will include the entire primary market area of the rental development, as defined in 10 TAC §11.303(d)(8).

If Coordinated Entry is used with other referral methods, the Owner would establish prioritization criteria between the Coordinated Entry and other referral methods and maintain any waitlists in chronological order. If using Coordinated Entry alone, with other referral methods, or in coordination with a project-specific waitlist, the waitlist must take persons in chronological order, with priority given to those with preferences stated in the written agreement between the Owner and the Department. In addition, if up to 30% of the HOME-ARP units are reserved for low-income household who are not qualifying populations, a project-specific waitlist must be used for these units.

HOME-ARP may allow development of housing that meets requirements under the Housing for Older Persons Act. TDHCA may also consider permitting rental housing owners to give a preference or limitation as indicated in this section and may allow a preference or limitation that is not described in this section to encourage leveraging of federal or state funding, provided that another federal or state funding source for the rental housing requires a limitation or preference.

For NCS, and RSHS, no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

***If a preference was identified, explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by***



***individuals and families in the qualifying population or category of qualifying population, consistent with the PJ's needs assessment and gap analysis:***

Consultations revealed that those populations listed above for a preference are often challenging to serve in a congregate shelter setting and are best able to be housed in NCS.

***If a preference was identified, describe how the PJ will use HOME-ARP funds to address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in the preference:***

The state is not establishing a statewide preference and across all providers different preferences will be utilized. Other state and local funds will assist other low-income households including, but not limited to, Housing Tax Credits, HOME, ESG, ERA2 Housing Stability Services funds, and 811 PRA.

**HOME-ARP Refinancing Guidelines**

If the PJ intends to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds, the PJ must state its HOME-ARP refinancing guidelines in accordance with 24 CFR 92.206(b). The guidelines must describe the conditions under which the PJ will refinance existing debt for a HOME-ARP rental project, including:

- ***Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity***

TDHCA will follow its guidelines found in 10 TAC Chapters 10, 11, and 13 for any rental housing or SH involving refinancing, unless otherwise described in the NOFA.

- ***Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.***

The TDHCA staff review of HOME-ARP RSHH applicants involving refinancing and rehabilitation of an existing property will include a review of management practices and establish feasibility for the HUD-ARP affordability period.

- ***State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.***

The TDHCA HOME-ARP RSHH program will support both creation of new affordable units, and acquisition and rehab of current affordable units.

- ***Specify the required compliance period, whether it is the minimum 15 years or longer.***

The minimum HUD affordability periods will be used for NCS and RSHH, and HUD

compliance requirements will be considered satisfied at the end of that term. For RSH, TDHCA will require the property to remain affordable for at least a 30 year state affordability period per Texas Gov't Code §2306.185(c). The level of affordability required for the portion of the state affordability period that follows after the HOME-ARP period is over will be provided for in the NOFA.

- ***State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.***

TDHCA will not allow HOME-ARP funds to be used to refinance multifamily loans made or insured by any federal program including CDBG.

- ***Other requirements in the PJ's guidelines, if applicable:***

RSH Properties will be allowed to use methods other than Coordinated Entry for selecting tenants.

Tiny homes are not prohibited in and of themselves, but must meet all requirements of either being NCS, rental housing, or SH (including not charging more than 30% of household's income).

Units cannot receive HOME-ARP operating subsidy on units that are receiving an operating subsidy or project-based rental assistance from another source.

**Appendix A. Organizations that Participated in the HOME-ARP Consultations**

#	Organization	Consultation	First Name	Last Name	City
1	Accessible Housing Austin	Fair Housing and Disability Advocate Consultation	Jolene	Keene	Austin
2	Affordable Home of South Texas, Inc.	Veteran Service Provider Consultation	Karla	Montemayor	McAllen
3	Alliance of Community Assistance Ministries	Homeless Service Providers/Domestic Service Provider Consultation	Sarah	Malcolm	Houston
4	Alliance of Community Assistance Ministries	Homeless Service Providers/Domestic Service Provider Consultation	Sharon	Zachary	Houston
5	American GI Forum National Veterans Outreach Program Inc.	Fair Housing and Disability Advocate Consultation	Monica	Alexander	San Antonio
6	American GI Forum National Veterans Outreach Program Inc.	Fair Housing and Disability Advocate Consultation	Sergio	Dickerson	San Antonio
7	American GI Forum National Veterans Outreach Program Inc.	Fair Housing and Disability Advocate Consultation	Dixie	Maddox	San Antonio
8	ArkTex Council of Governments	Homeless Service Providers/Domestic Violence Providers Consultation	Mae	Lewis	Texarkana
9	Arlington Housing Authority	Homeless Service Providers/Domestic Service Provider Consultation	Lydia	Willingham	Arlington
10	Austin Area Urban League	Public Housing Agency Consultation/Fair Housing and Disability Advocate Consultation	Quincy	Dunlap	Austin
11	Austin Area Urban League	Fair Housing and Disability Advocate Consultation/Homeless Service Providers/Domestic Service Provider Consultation	Earl	Grant	Austin

#	Organization	Consultation	First Name	Last Name	City
12	Beat Aids	Homeless Service Providers/Domestic Service Provider Consultation	Syed	Qadri	San Antonio
13	Brazos Valley Center for Independent Living	Fair Housing and Disability Advocate Consultation	Jackie	Pacha	Bryan
14	Briones Consulting & Engineering	Fair Housing and Disability Advocate Consultation	Sophia	Briones	San Antonio
15	Career and Recovery Resources, Inc.	Homeless Service Providers/Domestic Service Provider Consultation	Nkechi	Agwuenu	Houston
16	Career and Recovery Resources, Inc.	Homeless Service Providers/Domestic Service Provider Consultation	Kelly	Young	Houston
17	Catholic Charities of the Archdiocese of Galveston-Houston	Homeless Service Providers/Domestic Service Provider Consultation	Steve	Mikelman	Houston
18	Catholic Diocese of Brownsville	Homeless Service Providers/Domestic Service Provider Consultation	Nadia	de Ramirez	Brownsville
19	Central County Services	Fair Housing and Disability Advocate Consultation	Felicia	Burden	Temple
20	Central County Services	Fair Housing and Disability Advocate Consultation	Paola	McIntosh	Temple
21	Christian Community Action	Homeless Service Providers/Domestic Service Provider Consultation	Daphne'	Adams	Lewisville
22	City House	Homeless Service Providers/Domestic Service Provider Consultation	Donna	Melton	Plano
23	City of Amarillo	Homeless Service Providers/Domestic Service Provider Consultation	Lauren	Ebben	Amarillo

#	Organization	Consultation	First Name	Last Name	City
24	City of Austin	Fair Housing and Disability Advocate Consultation	Dianna	Grey	Austin
25	City of Austin	Fair Housing and Disability Advocate Consultation	Patrick	Russell	Austin
26	City of Austin	Fair Housing and Disability Advocate Consultation	Letitia	Brown	Austin
27	City of Austin	Fair Housing and Disability Advocate Consultation	Dawn	Perkins	Austin
28	City of Denton	Homeless Service Providers/Domestic Service Provider Consultation	Alma	Espino	Denton
29	City of Fort Worth	Homeless Service Providers/Domestic Service Provider Consultation	Tara	Perez	Fort Worth
30	City of Houston	Fair Housing and Disability Advocate Consultation	Alan	Isa	Houston
31	City of Houston	Fair Housing and Disability Advocate Consultation	Kristingail	Robinson	HOUSTON
32	City of Houston	Homeless Service Providers/Domestic Service Provider Consultation	Jared	Briggs	Houston
33	City of Plano	Homeless Service Providers/Domestic Service Provider Consultation	Sarah	Carroll	Plano
34	City of San Antonio	Fair Housing and Disability Advocate Consultation	Anabel	Villa	San Antonio
35	City of Socorro	Fair Housing and Disability Advocate Consultation	Alejandra	Valadez	Socorro
36	Coalition for the Homeless of Houston	Public Housing Agency Consultation/Continuum of Care Consultation	Jessica	Preheim	Houston

#	Organization	Consultation	First Name	Last Name	City
37	Coalition for the Homeless of Houston	Fair Housing and Disability Advocate Consultation	Caybryn	Southern	Houston
38	Coalition for the Homeless of Houston	Continuum of Care Consultation	Renee	Cavazos	Houston
39	Coastal Bend Center for Independent Living	Fair Housing and Disability Advocate Consultation	Atlee	McC Campbell	Corpus Christi
40	Coastal Bend Center for Independent Living	Fair Housing and Disability Advocate Consultation	Judy	Telge	Corpus Christi
41	Combined Community Action, Inc.	Homeless Service Providers/Domestic Service Provider Consultation	Kelly	Franke	Giddings
42	Combined Community Action, Inc.	Homeless Service Providers/Domestic Service Provider Consultation	Deanna	Lowrey-Green	La Grange
43	Community Action Committee in Victoria	Fair Housing and Disability Advocate Consultation	Tiffany	Ross	Victoria
44	Community Council of South Central Texas	Public Housing Agency Consultation	Belinda	Lacey	New Braunfels
45	Community Council of South Central Texas	Fair Housing and Disability Advocate Consultation	Belinda	Lacey	New Braunfels
46	Community Council of South Central Texas	Homeless Service Providers/Domestic Service Provider Consultation	Virginia	Lemeilleur	Kerrville
47	Community Council of South Central Texas	Homeless Service Providers/Domestic Service Provider Consultation/Veteran Service Provider Consultation	Belinda	Lacey	New Braunfels
48	Community for Permanent Supportive Housing	Fair Housing and Disability Advocate Consultation	Robin	LeoGrande	Plano

#	Organization	Consultation	First Name	Last Name	City
49	Community Healthcore	Homeless Service Providers/Domestic Service Provider Consultation	Marijobeth	Faries	Longview
50	Community Healthcore	Homeless Service Providers/Domestic Service Provider Consultation	Chesley	Knowles	Longview
51	Concho Valley Community Action Agency	Fair Housing and Disability Advocate Consultation	Sarah	Eckel	San Angelo
52	Concho Valley Community Action Agency	Homeless Service Providers/Domestic Service Provider Consultation	Mark	Bethune	San Angelo
53	Concho Valley Community Action Agency	Homeless Service Providers/Domestic Service Provider Consultation	Sarah	Eckel	San Angelo
54	Cornerstone Community Action Agency	Homeless Service Providers/Domestic Service Provider Consultation	Shenika	Arredodno	Coleman, TX
55	Corpus Christi Housing Authority	Public Housing Agency Consultation	Gary	Allsup	Corpus Christi
56	Covenant House	Homeless Service Providers/Domestic Service Provider Consultation	Felicia	Broussard	Houston
57	CSH	Fair Housing and Disability Advocate Consultation	Brooke	Page	Regional
58	Dallas City Homes	Fair Housing and Disability Advocate Consultation	Kristen	Williams	Dallas
59	Denton County Friends of Family	Homeless Service Providers/Domestic Service Provider Consultation	Katherine	Boswell	Denton
60	Denton County MHMR	Fair Housing and Disability Advocate Consultation	Jessica	Logar	Flower Mound
61	Denton County MHMR	Fair Housing and Disability Advocate Consultation	Jennifer	Meyer	Denton

#	Organization	Consultation	First Name	Last Name	City
62	Disability Rights Texas	Fair Housing and Disability Advocate Consultation	Stephanie	Duke	Houston
63	Disability Rights Texas	Fair Housing and Disability Advocate Consultation	Tanya	Lavelle	Austin
64	Eagle Pass Housing Authority	Public Housing Agency Consultation	Mary	Velasquez	Eagle Pass
65	ECHO	Homeless Service Providers/Domestic Service Provider Consultation	Andrew	Willard	Austin
66	Edgewood Housing Authority	Public Housing Agency Consultation	Janice	Wingo	Edgewood
67	El Paso Coalition for the Homeless	Homeless Service Providers/Domestic Service Provider Consultation/Continuum of Care Consultation	Camille	Castillo	El Paso
68	Endeavors	Homeless Service Providers/Domestic Service Provider Consultation	Alanah	Lavinier	San Antonio
69	Envolve LLC	Fair Housing and Disability Advocate Consultation	Deidra	Bugg	Memphis
70	Families in Crisis	Homeless Service Providers/Domestic Service Provider Consultation	William	Hall	Killeen
71	Families in Crisis	Veteran Service Provider Consultation	William	Hall	Killeen
72	Family Gateway	Homeless Service Providers/Domestic Service Provider Consultation	Amanda	Dycus	Dallas
73	Family Gateway	Homeless Service Providers/Domestic Service Provider Consultation	Ellen	Magnis	Dallas



#	Organization	Consultation	First Name	Last Name	City
74	Family Promise of Lubbock	Homeless Service Providers/Domestic Service Provider Consultation	Kris	Michaels	Lubbock
75	Fayette County Habitat for Humanity	Homeless Service Providers/Domestic Service Provider Consultation	Kenny	Couch	La Grange
76	Fishpond Development, LLC	Homeless Service Providers/Domestic Service Provider Consultation	Lisa	Vecchietti	Austin
77	Fishpond Development, LLC	Homeless Service Providers/Domestic Service Provider Consultation	Clint	Ivy	Austin
78	Foley Jones & Associates	Homeless Service Providers/Domestic Service Provider Consultation	MaryEllen	Forgay	Houston
79	Fort Hood Area Habitat for Humanity	Homeless Service Providers/Domestic Service Provider Consultation	Ken	Cates	Killeen
80	Fort Hood Area Habitat for Humanity	Veteran Service Provider Consultation	Kristin	Hannibal	Killeen
81	Fort Worth Housing Solutions	Public Housing Agency Consultation	Brian	Dennison	Fort Worth
82	Foundation for the Homeless	Homeless Service Providers/Domestic Service Provider Consultation	Charisse	Damiani	Austin
83	Front Steps Inc	Fair Housing and Disability Advocate Consultation	Jessica	Cochran	Austin
84	Galveston County	Homeless Service Providers/Domestic Service Provider Consultation	Francis	Aguillon	Galveston
85	Galveston County	Homeless Service Providers/Domestic Service Provider Consultation	James	Gentile	Galveston
86	Golden Crescent Aging & Disability Resource Center	Fair Housing and Disability Advocate Consultation	Angelique	Rodriguez	Victoria

#	Organization	Consultation	First Name	Last Name	City
87	Grace Like Rain	Fair Housing and Disability Advocate Consultation	Amy	Brock	Denton
88	GrantWorks, Inc.	Veteran Service Provider Consultation	Donna	Johnson	Austin
89	Gulf Coast Center	Homeless Service Providers/Domestic Service Provider Consultation	Deinisha	Tryals	Galveston
90	Gulf Coast Housing Partnership	Fair Housing and Disability Advocate Consultation	Anna	Labadie	New Orleans
91	H.O.P.E. Haven	Homeless Service Providers/Domestic Service Provider Consultation	Kristyn	Stillwell	Houston
92	Haven for Hope	Homeless Service Providers/Domestic Service Provider Consultation	Katherine	Dillard Gonzalez	San Antonio
93	Heart of Texas Behavioral Health Network	Homeless Service Providers/Domestic Service Provider Consultation	Shaun	Lee	Waco
94	Helen Farabee Center	Fair Housing and Disability Advocate Consultation	Lauren	Hargrove	Wichita Falls
95	Hope's Door New Beginning Center	Homeless Service Providers/Domestic Service Provider Consultation	Christina	Coultas	Plano
96	Housing Authority City of Arlington	Homeless Service Providers/Domestic Service Provider Consultation	Mindy	Cochran	Arlington
97	Housing Authority of Bexar County	Public Housing Agency Consultation	Terry	Trevino	San Antonio
98	Housing Authority of La Joya	Public Housing Agency Consultation	Lulu	Cardenas	La Joya
99	Housing Authority of Lubbock Texas	Public Housing Agency Consultation	Michael	Chapman	Lubbock

#	Organization	Consultation	First Name	Last Name	City
100	Housing Authority of the City of Beaumont	Public Housing Agency Consultation	Jackie	Sostand	Beaumont
101	Housing Trust Group	Fair Housing and Disability Advocate Consultation	Katelyn	Cutler	Miami
102	Housing Trust Group	Fair Housing and Disability Advocate Consultation	Quinn	Gormley	Austin
103	Housing Trust Group	Fair Housing and Disability Advocate Consultation	Taylor	Thomas	Austin
104	Houston Area Women's Center	Homeless Service Providers/Domestic Service Provider Consultation	Nike	Blue	Houston
105	Houston Area Women's Center	Homeless Service Providers/Domestic Service Provider Consultation	Lourdes	Calderon	Houston
106	Houston Area Women's Center	Homeless Service Providers/Domestic Service Provider Consultation	Lan	Nguyen	Houston
107	Houston Area Women's Center	Homeless Service Providers/Domestic Service Provider Consultation	Benita	Slater	Houston
108	Houston Area Women's Center	Homeless Service Providers/Domestic Service Provider Consultation	Selah	Tacconi	Houston
109	Houston Housing Authority	Public Housing Agency Consultation	Mark	Thiele	Houston
110	Hudson County Latino Foundation	Fair Housing and Disability Advocate Consultation	McKensie	Sprow	Hudson
111	Integral Care Austin	Fair Housing and Disability Advocate Consultation	Marlene	Buchanan	Austin
112	Integral Care Austin	Fair Housing and Disability Advocate Consultation	Kali	Holyfield	Austin

#	Organization	Consultation	First Name	Last Name	City
113	LDG Development	Fair Housing and Disability Advocate Consultation	Dru	Childre	Austin
114	Legacy Community Development Corp	Fair Housing and Disability Advocate Consultation	Marie	Nguyen	Port Arthur
115	Legacy Health	Public Housing Agency Consultation	Sherri L	King	Waco
116	Legal Aid of North West Texas	Fair Housing and Disability Advocate Consultation	K'Lisha	Rutledge	Dallas
117	LifeWorks Austin	Homeless Service Providers/Domestic Service Provider Consultation	Kate	Bennett	Austin
118	LifeWorks Austin	Homeless Service Providers/Domestic Service Provider Consultation	Darcy	Rendon	Austin
119	LifeWorks Austin	Homeless Service Providers/Domestic Service Provider Consultation	Erin	Whelan	Austin
120	McCormack Baron Salazar Developers	Public Housing Agency Consultation	Louis	Bernardy	San Antonio
121	Metro Dallas Homeless Alliance	Homeless Service Providers/Domestic Service Provider Consultation	Mackeshia	Brown	Dallas
122	Metro Dallas Homeless Alliance	Continuum of Care Consultation	Trudy	Hernandez	Dallas
123	Metro Dallas Homeless Alliance	Continuum of Care Consultation	Sarah	Kahn	Dallas
124	Metrocrest Services	Homeless Service Providers/Domestic Service Provider Consultation	Tracy	Eubanks	Farmers Branch
125	Metrocrest Services	Homeless Service Providers/Domestic Service Provider Consultation	Mike	Harris	Farmers Branch
126	Metrocrest Services	Homeless Service Providers/Domestic Service Provider Consultation	Jennifer	Lajoie	Farmers Branch

#	Organization	Consultation	First Name	Last Name	City
127	MHMR Tarrant County	Fair Housing and Disability Advocate Consultation	Brian	Wall	Fort Worth
128	Mid-Coast Family Services	Homeless Service Providers/Domestic Service Provider Consultation	Lisa	Griffin	Victoria
129	Mid-Coast Family Services	Homeless Service Providers/Domestic Service Provider Consultation	Mallory	Thurman	Victoria
130	Midwest Housing Equity Group	Fair Housing and Disability Advocate Consultation	Andrea	Frymire	OKC
131	MVAH Partners	Fair Housing and Disability Advocate Consultation	Misty	Middleton	Hillsboro
132	N/A	Public Housing Agency Consultation	Carrie	Kline	N/A
133	N/A	Public Housing Agency Consultation	Virginia	LeMeilleur	N/A
134	N/A	Public Housing Agency Consultation	Monica	Washington	Round Rock
135	N/A	Public Housing Agency Consultation	Ramonia	Williams	Highlands
136	N/A	Fair Housing and Disability Advocate Consultation	Ginger	Bennett	Austin
137	N/A	Fair Housing and Disability Advocate Consultation	Roger	Canales	Cibolo
138	N/A	Fair Housing and Disability Advocate Consultation	Robin	Freeman	Beaumont
139	N/A	Fair Housing and Disability Advocate Consultation	Jimi	Gibson	Bay City

#	Organization	Consultation	First Name	Last Name	City
140	N/A	Fair Housing and Disability Advocate Consultation	Marilyn	Hartman	Austin
141	N/A	Fair Housing and Disability Advocate Consultation	Sherri L	King	Denton
142	N/A	Fair Housing and Disability Advocate Consultation	Cecil	King	San Antonio
143	N/A	Fair Housing and Disability Advocate Consultation	Marie	Lopez	N/A
144	N/A	Fair Housing and Disability Advocate Consultation	Katherine	Owens	Longview
145	N/A	Fair Housing and Disability Advocate Consultation	Libby	Rivera	Edinburg
146	N/A	Fair Housing and Disability Advocate Consultation	Renee	Lopez	Hutto
147	N/A	Homeless Service Providers/Domestic Service Provider Consultation	Monica	Barrera	El Paso
148	N/A	Homeless Service Providers/Domestic Service Provider Consultation	Renee	Buffington	Houston
149	National Housing Advisors, LLC	Homeless Service Providers/Domestic Service Provider Consultation	Ellen	Rourke	Dallas
150	New Hope Housing	Service Providers	Shamika	Piggee	Houston
151	New Hope Housing	Homeless Service Providers/Domestic Service Provider Consultation	Tweenzette	Ross	Houston
152	Northwest Assistance Ministries	Homeless Service Providers/Domestic Service Provider Consultation	Allison	Brooks	Houston
153	Omni Properties & Investments, LLC	Homeless Service Providers/Domestic Service Provider Consultation	Geneva	Murphy	San Antonio

#	Organization	Consultation	First Name	Last Name	City
154	Palladium USA	Fair Housing and Disability Advocate Consultation	Avis	Chaisson	Dallas
155	Palladium USA	Fair Housing and Disability Advocate Consultation	Cody	Hunt	Dallas
156	Panhandle Community Services	Public Housing Agency Consultation	Audra	Rea	Amarillo
157	Panhandle Community Services	Public Housing Agency Consultation	Magi	York	Amarillo
158	Panhandle Regional Planning Commission	Fair Housing and Disability Advocate Consultation	Isabell	Villarreal	Amarillo
159	Paulos Properties, LLC	Homeless Service Providers/Domestic Service Provider Consultation	Flora	Brewer	Fort Worth
160	Pay It Forward	Homeless Service Providers/Domestic Service Provider Consultation	Genny	Slater	San Antonio
161	Presbyterian Night Shelter	Homeless Service Providers/Domestic Service Provider Consultation	Debbi	Rabalais	Fort Worth
162	Project Vida	Homeless Service Providers/Domestic Service Provider Consultation	Maribel	Miranda	El Paso
163	Promise House	Homeless Service Providers/Domestic Service Provider Consultation	Charles	Wolford	Dallas
164	Recovery Resource Council	Homeless Service Providers/Domestic Service Provider Consultation	Kelvin	Divinity	Dallas
165	Recovery Resource Council	Homeless Service Providers/Domestic Service Provider Consultation	Tamieka	McLaurin	Fort Worth
166	Rockdale Housing Authority	Public Housing Agency Consultation	Mario	Casarez	Rockdale

#	Organization	Consultation	First Name	Last Name	City
167	Roommateme Network	Fair Housing and Disability Advocate Consultation	George	Farhat	Dallas
168	Safehaven Tarrant County	Homeless Service Providers/Domestic Service Provider Consultation	Sheri	Campbell-Husband	Arlington
169	Safehaven Tarrant County	Homeless Service Providers/Domestic Service Provider Consultation	Nichole	Masters-Henry	Arlington
170	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Mario	Cuevas	San Antonio
171	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Meredith	Donovan	Woodway
172	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Suzanne	Kanon	Fort Worth
173	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Crystal	Lenz	Beaumont
174	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Holly	McDonald	Galveston
175	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Jason	Moore	Beaumont
176	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Elizabeth	Rodriguez	Beaumont
177	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Betty Kay	Schlesinger	Sherman
178	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Emily	Shafer	Corpus Christi
179	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Roxanne	Vilanova	San Antonio



#	Organization	Consultation	First Name	Last Name	City
180	Salvation Army	Homeless Service Providers/Domestic Service Provider Consultation	Samantha	Wyman	Dallas
181	Salvation Army	Veteran Service Provider Consultation	Meredith	Donovan	Waco
182	Salvation Army	Veteran Service Provider Consultation	Hilda	Hilda Moreno	EL PASO
183	SAMMinistries	Fair Housing and Disability Advocate Consultation	Rex	Brien	San Antonio
184	SAMMinistries	Fair Housing and Disability Advocate Consultation	Elizabeth	de los Santos	San Antonio
185	SAMMinistries	Homeless Service Providers/Domestic Service Provider Consultation	Nikisha	Baker	San Antonio
186	SAMMinistries	Homeless Service Providers/Domestic Service Provider Consultation	Curtis	Ruder	San Antonio
187	SAMMinistries	Homeless Service Providers/Domestic Service Provider Consultation	Gay Lynn	Schwenk	San Antonio
188	SAMMinistries	Homeless Service Providers/Domestic Service Provider Consultation	Elizabeth	de los Santos	San Antonio
189	San Angelo Housing Authority	Public Housing Agency Consultation	Rebecca	Salandy	San Angelo
190	San Antonio Housing Authority	Public Housing Agency Consultation	Tim	Alcott	San Antonio
191	San Antonio Housing Authority	Public Housing Agency Consultation	Melissa	Garza	San Antonio
192	San Antonio Housing Authority	Public Housing Agency Consultation	Nadia	Islam	San Antonio

#	Organization	Consultation	First Name	Last Name	City
193	San Antonio Housing Authority	Public Housing Agency Consultation	Lorraine	Robles	San Antonio
194	San Antonio Housing Authority	Public Housing Agency Consultation	Joel	Tabar	San Antonio
195	San Antonio Housing Authority	Public Housing Agency Consultation	Jessica	Wayneck	San Antonio
196	San Benito Housing Authority	Public Housing Agency Consultation	David	Cortez	San Benito
197	Sanchez Compliance & Consulting	Fair Housing and Disability Advocate Consultation	Juanita	Sanchez	Cedar Park
198	SEARCH Homeless Services	Homeless Service Providers/Domestic Service Provider Consultation	Alexis	Loving	Houston
199	Shared Housing Center, Inc	Homeless Service Providers/Domestic Service Provider Consultation	Kimberly	Johnson	DALLAS
200	South Alamo Regional Alliance for the Homeless	Continuum of Care Consultation	Chelsey	Viger	San Antonio
201	South Plains Associates of Governments	Fair Housing and Disability Advocate Consultation	Roxanna	Ancira	Lubbock
202	Southeast Texas Housing Finance Corporation	Fair Housing and Disability Advocate Consultation	Jonathan	Campbell	Houston
203	Superior Health Plan	Fair Housing and Disability Advocate Consultation	Jennifer	Bourquin	Austin
204	Tarrant County Homeless Coalition	Fair Housing and Disability Advocate Consultation	Kimberly	Doty	Fort Worth
205	Tarrant County Homeless Coalition	Homeless Service Providers/Domestic Service Provider Consultation	Nathan	Crites-Herren	Fort Worth

#	Organization	Consultation	First Name	Last Name	City
206	Tarrant County Homeless Coalition	Homeless Service Providers/Domestic Service Provider Consultation	Kimberly	Doty	Fort Worth
207	Tarrant County Homeless Coalition	Homeless Service Providers/Domestic Service Provider Consultation	Anthony	Hogg	Fort Worth
208	Tarrant County Homeless Coalition	Homeless Service Providers/Domestic Service Provider Consultation	Lauren	King	Fort Worth
209	Tarrant County Homeless Coalition	Homeless Service Providers/Domestic Service Provider Consultation	Kathryn	Welch	Fort Worth
210	Tarrant County Homeless Coalition	Continuum of Care Consultation	Kim	Doty	Tarrant
211	Texarkana, City of	Homeless Service Providers/Domestic Service Provider Consultation	Vashil	Fernandez	Texarkana
212	Texarkana, City of	Homeless Service Providers/Domestic Service Provider Consultation	Daphnea	Ryan	Texarkana
213	Texas Council on Family Violence	Continuum of Care Consultation	Breall	Baccus	Austin
214	Texas Department of Criminal Justice	Texas Interagency Council for the Homeless/Public Agencies that Address Needs of Qualifying Population	Sherri	Cogbill	Austin
215	Texas Department of Family and Protective Services	Texas Interagency Council for the Homeless/Public Agencies that Address Needs of Qualifying Population	Valinda	Bolton	Austin
216	Texas Department of Juvenile Justice	Texas Interagency Council for the Homeless/Public Agencies that Address Needs of Qualifying Population	Marqus	Butler	Austin

#	Organization	Consultation	First Name	Last Name	City
217	Texas Education Agency	Texas Interagency Council for the Homeless/Public Agencies that Address Needs of Qualifying Population	Cal	Lopez	Austin
218	Texas Health and Human Services	Fair Housing and Disability Advocate Consultation	LaJean	Burnett	Austin
219	Texas Health and Human Services Commission	Texas Interagency Council for the Homeless/Public Agencies that Address the Needs of Qualifying Populations	Carrissa	Dougherty	Austin
220	Texas Health and Human Services Commission	Texas Interagency Council for the Homeless/Public Agencies that Address the Needs of Qualifying Populations	Suzie	Brady	Austin
221	Texas Health and Human Services Commission	Texas Interagency Council for the Homeless/Public Agencies that Address the Needs of Qualifying Populations	Claire	Irwin	Austin
222	Texas Homeless Network	Homeless Service Providers/Domestic Service Provider Consultation	Jim	Ward	Austin
223	Texas Homeless Network	Continuum of Care Consultation	Mary	Stahlke	Austin
224	Texas Homeless Network	Continuum of Care Consultation	Eric	Samuels	Austin
225	Texas Housers	Fair Housing and Disability Advocate Consultation	Elizabeth	Roehm	Austin
226	Texas Veterans Commission	Veteran Service Provider Consultation	Blake	Harris, Ph. D.	Austin
227	Texas Veterans Commission	Veteran Service Provider Consultation	Michelle	Nall	Austin

#	Organization	Consultation	First Name	Last Name	City
228	Texas Veterans Commission	Veteran Service Provider Consultation	Chip	Osborne	Austin
229	Texas Veterans Commission	Texas Interagency Council for the Homeless/Public Agencies that Address the Needs of Qualifying Populations	Blake	Harris	Austin
230	Texas Workforce Commission	Texas Interagency Council for the Homeless/Public Agencies that Address the Needs of Qualifying Populations	Deborah	Arellano	Austin
231	The Care Group of Texas	Public Housing Agency Consultation	Tammy	Guidry	Houston
232	The Childrens Center, Inc	Homeless Service Providers/Domestic Service Provider Consultation	Marsha	Wilson Rappaport	Galveston
233	The Chosen Ones Outreach Enrichment Center	Homeless Service Providers/Domestic Service Provider Consultation	Teresa	Finch	Galveston
234	The Chosen Ones Outreach Enrichment Center	Homeless Service Providers/Domestic Service Provider Consultation	Reverend	Lawson	Galveston TX
235	The Harris Center for Mental Health and IDD	Fair Housing and Disability Advocate Consultation	Tammara	McAdory	Houston
236	The Harris Center for Mental Health and IDD	Fair Housing and Disability Advocate Consultation	Sandra	Brock	Houston
237	The Harris Center for Mental Health and IDD	Fair Housing and Disability Advocate Consultation	Lakeisha	Davis	Houston
238	The Safe Alliance	Homeless Service Providers/Domestic Service Provider Consultation	Julia	Spann	Austin

#	Organization	Consultation	First Name	Last Name	City
239	The Safe Alliance	Homeless Service Providers/Domestic Service Provider Consultation	Hosie	Washington	Austin
240	The Stewpot	Homeless Service Providers/Domestic Service Provider Consultation	JR	Ratliff	Dallas
241	The Women's Home	Homeless Service Providers/Domestic Service Provider Consultation/Fair Housing and Disability Advocate Consultation	Chiamaka	Ofoma	Houston
242	Texas Interagency Council for the Homeless Chair	Texas Interagency Council for the Homeless/Public Agencies that Address the Needs of Qualifying Populations	Mike	Doyle	Fort Worth
243	Tracy Andrus Foundation	Homeless Service Providers/Domestic Service Provider Consultation	Tracy	Andrus	Marshall
244	Tri-County Fort Worth Healthcare	Fair Housing and Disability Advocate Consultation	Stephanie	Ward	Conroe
245	Tri-County Community Action, Inc.	Fair Housing and Disability Advocate Consultation	Beth	Eubanks	Gilmer
246	Tri-County Community Action, Inc.	Fair Housing and Disability Advocate Consultation	Tammy	Luster	Marshall
247	Under 1 Roof Dallas	Homeless Service Providers/Domestic Service Provider Consultation	Verna	Jones	Dallas
248	Union Gospel Mission of Tarrant County	Homeless Service Providers/Domestic Service Provider Consultation	Don	Shisler	Fort Worth
249	Valley Association for Independent Living	Fair Housing and Disability Advocate Consultation	Genesis	Garcia Lezama	MCALLEN

#	Organization	Consultation	First Name	Last Name	City
250	Valley Association for Independent Living	Fair Housing and Disability Advocate Consultation	Laurie	Gonzalez	McAllen
251	Valley Association for Independent Living	Fair Housing and Disability Advocate Consultation	Jorge	Villarreal	McAllen
252	Vivent Health	Fair Housing and Disability Advocate Consultation	Mamadou	Balde	Denver
253	Volunteers of America	Fair Housing and Disability Advocate Consultation	Deborah	Welchel	Lago Vista
254	Volunteers of America	Fair Housing and Disability Advocate Consultation	Brigitte	Ogne	DC
255	West Central Texas Council	Fair Housing and Disability Advocate Consultation	Justine	Ingra,	Abilene
256	West Central Texas Council	Fair Housing and Disability Advocate Consultation	John	Meier	Abilene
257	Woodridge Consulting LLC	Homeless Service Providers/Domestic Service Provider Consultation	Jim	Wooldridge	Killeen

7a



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended

Table 1 2021-3 NOFA Applications Recommended for Action				
App. ID	Application Name	Recommended Award	Fund Source	City
21522	Manor Town Phase II	\$352,213	NHTF	Manor

**RECOMMENDED ACTION**

**WHEREAS**, the Governing Board approved publication of the MFDL 2021-3 NOFA and its first, second, and third, amendments on June 18, 2021; September 2, 2021; and November 2, 2021, respectively, in response to previously approved Applicants’ demonstrated need for gap financing caused by increased construction costs resulting from the COVID-19 pandemic;

**WHEREAS**, the 2021-3 NOFA provides a streamlined review under the Department’s administrative rules for reviews approved under the prior application for eligibility and third-party reports, among others;

**WHEREAS**, as noted above in Table 1, one 2021-3 NOFA Application requesting \$352,213 is being recommended for an award;

**WHEREAS**, as this application was previously approved and has submitted an application in need of gap financing, the original results of Previous Participation Review (PPR) performed under 10 TAC §1.301 for the initial awarded application is adopted for this current awards. The original PPR for the above recommended award was favorable and Single Audit status is current, and will be adopted for these 2021-3 NOFA recommendations;

**WHEREAS**, the Application has been deemed acceptable by the Executive Award Review Advisory Committee (EARAC); and

**WHEREAS**, staff recommends approval of the 2021-3 Application referenced in Table 1.

**NOW, therefore, it is hereby**

**RESOLVED**, that the 2021-3 NOFA Application Recommended for Action reflected in Table 1 is approved, subject to conditions that may be applicable as found in the Real Estate Analysis Underwriting Report posted to the Department's website and as described within this Board Action Request;

**FURTHER RESOLVED**, prior Previous Participation Review is adopted under federal requirements reflected in 2 CFR Part 180 and 2 CFR Part 2424; and,

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of EARAC, underwriting, and completion of any other reviews required to assure compliance with the applicable rules and requirements.

## **BACKGROUND**

### **21522 Manor Town Phase II (Manor Town): \$352,213 NHTF**

*Description:* Previously approved for \$3,000,000 in NHTF on May 13, 2021 (ID 20506), Manor Town Phase II is the second phase of Manor Town Apartments, originally built in 2006 with 33 units serving an elderly population. Phase II will be a two-story, elevator served Development of 20 Units, also targeted to elderly households. The proposed Development will be situated on a currently undeveloped 0.78-acre site that is adjacent to the original 33-unit Development, also owned by the Housing Authority of Travis County and currently 94% occupied. Of the 20 units, there will be 18 Direct Loan Units serving households at or below the greater of the poverty line or 30% of Area Median Family Income (AMI), and two HOME Match-Eligible Units serving households at or below 50% AMI.

The Application is recommended for approval of \$352,213 in additional NHTF financing due to building cost increases of \$412,000 and total development cost increases of \$728,000.

*Financing and Regulatory Terms:* The total Manor Place Apartments Phase II NHTF loan is proposed in the amount of \$3,352,213 as a deferred forgivable loan at 0% interest rate with a 40-year term. The \$3,352,213 NHTF loan will include both the previously-awarded \$3,000,000 from May 2021, and the current recommendation of an additional \$352,213.

The development will meet requirements of the Housing for Older Persons Act (HOPA) concerning occupancy by elderly residents; at 24 CFR §100.305 and among other characteristics that 80% of occupied units be occupied by at least one person 55 years or age or older per unit.

The NHTF loan will be superior to all other financing, and will maintain first lien position during the construction and permanent periods.

*Organizational Structure:* The proposed borrower is the Housing Authority of Travis County, and includes principals as indicated in the organization chart below.

**Owner:**  
Housing Authority of Travis County,  
100%

**Executive Director:**  
Patrick Howard, 0%

**Director of Real Estate  
Development:**  
Robert Onion, 0%

**Chair:**  
Eddie Karam, 0%

**Vice Chair:**  
Robbye Meyer, 0%

**Board Member:**  
John Hernandez, 0%

**Board Member:**  
Ann Denton, 0%

**Board Member:**  
Wilmer Roberts, 0%



**Addendum to Underwriting Report**

TDHCA Application #: 21522\_20506 Program(s): MDL/NHTF

**Manor Town Phase II**

Address/Location: 200 West Carrie Manor Street

City: Manor County: Travis Zip: 78653

APPLICATION HISTORY	
Report Date	PURPOSE
04/06/22	MDL Application
05/05/21	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Deferred Forgivable)	\$3,000,000	0.00%		40	\$3,352,213	0.00%		40	1

\* Multifamily Direct Loan Terms:  
 \* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).  
 \* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- Receipt and acceptance before Direct Loan Closing
    - a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.
    - b: Substantially final construction contract with Schedule of Values.
    - c: Updated term sheets with substantially final terms from all lenders
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	18
50% of AMFI	Low HOME	2

**ANALYSIS**

The Development was awarded a Deferred Forgivable Multifamily Direct Loan (MDL) from the 2021-1 NOFA. The applicant has applied for Multifamily Direct Loan funding under the 2021-3 NOFA. Applicant has pledged owner equity over the 10% MDL requirement. In addition, the applicant received a deferred forgivable loan from the Texas State Affordable Housing Corporation. The Direct Loan amount is less than 80% of the Total Housing Development Costs.

**Operating Pro Forma**

Rents have been updated to the 2021 Program Rents.

**Development Cost**

Building Cost increased \$412k.

Total Development Cost increased \$ 728k.

Contingency Costs were overstated by \$25k.

**Sources of Funds**

Applicant did not receive a grant from Dallas however, the Housing Authority of Travis County increased their equity funding to compensate for the lost grant funds. Due to the federal subsidy layering limits, the maximum MDL amount the development is eligible for is \$3,352,213. Applicant increased their owner cash contribution to balance the sources and uses.

The original award of \$3M from the 2020-1 NOFA has not been contracted and will be combined with the current request into one Multifamily Direct Loan.

Due to federal subsidy layering limits, Underwriter recommends approval of one deferred forgivable MFDL in the amount of \$3,352,213 at 0% interest with a 40-year term in first lien position.

Underwriter:	<i>Bobby Castillo</i>
Manager of Real Estate Analysis:	<i>Diamond Thompson</i>
Director of Real Estate Analysis:	<i>Jeanna Adams</i>

**UNIT MIX/RENT SCHEDULE**  
*Manor Town Phase II, Manor, MDL #20506*

LOCATION DATA	
CITY:	Manor
COUNTY:	Travis
Area Median Income	\$98,900
PROGRAM REGION:	7
PROGRAM RENT YEAR:	2021

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	12	60.0%	0	12
2	8	40.0%	0	8
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>20</b>	<b>100.0%</b>	<b>-</b>	<b>20</b>

#DIV/0!	Average Income	
	Income	% Total
20%	-	0.0%
30%	-	0.0%
40%	-	0.0%
50%	-	0.0%
60%	-	0.0%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>-</b>	<b>0.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	
Applicable Fraction	
APP % Acquisition	
APP % Construction	
Average Unit Size	769 sf

UNIT MIX / MONTHLY RENT SCHEDULE																					
TDHCA Direct Loan Program		NHTF Units		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
30%/30%	\$556	NHTF 30%	\$556	11	1	1	687	\$556	\$41	\$515	\$0	\$0.75	\$515	\$5,665	\$5,665	\$515	\$0.75	\$0	\$1,210	\$1.76	\$1,210
LH/50%	\$928			1	1	1	687	\$928	\$41	\$887	\$0	\$1.29	\$887	\$887	\$887	\$887	\$1.29	\$0	\$1,435	\$2.09	\$1,435
30%/30%	\$667	NHTF 30%	\$667	7	2	1	892	\$667	\$54	\$613	\$0	\$0.69	\$613	\$4,291	\$4,291	\$613	\$0.69	\$0	\$1,210	\$1.36	\$1,210
LH/50%	\$1,113			1	2	1	892	\$1,113	\$54	\$1,059	\$0	\$1.19	\$1,059	\$1,059	\$1,059	\$1,059	\$1.19	\$0	\$1,435	\$1.61	\$1,435
<b>TOTALS/AVERAGES:</b>				<b>20</b>			<b>15,380</b>				<b>\$0</b>	<b>\$0.77</b>	<b>\$595</b>	<b>\$11,902</b>	<b>\$11,902</b>	<b>\$595</b>	<b>\$0.77</b>	<b>\$0</b>	<b>\$1,233</b>	<b>\$1.60</b>	<b>\$1,233</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$142,824</b>	<b>\$142,824</b>
-------------------------------------	------------------	------------------

**STABILIZED PRO FORMA**

*Manor Town Phase II, Manor, MDL #20506*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	Local Comps		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.77	\$595	\$142,824	\$141,108	\$141,108	\$142,824	\$595	\$0.77		0.0%	\$0
Damages, Laundry, Lease Term Fees					\$4.75	\$1,140	1,140							
Late Charges, App Fees, NSF Fees					\$1.25	\$300	300							
Total Secondary Income					\$6.00			1,440	\$1,440	\$6.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$144,264	\$142,548	\$142,548	\$144,264				0.0%	\$0
Vacancy & Collection Loss				7.5% PGI		(10,820)	(10,691)	(10,691)	(10,820)	7.5% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$133,444	\$131,857	\$131,857	\$133,444				0.0%	\$0

General & Administrative	\$10,775	\$539/Unit	\$7,961	\$398.06	5.16%	\$0.45	\$344	\$6,880	\$6,880	\$6,880	\$6,880	\$344	\$0.45	5.16%	0.0%	-
Management	\$10,818	5.4% EGI	\$8,973	\$449	3.20%	\$0.28	\$214	\$4,270	\$4,219	\$4,219	\$4,270	\$214	\$0.28	3.20%	0.0%	(0)
Payroll & Payroll Tax	\$23,825	\$1,191/Unit	\$25,603	\$1,280	24.03%	\$2.08	\$1,603	\$32,063	\$32,063	\$32,063	\$32,063	\$1,603	\$2.08	24.03%	0.0%	-
Repairs & Maintenance	\$19,458	\$973/Unit	\$13,255	\$663	10.58%	\$0.92	\$706	\$14,120	\$14,120	\$13,000	\$13,000	\$650	\$0.85	9.74%	8.6%	1,120
Electric/Gas	\$4,105	\$205/Unit	\$4,513	\$226	2.29%	\$0.20	\$153	\$3,060	\$3,060	\$4,105	\$4,105	\$205	\$0.27	3.08%	-25.5%	(1,045)
Water, Sewer, & Trash	\$15,929	\$796/Unit	\$10,958	\$548	11.62%	\$1.01	\$775	\$15,500	\$15,500	\$15,929	\$15,929	\$796	\$1.04	11.94%	-2.7%	(429)
Property Insurance	\$6,951	\$0.45 /sf	\$7,344	\$367	3.15%	\$0.27	\$210	\$4,200	\$4,200	\$4,200	\$4,200	\$210	\$0.27	3.15%	0.0%	-
Property Tax (@ 0%) 2.9659	\$14,064	\$703/Unit	\$21,388	\$1,069	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements				\$0	3.75%	\$0.33	\$250	\$5,000	\$5,000	\$5,000	\$5,000	\$250	\$0.33	3.75%	0.0%	-
Supportive Services				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA MDL Compliance (\$34/MDL unit)				\$0	0.46%	\$0.04	\$31	\$612	\$612	\$612	\$612	\$31	\$0.04	0.46%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>64.22%</b>	<b>\$5.57</b>	<b>\$4,285</b>	<b>\$ 85,705</b>	\$85,654	\$86,009	<b>\$86,060</b>	<b>\$4,303</b>	<b>\$5.60</b>	<b>64.49%</b>	<b>-0.4%</b>	<b>\$ (355)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>35.78%</b>	<b>\$3.10</b>	<b>\$2,387</b>	<b>\$47,740</b>	\$46,203	\$45,848	<b>\$47,385</b>	<b>\$2,369</b>	<b>\$3.08</b>	<b>35.51%</b>	<b>0.7%</b>	<b>\$ 355</b>

<b>CONTROLLABLE EXPENSES</b>		\$3,581/Unit		\$3,599/Unit	
------------------------------	--	--------------	--	--------------	--



**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Manor Town Phase II, Manor, MDL #20506*

DEBT / GRANT SOURCES																		
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
CASH FLOW DEBT / GRANTS	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	Cumulative		
		UW	App													DCR	LTC	
Deferred Forgivable				\$0	0.00%	0	40	\$3,352,213	\$3,000,000	\$3,000,000	\$3,352,213	40	0	0.00%			73.3%	
Adjustment to Debt Per §11.302(c)(2)	0.00%											40	0	0.00%			0.0%	
TSAHC AHP Program				\$0	0.00%	10	10	\$225,000	\$225,000	\$225,000	\$225,000	10	10	0.00%	\$0		4.9%	
<b>TOTAL DEBT / GRANT SOURCES</b>								<b>\$3,577,213</b>	<b>\$3,225,000</b>	<b>\$3,225,000</b>	<b>\$3,577,213</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$0</b>		<b>78.2%</b>	
<b>NET CASH FLOW</b>		\$47,385	\$47,740							<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$47,740	\$47,740	<b>NET CASH FLOW</b>				

EQUITY SOURCES													
APPLICANT'S PROPOSED EQUITY STRUCTURE						Prior Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Housing Authority of Travis County	Owner Cash Contribution	22.4%			\$1,022,816	\$655,680	\$622,363	\$997,959				21.8%	
Additional (Excess) Funds Req'd		0.0%					\$0	\$0			0.0%		
<b>TOTAL EQUITY SOURCES</b>					<b>\$1,022,816</b>	<b>\$655,680</b>	<b>\$622,363</b>	<b>\$997,959</b>			<b>21.8%</b>		
<b>TOTAL CAPITALIZATION</b>					<b>\$4,600,029</b>	<b>\$3,880,680</b>	<b>\$3,847,363</b>	<b>\$4,575,172</b>			<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$719,270</b>	

DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS				Prior Underwriting		TDHCA COST / BASIS ITEMS				COST VARIANCE				
	Total Costs	Applicant	TDHCA	Total Costs	Applicant	TDHCA	Total Costs	Applicant	TDHCA	Total Costs	Applicant	TDHCA	%	\$
Right of Way Acquisition	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000		\$0
Off-Sites	\$ / Unit	\$0	\$0	\$0	\$0	\$0	\$ / Unit	\$0	\$0	\$0	\$0	\$0	0.0%	\$0
Site Work	\$8,551 / Unit	\$171,020	\$160,155	\$160,155	\$171,020	\$160,155	\$8,551 / Unit	\$171,020	\$160,155	\$171,020	\$160,155	\$160,155	0.0%	\$0
Site Amenities	\$5,793 / Unit	\$115,850	\$115,850	\$115,850	\$115,850	\$115,850	\$5,793 / Unit	\$115,850	\$115,850	\$115,850	\$115,850	\$115,850	0.0%	\$0
Building Cost	\$191.50 /sf	\$147,264/Unit	\$2,945,289	\$2,533,155	\$2,415,909	\$2,945,289	\$147.264/Unit	\$191.50 /sf	\$147,264	\$2,945,289	\$2,533,155	\$2,415,909	0.0%	\$0
Contingency	7.77%	\$251,108	\$229,958	\$188,434	\$226,251	\$188,434	7.00%	\$251,108	\$229,958	\$226,251	\$188,434	\$188,434	11.0%	\$24,857
Contractor Fees	13.61%	\$474,110	\$412,062	\$412,062	\$474,110	\$412,062	13.71%	\$474,110	\$412,062	\$474,110	\$412,062	\$412,062	0.0%	\$0
Soft Costs	\$25,108 / Unit	\$502,152	\$289,000	\$289,000	\$502,152	\$289,000	\$25,108 / Unit	\$502,152	\$289,000	\$502,152	\$289,000	\$289,000	0.0%	\$0
Financing	\$4,375 / Unit	\$87,500	\$87,500	\$87,500	\$87,500	\$87,500	\$4,375 / Unit	\$87,500	\$87,500	\$87,500	\$87,500	\$87,500	0.0%	\$0
Developer Fee	0.00%	\$0	\$0	\$0	\$0	\$0	0.00%	\$0	\$0	\$0	\$0	\$0	0.0%	\$0
Reserves	5 Months	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	5 Months	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	0.0%	\$0
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$230,001 / Unit</b>	<b>\$4,600,029</b>	<b>\$3,880,680</b>	<b>\$3,721,910</b>	<b>\$4,575,172</b>	<b>\$228,759 / Unit</b>	<b>\$4,575,172</b>	<b>\$3,880,680</b>	<b>\$3,721,910</b>	<b>\$4,575,172</b>	<b>\$228,759/unit</b>	<b>0.5%</b>	<b>\$24,857</b>
Acquisition Cost		\$0	\$0	\$0	\$0	\$0		\$0	\$0	\$0	\$0	\$0		
Contingency			(\$24,857)	(\$33,317)										
Contractor's Fee		\$0	\$0	\$0	\$0	\$0		\$0	\$0	\$0	\$0	\$0		
Financing Cost		\$0	\$0	\$0	\$0	\$0		\$0	\$0	\$0	\$0	\$0		
Developer Fee		\$0	\$0	\$0	\$0	\$0		\$0	\$0	\$0	\$0	\$0		
Reserves		\$0	\$0	\$0	\$0	\$0		\$0	\$0	\$0	\$0	\$0		
<b>ADJUSTED BASIS / COST</b>			<b>\$228,759/unit</b>	<b>\$4,575,172</b>	<b>\$3,847,363</b>	<b>\$3,721,910</b>	<b>\$4,575,172</b>	<b>\$228,759/unit</b>					<b>0.0%</b>	<b>\$0</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>				<b>\$4,575,172</b>										

## Long-Term Pro Forma

### Manor Town Phase II, Manor, MDL #20506

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	\$133,444	\$136,113	\$138,835	\$141,612	\$144,444	\$159,478	\$176,077	\$194,403	\$214,637	\$236,976
TOTAL EXPENSES	3.00%	\$85,705	\$88,233	\$90,836	\$93,517	\$96,277	\$111,357	\$128,811	\$149,016	\$172,408	\$199,489
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$47,740</b>	<b>\$47,880</b>	<b>\$47,999</b>	<b>\$48,095</b>	<b>\$48,167</b>	<b>\$48,122</b>	<b>\$47,266</b>	<b>\$45,387</b>	<b>\$42,229</b>	<b>\$37,488</b>
EXPENSE/INCOME RATIO		64.2%	64.8%	65.4%	66.0%	66.7%	69.8%	73.2%	76.7%	80.3%	84.2%
<b>ANNUAL CASH FLOW</b>		<b>\$47,740</b>	<b>\$47,880</b>	<b>\$47,999</b>	<b>\$48,095</b>	<b>\$48,167</b>	<b>\$48,122</b>	<b>\$47,266</b>	<b>\$45,387</b>	<b>\$42,229</b>	<b>\$37,488</b>
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$47,740</b>	<b>\$95,620</b>	<b>\$143,619</b>	<b>\$191,714</b>	<b>\$239,881</b>	<b>\$480,866</b>	<b>\$719,270</b>	<b>\$950,418</b>	<b>\$1,168,446</b>	<b>\$1,366,069</b>

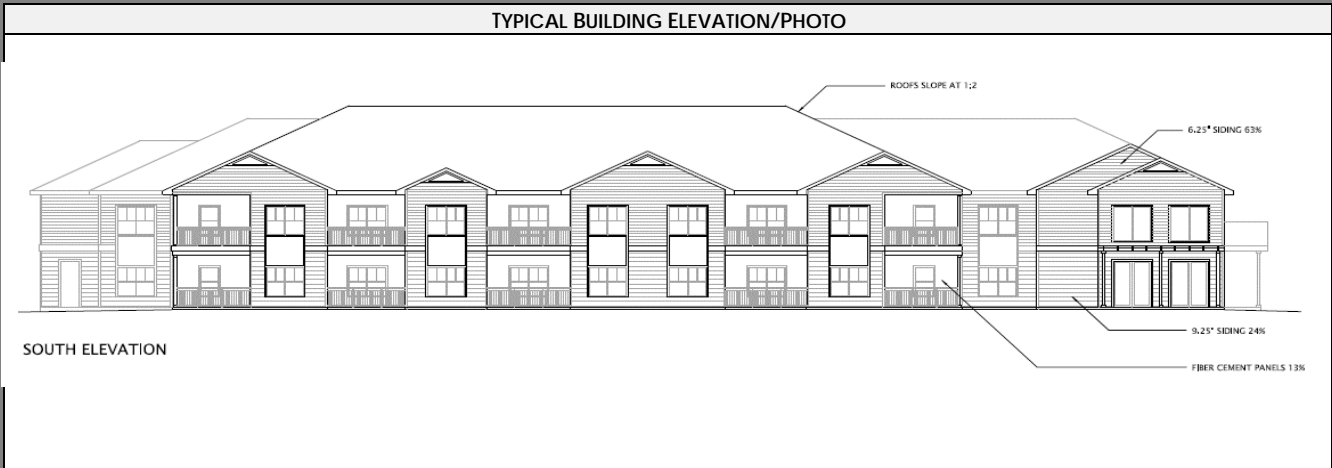
# 20506 Manor Town Phase II - Application Summary

REAL ESTATE ANALYSIS DIVISION  
May 5, 2021

PROPERTY IDENTIFICATION	
Application #	20506
Development	Manor Town Phase II
City / County	Manor / Travis
Region/Area	7 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

RECOMMENDATION						
TDHCA Program	Request	Recommended				
Multifamily Direct Loan (Soft Repayable)	\$3,000,000	\$3,000,000	0%	40 years	Lien 1	

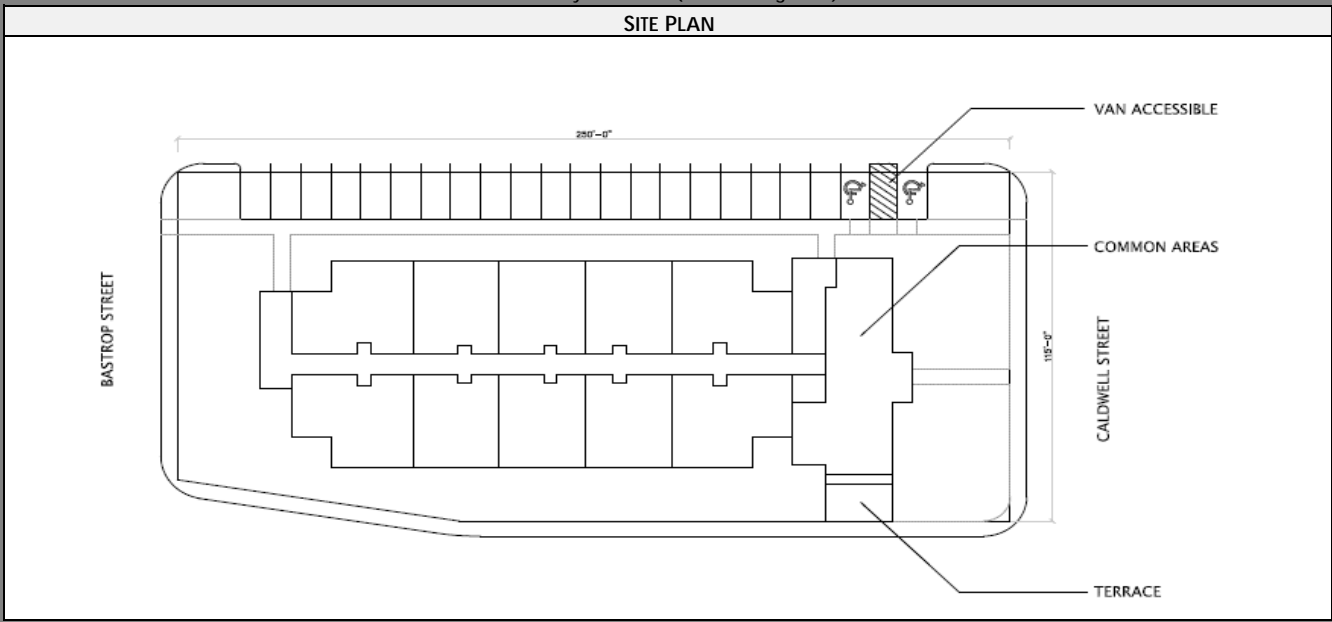
KEY PRINCIPALS / SPONSOR		
<b>Housing Authority of Travis County</b> Robert Onion Patrick Howard <b>True Casa Consulting, Inc</b> Jennifer Hicks		
Related Parties	Contractor - TBD	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	12	60%	40%	-	0%
2	8	40%	50%	-	0%
3	-	0%	60%	-	0%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>20</b>	<b>100%</b>	<b>TOTAL</b>	<b>0</b>	<b>0%</b>

**PRO FORMA FEASIBILITY INDICATORS**

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage		Expense Ratio	65.0%
Breakeven Occ.	60.1%	Breakeven Rent	\$380
Average Rent	\$588	B/E Rent Margin	\$208
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,283/unit	Controllable	\$3,581/unit



**MARKET FEASIBILITY INDICATORS**

Gross Capture Rate (0% Maximum)		0.5%
Highest Unit Capture Rate	2%	1 BR/30%   11
Dominant Unit Cap. Rate	2%	1 BR/30%   11
Premiums (↑60% Rents)	N/A	N/A
Rent Assisted Units	N/A	

**DEVELOPMENT COST SUMMARY**

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	769 SF	Density	25.8/acre
Acquisition		\$01K/unit	\$18K
Building Cost	\$164.70/SF	\$127K/unit	\$2,533K
Hard Cost		\$150K/unit	\$3,006K
Total Cost		\$192K/unit	\$3,847K
Developer Fee	\$K	(0% Deferred)	Paid Year: 1
Contractor Fee	\$412K	30% Boost	No

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
0	0	x	\$0	0.00	MF Direct Loan- Deferred Forgivable	40/40	0.00%	\$3,000,000	0.00	Housing Authority of Travis County	\$622,363
0	0	x	\$0	0.00	TSAHC AHP Program	10/10	0.00%	\$225,000	0.00	Deferred Developer Fees	(\$0)
<b>TOTAL DEBT (Must Pay)</b>			<b>\$0</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$3,225,000</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$622,363</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$3,225,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$3,847,363</b>

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**AERIAL PHOTOGRAPH(S)**

<b>RISK PROFILE</b>
<b>STRENGTHS/MITIGATING FACTORS</b>
<ul style="list-style-type: none"> <li>▫ Experienced Developer</li> <li>▫ Low gross capture rate</li> </ul>

<b>WEAKNESSES/RISKS</b>
<ul style="list-style-type: none"> <li>▫ High Expense to Income Ratio</li> <li>▫ Low 15-year cash flow</li> <li>▫ Feasibility reliant on reduced management fee</li> </ul>





**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 20506 Program(s): MDL

**Manor Town Phase II**

Address/Location: 200 West Carrie Manor Street

City: Manor County: Travis Zip: 78653

Population: Elderly Limitation Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Elevator Served Region: 7

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
Multifamily Direct Loan (Soft Repayable)	\$3,000,000	0.00%		40	<b>\$3,000,000</b>	0.00%		40	1

- \* Multifamily Direct Loan Terms:
- \* The term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).
- \* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Closing
    - a: Substantially final construction contract with Schedule of Values.
    - b: Updated term sheets with substantially final terms from all lenders
    - c: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	18
50% of AMFI	Low HOME	2

## DEVELOPMENT SUMMARY

Manor Town Apartments Phase 2 is the second phase of Manor Town Apartments built in 2006. This new construction has 20 elderly population units in a single building two-story, elevator served development. 17 units will be used for people at, or below, 30% of Area Median Family Income and 3 units will be provided for people at, or below, 50% Low HOME with no project-based rental subsidy attached to the units.

## RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Experienced Developer
▫	Low gross capture rate
▫	

WEAKNESSES/RISKS	
▫	High Expense to Income Ratio
▫	Low 15-year cash flow
▫	Feasibility reliant on reduced management fee

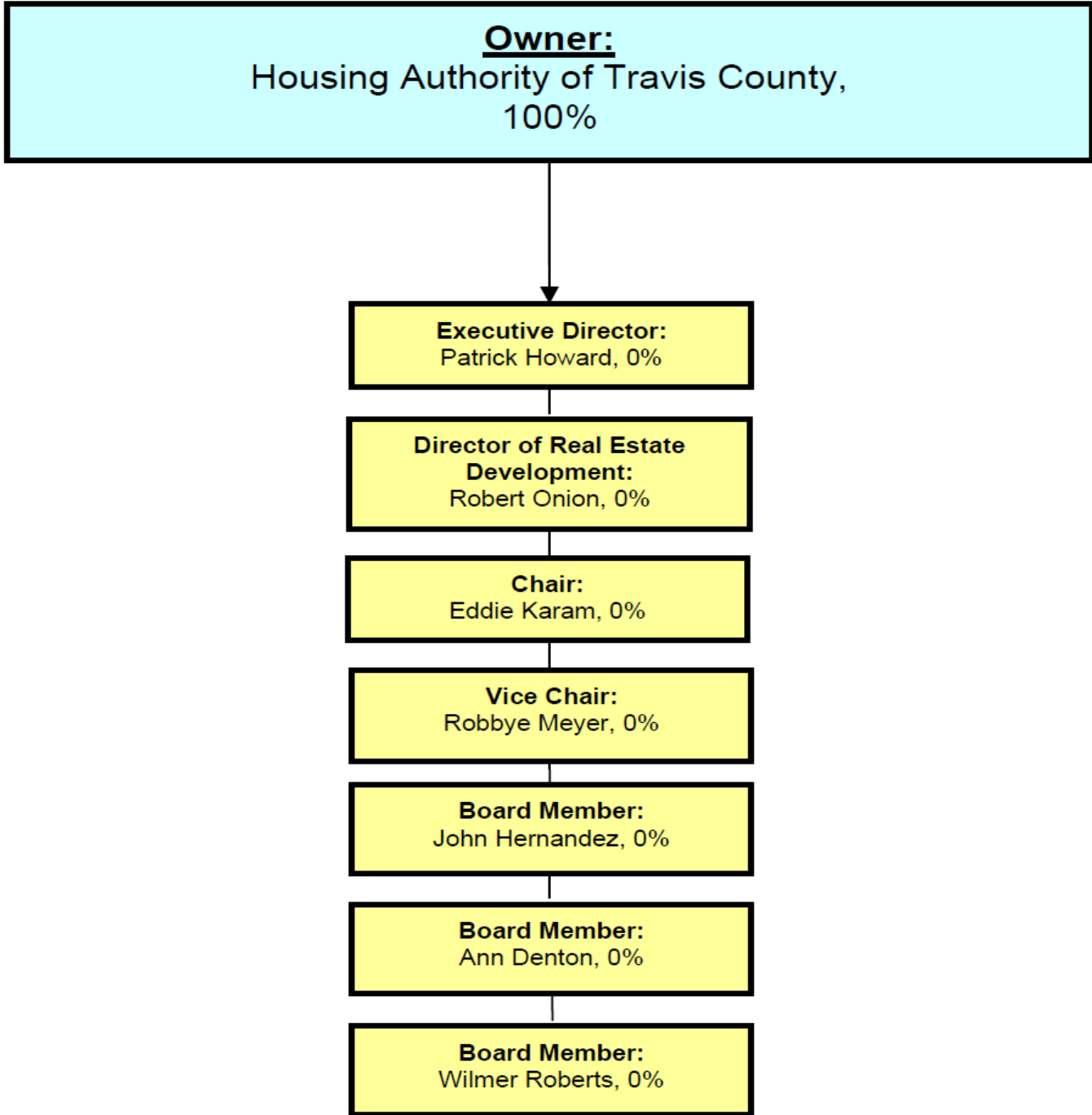
## DEVELOPMENT TEAM

### PRIMARY CONTACTS

Name: Robert Onion  
Phone: (512) 854-1888  
Relationship: Developer

Name: Patrick Howard  
Phone: (512) 854-8245  
Relationship: Developer

OWNERSHIP STRUCTURE

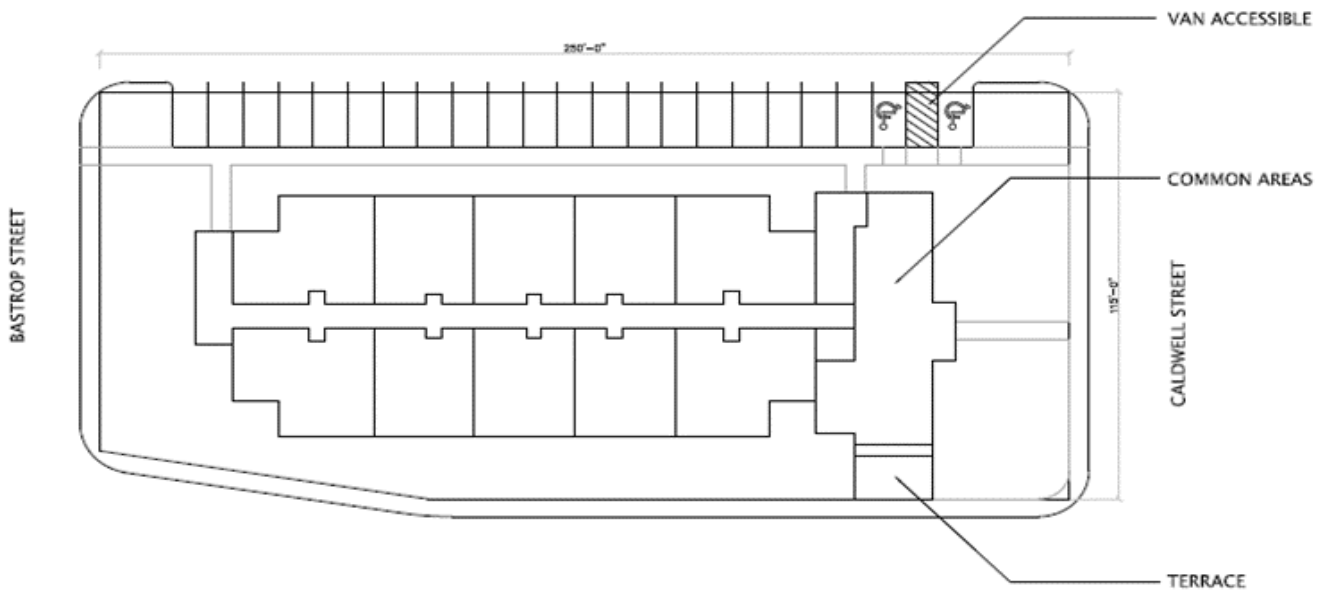


- The Housing Authority of Travis County (HATC) owns affordable family and senior developments (non-public housing) that have between 16 and 33 units. HATC currently operates and maintains 105 HUD Project Based Rental Assistance (PBRA) units and authorizes the issuance of 632 housing choice vouchers. In addition, HATC receives Continuum of Care grants from HUD to provide rental assistance to homeless individuals with disabilities and their families in connection with matching supportive services funded through other sources. <https://www.hatctx.com>



# DEVELOPMENT SUMMARY

## SITE PLAN

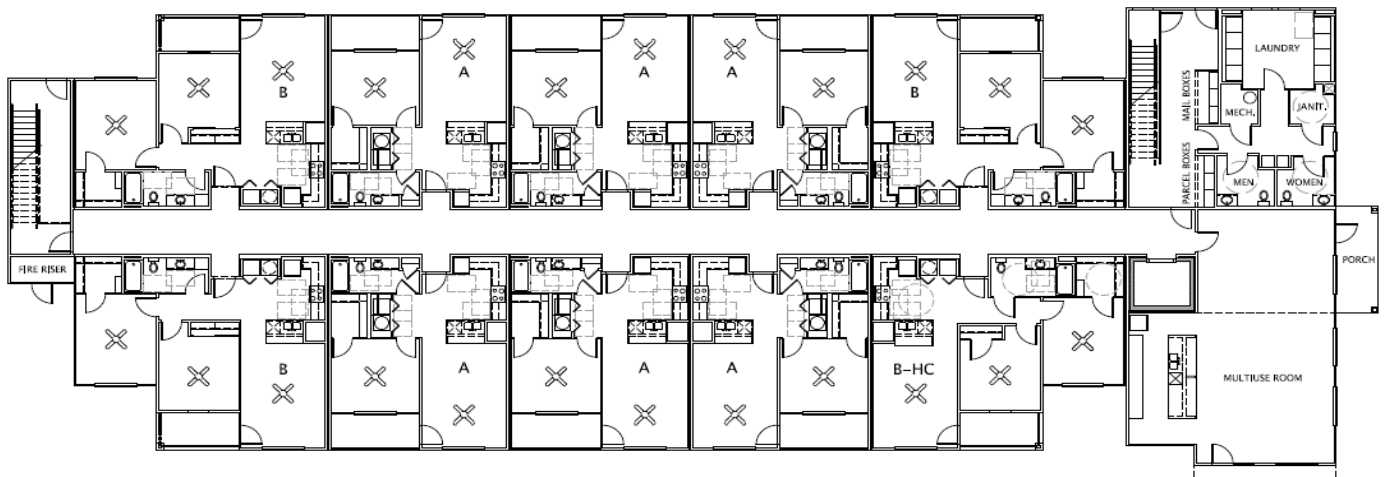




Comments:

The topography across the property is generally flat. The surface topography in the area adjoining the property slopes down to the west. The site will be accessed by a driveway that exists on the south side of the existing apartments and on the north side of the proposed multi-family development. The current width is 20-ft but will be widened to 26-ft as directed by Travis County Emergency Services District No. 12. The driveway connects to Caldwell Street on the east side and Bastrop Street on the west side. The parking requirement is 20 parking spaces and 22 parking spaces will be provided. Site amenities will include a clubhouse, laundry facilities, fitness center, and a mail center. Water and sanitary sewer service will be provided by the City of Manor. Detention for storm water is not required by the City, but above ground detention is planned, if needed.

BUILDING PLAN (Typical)



Comments:

General units have covered balconies, a walk-in closet, and in-unit washers and dryers. The building has an efficient plumbing run. Two units out of the total number of units will be designed for people with audio/visual/mobility impairments.

BUILDING ELEVATION



Comments:

The 20 unit development will be a single two-story building with an elevator. There will be twelve one bedroom/one-bath and eight two-bedroom/one-bath units. There is standard building articulation with a 1/2 roof pitch, composition of 87% siding and 13% fiber cement panels.



Surrounding Uses:

North: Metro Park and Ride and multi-family (owned by Housing Authority of Travis County)  
 West: Existing Single Family Residential  
 South: Existing Single Family Residential  
 East: Existing Single Family Residential

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: ATC Group Services LLC Date: 10/2/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

Comments:

A noise study was completed and the results were in the acceptable range for noise.

MARKET ANALYSIS

Provider: Apartment MarketData, LLC Date: 6/26/2020

Primary Market Area (PMA): 64 sq. miles 5 mile equivalent radius

ELIGIBLE HOUSEHOLDS BY INCOME								
Travis County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	\$13,200	\$13,200	\$15,840	\$15,840	---	---	---
	Max	\$20,550	\$23,450	\$26,400	\$29,300	---	---	---
50% AMGI	Min	\$21,960	\$21,960	\$26,352	\$26,352	---	---	---
	Max	\$34,200	\$39,050	\$43,950	\$48,800	---	---	---

AFFORDABLE HOUSING INVENTORY								
Competitive Supply (Proposed, Under Construction, and Unstabilized)								
File #	Development			In PMA?	Type	Target Population	Comp Units	Total Units
	None							
Other Affordable Developments in PMA since 2015								
18416	Commons at Manor Village				New	Elderly Limitation	n/a	172
18420	Walnut Creek Apartments				New	General	n/a	0
19418	Bridge at Loyola Lofts				New	General	n/a	204
19441	Decker Lofts				New	General	n/a	262
20486	Old Manor Senior				New	Elderly	n/a	207
20488	Wildhorse Flats				New	General	n/a	310
Stabilized Affordable Developments in PMA							Total Units	2,963
							Total Developments	16
							Average Occupancy	96.4%

Proposed, Under Construction, and Unstabilized Competitive Supply:

18416 Commons at Manor Village and 20488 Old Manor Senior are not considered competitive deals since they are both using 60% AMGI and do not include 30% and 50% income units.

OVERALL DEMAND ANALYSIS				
		Market Analyst		
		HTC	Assisted	
Total Households in the Primary Market Area		31,639		
Senior Households in the Primary Market Area		10,181		
Potential Demand from the Primary Market Area		3,748		
10% External Demand		375		
Potential Demand from Other Sources				
<b>GROSS DEMAND</b>		4,123		
Subject Affordable Units		20		
Unstabilized Competitive Units		0		
<b>RELEVANT SUPPLY</b>		20		
<b>Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE</b>		<b>0.5%</b>		

Population:	<b>Elderly Limitation</b>	Market Area:	<b>Urban</b>	Maximum Gross Capture Rate:	<b>10%</b>
-------------	---------------------------	--------------	--------------	-----------------------------	------------

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND										
AMGI Band	Market Analyst					AMGI Band Capture Rate				
	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate					
30% AMGI	1,793	179	18	0	0.9%					
50% AMGI	1,954	195	2	0	0.1%					

**Demand Analysis:**

Minimum eligible income is calculated at 50% rent to income for Elderly developments. Gross demand includes all household sizes and both renter and owner households. Elderly is assumed age 55 and up.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE					
Unit Type	Market Analyst				
	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
1 BR/30%	590	59	11	0	1.7%
1 BR/50%	849	85	1	0	0%
2 BR/30%	381	38	7	0	1.7%
2 BR/50%	738	74	1	0	0.1%

**Market Analyst Comments:**

The overall occupancy reported in the market is 96%. (p. 11)

The most recently built affordable family project was Jordan at Mueller (TDHCA #17113), Jordan at Mueller, built in November 2019, has 132 units that are 100% occupied. The Terrace at Walnut Creek (TDHCA #15420), began leasing 324 units in July 2017 and is currently 97% occupied. There are currently five projects (one affordable senior, four affordable family) under construction totaling 840 units. There are also five market rate projects in planning totaling 1,432 units. There is also one affordable project in lease up with 264 units. (p.12)

Subject's "affordable" rents on a Total Rent Basis are 63% below market rents currently offered in the marketplace. (p. 14)

Revisions to Market Study:	2
----------------------------	---

**OPERATING PRO FORMA**

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	\$46,203	Avg. Rent:	\$588	Expense Ratio:	64.96%
Debt Service:	\$0	B/E Rent:	\$380	Controllable Expenses:	\$3,581
Net Cash Flow:	\$46,203	UW Occupancy:	92.5%	Property Taxes/Unit:	\$0
Aggregate DCR:	NA	B/E Occupancy:	60.1%	Program Rent Year:	2020

There are 18 MFDL units that are restricted at 30% AMI level and underwriting assumes max program rents. There are 2 non-MFDL units that are LOW HOME units at 50% MFI, which are considered HOME match units and there is no project-based rental assistance.

The landlord will pay for water, sewer, trash expenses while the tenant will pay for all other utilities.

It is expected the Development will be exempt from property tax since the property will be owned and operated by the housing authority.

The project is underwritten with 1 unit vacant and the breakeven vacancy is 8 units (40% of the unit mix). The small number of units and the low property average income skew the breakeven calculations.

High expense-to-income ratio (64.96%) attributed to 32% property average income and per unit expenses are higher due to the smaller number of units,

Underwriter assumes Applicant's 3.2% management fee, per management fee letter.

There is no hard debt, no deferred fee and the 15-year cumulative cash flow is \$692K.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule: 1

Revisions to Annual Operating Expenses: 1

**DEVELOPMENT COST EVALUATION**

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	\$/ac	\$900/unit	\$18,000	Contractor Fee	\$412,062
Off-site + Site Work		\$13,800/unit	\$276,005	Soft Cost + Financing	\$376,500
Building Cost	\$164.70/sf	\$126,658/unit	\$2,533,155	Developer Fee	\$0
Contingency	8.19%	\$9,832/unit	\$196,641	Reserves	\$35,000
<b>Total Development Cost</b>	\$192,368/unit	<b>\$3,847,363</b>		<b>Rehabilitation Cost</b>	<b>N/A</b>
<b>Qualified for 30% Basis Boost?</b>		Not Qualified			

Acquisition:

The City of Manor is selling an existing 20-ft alley along the north side of the property to the developer (Housing Authority of Travis County) for \$18,500.

Site Work:

Site work costs of \$8k per unit cost includes: demolition, grading, paving, and utilities for the site. Site amenities of \$5.7k per unit include a clubhouse with a multi-activity room and business center.

Building Cost:

Applicant's Building Cost is \$2.5M (\$164.70/sf, \$126K/unit). The small number of units (20) and smaller unit size (average 769 sf) makes the cost to build higher than the average development, The increased lumber prices due to the pandemic is an added factor. The underwriter's estimate is based off of Marshall and Swift's average base building costs and is adjusted for these factors. With only 20 units, much of the total cost is for non-rentable area (corridors, community area, office/leasing space, etc). In this case the net rentable area is only 74% of gross building area, whereas in an average multifamily property of 250 units the net rentable area would average around 90-95% of gross building area.

Contingency:

Underwriter added the \$89,500 soft cost contingency to total contingency. This results in contingency of 8.19%, which is above the 7% limit.

Soft Costs:

Soft costs are at \$14K/unit. There is a re-platting fee of \$17k.

Reserves:

Capitalized reserves represent approximately 5 months of operating expenses.

Credit Allocation Supported by Costs:

Related-Party Contractor: TBD

Related-Party Cost Estimator: TBD

Revisions to Development Cost Schedule: 0

## UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
TDHCA	Deferred Forgivable	\$3,000,000	0.00%	77%
Housing Authority of Travis County	Owner Cash Contribution	\$655,680	0.00%	17%
TSAHC AHP Program	Direct Loan Match	\$225,000	0.00%	6%
		<b>\$3,880,680</b>	<b>Total Sources</b>	

**Comments:**

Applicant has requested a \$3,000,000 Multifamily Direct Loan within the Soft Repayable set-aside. The loan will be deferred forgivable for 40 years at 0% interest.

Texas State Affordable Housing Corporation is providing the MDL match with the Affordable Housing Partnership in the amount of \$225,000 through a 10-year deferred forgivable loan. The project will receive \$75,000 for three units for a 10-year term.

PERMANENT SOURCES									
Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
MF Direct Loan- Deferred Forgivable	\$3,000,000	0.00%	40	40	\$3,000,000	0.00%	40	40	78%
TSAHC AHP Program	\$225,000	0.00%	10	10	\$225,000	0.00%	10	10	6%
<b>Total</b>	<b>\$3,225,000</b>				<b>\$3,225,000</b>				

**Comments:**

TDHCA's Multifamily Direct Loan will be used as a permanent source of funding. The term of the loan will be for 40 years at zero percent interest.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Housing Authority of Travis County	\$655,680			\$622,363		16%	
<b>Total</b>	<b>\$655,680</b>			<b>\$622,363</b>			
				<b>\$3,847,363</b>	<b>Total Sources</b>		

**Comments:**

The proposed transaction is over-sourced as a result of the adjustment to Contingency. The Underwriter assumes the Applicant will reduce the Owner Contribution in order to balance sources and uses.

Revisions to Sources Schedule:	0
--------------------------------	---

## CONCLUSIONS

### Recommended Financing Structure:

	Amount	Interest Rate	Amort	Term	Lien
TDHCA Multifamily Direct Loan	\$3,000,000	0.00%		40	1

### Comments:

Underwriter recommends the \$3,000,000 deferred forgivable Multifamily Direct Loan with a term of 40 years and 0% interest rate.

Underwriter: Deborah Willson

Manager of Real Estate Analysis: Jeanna Adams

Director of Real Estate Analysis: Thomas Cavanagh



**UNIT MIX/RENT SCHEDULE**  
**Manor Town Phase II, Manor, MDL #20506**

LOCATION DATA	
CITY:	Manor
COUNTY:	Travis
Area Median Income	\$95,900
PROGRAM REGION:	7
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	12	60.0%	0	12
2	8	40.0%	0	8
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>	<b>20</b>	<b>100.0%</b>	<b>-</b>	<b>20</b>

#DIV/0!	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	-	0.0%
40%	-	0.0%
50%	-	0.0%
60%	-	0.0%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>-</b>	<b>0.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	
Applicable Fraction	
APP % Acquisition	
APP % Construction	
Average Unit Size	769 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

TDHCA Direct Loan Program		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten		Mrkt Analyst
30%/30%	\$550	11	1	1	687	\$550	\$41	\$509	\$0	\$0.74	\$509	\$5,599	\$5,599	\$509	\$0.74	\$0	\$1,210	\$1.76	\$1,210
30%/30%	\$660	7	2	1	892	\$660	\$54	\$606	\$0	\$0.68	\$606	\$4,242	\$4,242	\$606	\$0.68	\$0	\$1,435	\$1.61	\$1,435
LH/50%	\$915	1	1	1	687	\$915	\$41	\$874	\$0	\$1.27	\$874	\$874	\$874	\$874	\$1.27	\$0	\$1,210	\$1.76	\$1,210
LH/50%	\$1,098	1	2	1	892	\$1,098	\$54	\$1,044	\$0	\$1.17	\$1,044	\$1,044	\$1,044	\$1,044	\$1.17	\$0	\$1,435	\$1.61	\$1,435
<b>TOTALS/AVERAGES:</b>		<b>20</b>			<b>15,380</b>				<b>\$0</b>	<b>\$0.76</b>	<b>\$588</b>	<b>\$11,759</b>	<b>\$11,759</b>	<b>\$588</b>	<b>\$0.76</b>	<b>\$0</b>	<b>\$1,300</b>	<b>\$1.69</b>	<b>\$1,300</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$141,108</b>	<b>\$141,108</b>
-------------------------------------	------------------	------------------

**STABILIZED PRO FORMA**

*Manor Town Phase II, Manor, MDL #20506*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	Local Comps	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.76	\$588	\$141,108	\$141,108	\$588	\$0.76		0.0%	\$0
Damages, Laundry, Lease Term Fees					\$4.75	\$1,140						
Late Charges, App Fees, NSF Fees					\$1.25	\$300						
Total Secondary Income					\$6.00		\$1,440	\$6.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$142,548	\$142,548				0.0%	\$0
Vacancy & Collection Loss				7.5% PGI		(10,691)	(10,691)	7.5% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$131,857	\$131,857				0.0%	\$0

General & Administrative	\$10,775	\$539/Unit	\$7,961	\$398	5.22%	\$0.45	\$344	\$6,880	\$6,880	\$344	\$0.45	5.22%	0.0%	-
Management	\$10,818	5.4% EGI	\$8,973	\$449	3.20%	\$0.27	\$211	\$4,219	\$4,219	\$211	\$0.27	3.20%	0.0%	(0)
Payroll & Payroll Tax	\$23,825	\$1,191/Unit	\$25,603	\$1,280	24.32%	\$2.08	\$1,603	\$32,063	\$32,063	\$1,603	\$2.08	24.32%	0.0%	-
Repairs & Maintenance	\$19,458	\$973/Unit	\$13,255	\$663	10.71%	\$0.92	\$706	\$14,120	\$13,000	\$650	\$0.85	9.86%	8.6%	1,120
Electric/Gas	\$4,105	\$205/Unit	\$4,513	\$226	2.32%	\$0.20	\$153	\$3,060	\$4,105	\$205	\$0.27	3.11%	-25.5%	(1,045)
Water, Sewer, & Trash	\$15,929	\$796/Unit	\$10,958	\$548	11.76%	\$1.01	\$775	\$15,500	\$15,929	\$796	\$1.04	12.08%	-2.7%	(429)
Property Insurance	\$6,951	\$0.45 /sf	\$7,344	\$367	3.19%	\$0.27	\$210	\$4,200	\$4,200	\$210	\$0.27	3.19%	0.0%	-
Property Tax (@ 0%) 2.9659	\$14,064	\$703/Unit	\$21,388	\$1,069	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements				\$0	3.79%	\$0.33	\$250	\$5,000	\$5,000	\$250	\$0.33	3.79%	0.0%	-
Supportive Services				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA MDL Compliance (\$34/MDL unit)				\$0	0.46%	\$0.04	\$31	\$612	\$612	\$31	\$0.04	0.46%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>64.96%</b>	<b>\$5.57</b>	<b>\$4,283</b>	<b>\$ 85,654</b>	<b>\$86,009</b>	<b>\$4,300</b>	<b>\$5.59</b>	<b>65.23%</b>	<b>-0.4%</b>	<b>\$ (355)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>35.04%</b>	<b>\$3.00</b>	<b>\$2,310</b>	<b>\$46,203</b>	<b>\$45,848</b>	<b>\$2,292</b>	<b>\$2.98</b>	<b>34.77%</b>	<b>0.8%</b>	<b>\$ 355</b>

<b>CONTROLLABLE EXPENSES</b>							\$3,581/Unit				\$3,599/Unit			
------------------------------	--	--	--	--	--	--	--------------	--	--	--	--------------	--	--	--

**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
*Manor Town Phase II, Manor, MDL #20506*

DEBT / GRANT SOURCES																
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE						
CASH FLOW DEBT / GRANTS		Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	Cumulative	
UW	App													DCR	LTC	
MF Direct Loan- Deferred Forgivable					\$0	0.00%	40	40	\$3,000,000	\$3,000,000	40	40	0.00%	\$0		78.0%
TSAHC AHP Program					\$0	0.00%	10	10	\$225,000	\$225,000	10	10	0.00%	\$0		5.8%
<b>TOTAL DEBT / GRANT SOURCES</b>									<b>\$3,225,000</b>	<b>\$3,225,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$0</b>	<b>83.8%</b>	
<b>NET CASH FLOW</b>			\$45,848	\$46,203	<b>APPLICANT NET OPERATING INCOME</b>						\$46,203	\$46,203	<b>NET CASH FLOW</b>			

EQUITY SOURCES												
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES		DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Housing Authority of Travis County		Owner Cash Contribution	17.0%			\$655,680	\$622,363			16.2%		
Deferred Developer Fees		Deferred Developer Fees	0.0%			\$0						<b>Total Developer Fee: \$0</b>
Additional (Excess) Funds Req'd			0.0%				(\$0)			0.0%		
<b>TOTAL EQUITY SOURCES</b>			<b>17.0%</b>			<b>\$655,680</b>	<b>\$622,363</b>			<b>16.2%</b>		
<b>TOTAL CAPITALIZATION</b>						<b>\$3,880,680</b>	<b>\$3,847,363</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>				<b>\$692,702</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
Total Costs						Total Costs						%	\$
Land Acquisition			\$ / Unit	\$0	\$0	\$ / Unit						0.0%	\$0
Right of Way Acquisition				\$18,000	\$18,000								\$0
Off-Sites			\$ / Unit	\$0	\$0	\$ / Unit						0.0%	\$0
Site Work			\$8,008 / Unit	\$160,155	\$160,155	\$8,008 / Unit						0.0%	\$0
Site Amenities			\$5,793 / Unit	\$115,850	\$115,850	\$5,793 / Unit						0.0%	\$0
Building Cost			\$164.70 /sf	\$126,658/Unit	\$2,533,155	\$2,415,909	\$120,795/Unit	\$157.08 /sf				4.9%	\$117,246
Contingency			8.19%	\$229,958	\$188,434	7.00%						22.0%	\$41,524
Contractor Fees			13.56%	\$412,062	\$412,062	14.31%						0.0%	\$0
Soft Costs			\$14,450 / Unit	\$289,000	\$289,000	\$14,450 / Unit						0.0%	\$0
Financing			\$4,375 / Unit	\$87,500	\$87,500	\$4,375 / Unit						0.0%	\$0
Developer Fee			0.00%	0.00%	\$0	\$0	0.00%	0.00%				0.0%	\$0
Reserves			5 Months	\$35,000	\$35,000	5 Months						0.0%	\$0
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>				\$194,034 / Unit	<b>\$3,880,680</b>	<b>\$3,721,910</b>	\$186,096 / Unit					<b>4.3%</b>	<b>\$158,770</b>
Acquisition Cost				\$0									
Contingency				(\$33,317)									
Contractor's Fee				\$0									
Financing Cost													
Developer Fee				\$0									
Reserves				\$0									
<b>ADJUSTED BASIS / COST</b>				\$192,368/unit	<b>\$3,847,363</b>	<b>\$3,721,910</b>	\$186,096/unit					<b>3.4%</b>	<b>\$125,453</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$3,847,363</b>								

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Manor Town Phase II, Manor, MDL #20506*

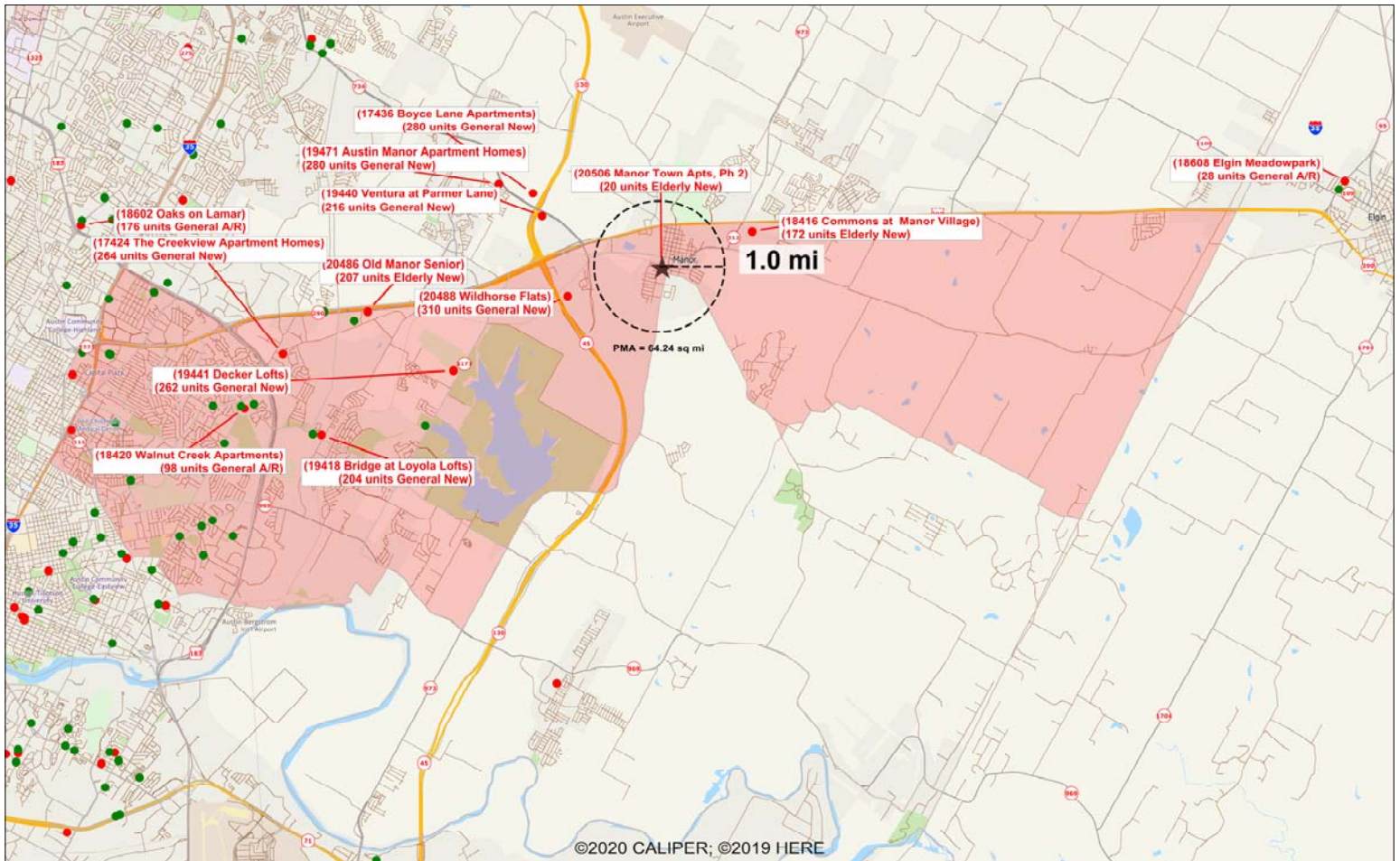
<b>BUILDING COST ESTIMATE</b>				
<b>CATEGORY</b>	<b>FACTOR</b>	<b>UNITS/SF</b>	<b>PER SF</b>	
Base Cost:	Elevator Served	15,380 SF	\$138.72	2,133,495
Adjustments				
Exterior Wall Finish	0.00%		0.00	\$0
Elderly	3.00%		4.16	64,005
9-Ft. Ceilings	3.00%		4.16	64,005
Roof Adjustment(s)			1.30	20,000
Subfloor			(0.93)	(14,227)
Floor Cover			2.56	39,373
Enclosed Corridors	\$130.27	3,018	25.56	393,151
Balconies	\$29.14	1,731	3.28	50,433
Plumbing Fixtures	\$1,080	0	0.00	0
Rough-ins	\$530	40	1.38	21,200
Built-In Appliances	\$1,830	20	2.38	36,600
Exterior Stairs	\$2,460	2	0.32	4,920
Heating/Cooling			2.34	35,989
Storage Space	\$130.27	384	3.25	50,023
Carports	\$12.25	0	0.00	0
Garages		0	0.00	0
Common/Support Area	\$95.81	2,213	13.79	212,036
Elevators	\$93,900	1	6.11	93,900
Other:			0.00	0
Fire Sprinklers	\$2.59	20,995	3.54	54,377
<b>SUBTOTAL</b>			<b>211.92</b>	<b>3,259,281</b>
Current Cost Multiplier	1.00		0.00	0
Local Multiplier	0.87		(27.55)	(423,707)
Reserved				0
<b>TOTAL BUILDING COSTS</b>			<b>184.37</b>	<b>\$2,835,574</b>
Plans, specs, survey, bldg permits	3.30%		(6.08)	(\$93,574)
Contractor's OH & Profit	11.50%		(21.20)	(326,091)
<b>NET BUILDING COSTS</b>		\$120,795/unit	\$157.08/sf	\$2,415,909

## Long-Term Pro Forma

*Manor Town Phase II, Manor, MDL #20506*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$131,857	\$134,494	\$137,184	\$139,928	\$142,726	\$157,581	\$173,982	\$192,091	\$212,084	\$234,157	\$258,529	\$285,437
TOTAL EXPENSES	3.00%	\$85,654	\$88,181	\$90,783	\$93,463	\$96,222	\$111,296	\$128,744	\$148,942	\$172,326	\$199,398	\$230,743	\$267,038
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$46,203</b>	<b>\$46,313</b>	<b>\$46,401</b>	<b>\$46,465</b>	<b>\$46,504</b>	<b>\$46,286</b>	<b>\$45,239</b>	<b>\$43,148</b>	<b>\$39,758</b>	<b>\$34,759</b>	<b>\$27,785</b>	<b>\$18,398</b>
EXPENSE/INCOME RATIO		65.0%	65.6%	66.2%	66.8%	67.4%	70.6%	74.0%	77.5%	81.3%	85.2%	89.3%	93.6%
<b>ANNUAL CASH FLOW</b>		<b>\$46,203</b>	<b>\$46,313</b>	<b>\$46,401</b>	<b>\$46,465</b>	<b>\$46,504</b>	<b>\$46,286</b>	<b>\$45,239</b>	<b>\$43,148</b>	<b>\$39,758</b>	<b>\$34,759</b>	<b>\$27,785</b>	<b>\$18,398</b>
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$46,204</b>	<b>\$92,517</b>	<b>\$138,917</b>	<b>\$185,382</b>	<b>\$231,886</b>	<b>\$464,044</b>	<b>\$692,702</b>	<b>\$913,090</b>	<b>\$1,119,238</b>	<b>\$1,303,744</b>	<b>\$1,457,491</b>	<b>\$1,569,319</b>

# 20506 Manor Town Apartments Phase II PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

7b

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



7c

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

7d

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

7e

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

7f

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



7g

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

7h

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

7i

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

7j

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.205(4) for The Warehouse Lofts at 707 (#22295)

**RECOMMENDED ACTION**

**WHEREAS**, 10 TAC §11.205(4) of the 2022 Qualified Allocation Plan (QAP) relating to Required Third Party Reports requires that certain Applications include an Appraisal;

**WHEREAS**, the Applicant contacted the Department on February 17, 2022, seeking clarification on whether an appraisal was required for this Application, and the Department informed the Applicant that an appraisal is not needed on the basis that the Application is not an identity of interest transaction and no acquisition costs are included in the proposed eligible basis;

**WHEREAS**, 10 TAC §11.205(4) requires that this Application include an appraisal, because the Application proposes the Adaptive Reuse of an existing building; and

**WHEREAS**, staff has initiated this waiver upon determining that there are no identifiable risks resulting from the Application not including an appraisal.

**NOW, therefore, it is hereby**

**RESOLVED**, that this waiver of 10 TAC §11.205(4) for The Warehouse Lofts at 707 is hereby granted.

**BACKGROUND**

The Warehouse Lofts at 707 (#22295) is an Application in the 2022 Competitive 9% Housing Tax Credit (HTC) round which proposes 84 low-income units in Houston, Harris County, with a funding request of \$1,114,918 in tax credits.

10 TAC §11.205, related to Required Third Party Reports, establishes the third party reports which must be submitted with an Application. Among these reports is an appraisal, which must be submitted for all rehabilitation or adaptive reuse Applications, and for any Application claiming any portion of the building acquisition in Eligible Basis or any Identity of Interest transactions. The Warehouse Lofts at 707 is an adaptive reuse development, and therefore must submit an appraisal under this provision of the rule.



On February 17, 2022, during the pendency of the pre-application, the Applicant contacted the Department seeking clarification on whether an appraisal would be required, as the Application does not propose an identity of interest transaction and does not include acquisition costs in the proposed eligible basis of the building. Department Staff responded that an appraisal would not be necessary based upon these characteristics of the Application.

Eligible basis is the portion of a development which is may be used the support tax credits claimed by a development owner. Items that are excluded from eligible basis are not eligible to be supported by tax credits. When building acquisition costs are included in eligible basis, an appraisal is needed to substantiate the costs being used to calculate the credit amount; however, because the Applicant has elected to exclude the acquisition costs from eligible basis, the Department is unable to identify that any risks are created concerning the development's basis by this Application not including an appraisal.

10 TAC §11.302, relating to Underwriting Rules and Guidelines, establishes that a gap method will be used to evaluates the amount of funds needed to fill the gap created by Total Housing Development Cost less total non-Department-sourced funds or Housing Tax Credits. This method is part of the process that ensures proposed developments are financially feasible, but are not receiving more in tax credit funding than is needed. Applications must have sufficient sources of other funds to support any development costs that are not supported by tax credits. The Department is unable to identify any risks regarding this calculation from this Application not including an appraisal.

The specifics of this Application are unusual, as acquisition costs are typically included in eligible basis for rehabilitation and adaptive reuse developments. 10 TAC §11.207 allows for staff to identify and initiate waivers to “remedy an error in the QAP or other Multifamily rules, provide necessary relief in response to a natural disaster, or address facets of an Application or Development that have not been contemplated.” Staff believes that these particular circumstances may not have been contemplated in the rule, and accordingly recommends that the waiver of 10 TAC §11.205(4) for The Warehouse Lofts at 707 be granted.

7k

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**APRIL 14, 2022**

Presentation, discussion, and possible action on a timely submitted appeal related to a requested Limited Review of Weber Lofts in Corpus Christi (#22249)

**RECOMMENDED ACTION**

**WHEREAS**, Weber Lofts, Application #22249, is a timely submitted 2022 9% competitive Housing Tax Credit (HTC) Application which requests \$1,252,405 in tax credits for the new construction of 58 units in Corpus Christi, Nueces County;

**WHEREAS**, the applicant has requested to reduce the funding request to \$1,243,435 in order to qualify for a scoring point under 10 TAC §11.9(e)(8), which awards a point to Applications which request no more than 100% of the available HTC funding as determined by the regional allocation formula on or before December 1, 2021;

**WHEREAS**, Tex. Gov't Code §2306.6708 prohibits Applicants from changing or supplementing an Application prior to the allocation of housing tax credits except for providing clarifying information at the request of the Department, and so the Applicant's request to change the amount was denied by the Executive Director on March 23, 2022; and

**WHEREAS**, the Applicant timely appealed this decision on March 28, 2022.

**NOW, therefore, it is hereby**

**RESOLVED**, that the appeal related to a requested Limited Review of Weber Lofts (#22249) is hereby denied.

**BACKGROUND**

Weber Lofts is a 2022 competitive 9% HTC application which proposes the new construction of 58 units in Corpus Christi, Nueces County. A Pre-Application was filed for this development with a proposed funding request of \$1,243,435. This Pre-Application was followed up by a full Application, which was submitted by the full Application delivery date of March 1, 2022. The full Application includes a requested HTC amount of \$1,252,405, which is an increase of \$8,970 from the Pre-Application.

10 TAC §11.9 of the Qualified Allocation Plan (QAP) establishes the selection criteria by which competitive applications are scored. 10 TAC §11.9(e)(8) awards one point for applications which request

no more than 100% of the amount of LIHTC available within the subregion or set-aside as determined by the regional allocation formula on or before December 1, 2021. Corpus Christi is located in Region 10 Urban, and the amount available in this subregion as of December 1, 2021, was \$1,243,435; therefore, the Applicant's final funding request of \$1,252,405 would not qualify for the point allowed under 10 TAC §11.9(e)(8).

On March 8, 2022, the Applicant contacted the Department and requested to revise the funding amount on the Application so as to qualify for this point. Staff denied this request in accordance with Tex. Gov't Code §2306.6708, which prohibits this type of change:

APPLICATION CHANGES OR SUPPLEMENTS.

- (a) Except as provided by Subsection (b), an applicant may not change or supplement an application in any manner after the filing deadline.
- (b) This section does not prohibit an applicant from:
  - (1) at the request of the department, clarifying information in the application or correcting administrative deficiencies in the application; or
  - (2) amending an application after allocation of housing tax credits in the manner provided by Section 2306.6712.

The Applicant then appealed this decision to the Executive Director on March 15, 2022. In that appeal, the Applicant requested that this issue be reviewed under the Limited Review provision of the QAP established in 10 TAC §11.201(7). This provision of the rule allows for Applicants to request a limited review of an Application if the Applicant identifies an error which may be the subject of a deficiency. Limited reviews may not relate to the scoring of an Application. If the limited review results in the identification of an issue that requires correction or clarification, staff will request such through the deficiency process established in the QAP, if deemed appropriate. Limited reviews are intended to address:

- (A) Clarification of issues that Department staff would have difficulty identifying due to the omission of information that the Department may have access to only through Applicant disclosure, such as a prior removal from a tax credit transaction or participation in a Development that is not identified in the previous participation portion of the Application; or
- (B) Technical correction of non-material information that would cause an Application deemed non-competitive to be deemed competitive and, therefore, subject to a staff review. For example, failure to mark the Nonprofit Set-Aside in an Application that otherwise included complete submission of documentation for participation in the Nonprofit Set-Aside.

As the funding amount requested is consistent throughout the final Application and is substantiated by a letter from the proposed equity investor, staff would find no reason to issue a deficiency concerning this matter. Additionally, the Applicant's request directly relates to the scoring of the Application, which is prohibited under the limited review provision of the QAP. For these reasons, the Executive Director

denied the Applicant's request on March 23, 2022. The Applicant then requested that the appeal be heard by the Department's Governing Board.

Staff has reviewed this request and finds no basis for the funding request to be reviewed under the Limited Review provision of the QAP. Accordingly, staff recommends that the appeal be denied.



A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS & COUNSELORS

9201 N. Central Expressway  
Fourth Floor  
Dallas, Texas 75231  
(214) 780-1400 (Main)  
(214) 780-1401 (Fax)  
www.shackelford.law

March 28, 2022

*Via Electronic Mail*

Mr. Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas

Re: Appeal of TDHCA No. 22249 (the "**Application**"), Weber Lofts, Corpus Christi, Texas, Urban Subregion 10; Our File No. 522311.

Dear Mr. Wilkinson:

This law firm represents Creative Urban Multifamily, LLC ("**Applicant**"), for the above referenced Application submitted for funding in the Texas Department of Housing and Community Affairs (the "**Department**") 2022 Housing Tax Credit Application Cycle.

Applicant submitted a Preapplication on January 7, 2022, and Application on March 1, 2022, both of which included a requested a self-score of 138, and one (1) point for Funding Request Amount as set forth in Section 11.9(e)(8) of the Qualified Allocation Plan ("**QAP**"). When the Application Scoring Log was published on March 7, Applicant noticed an error in its Application in that the requested allocation amount was inconsistent with the points requested in the Application. The requested amount was \$8,900.00 over the amount available in the sub-region. This error was consistent throughout the Application due to the fact that Applicant input the information once and it was auto populated throughout. Applicant then sent the draft Application to the lender and syndicator for their preparation of Letters of Intent and sources and uses. This is why the equity letter contains information which supports the error in the Application.

Applicant immediately contacted the Department on March 8, 2022, to request that the Application be revised to reflect a lower amount and included updated documentation to support the request such as an updated Letter of Intent. The Department denied this request on March 9, 2022. Applicant then requested an appeal to the Executive Director on March 15, 2022, that pursuant to Section 11.201(7) of the QAP, Applicant be given a Limited Review of a specific and limited issue in need of correction. Applicant did not request a change in score but rather a Limited Review to allow staff to request a deficiency to correct the inconsistency in the Application and allow Applicant to correct the inconsistency.

**Shackelford, Bowen, McKinley & Norton, LLP**

Dallas Nashville Austin Fort Worth Frisco Houston Baton Rouge

As stated in 10 TAC §11.201(7)(A) and (B), Applicant's Limited Review will address: (A) clarification of issues that Department staff would have difficulty identifying due to the omission of information that the Department may have access to only through Applicant disclosure, due to the fact that Applicant initially included incorrect information related to the tax credits, and (B) a technical correction of non-material information, which is a slight reduction to the amount of the tax credits so that it matches the maximum amount for the subregion, for which Applicant incorrectly included the wrong amount, additionally, this error will cause the Application to be deemed non-competitive.

Applicant should be allowed to clarify the amount of Housing Tax Credits requested in the Application, due to the fact that the equity financing letter which was submitted with the Application was submitted in error and contains incorrect information. The issue here is the actual dollar amounts which Applicant believes are eligible for Limited Review.

Respectfully, we request that this decision be appealed to the Board and that this matter be presented for consideration at the next Board meeting scheduled for April 14, 2022.

Very truly yours,



John C. Shackelford

cc: Beau Eccles, Esq.  
Cody Campbell  
Frank M. Garcia  
Jose Gonzalez  
Robbye Meyer



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

**BOARD MEMBERS**  
Leo Vasquez, *Chair*  
Paul A. Braden, *Vice Chair*  
Brandon Batch, Member  
Kenny Marchant, Member  
Ajay Thomas, Member  
Sharon Thomason, Member

March 23, 2022

*Writer's direct dial: 512-475-1676*  
*Email: [cody.campbell@tdhca.state.tx.us](mailto:cody.campbell@tdhca.state.tx.us)*

John C. Shackelford  
Shackelford Law  
9201 N. Central Expressway, Fourth Floor  
Dallas, Texas 75231

RE: APPEAL TO EXECUTIVE DIRECTOR FOR 2022 9% HOUSING TAX CREDIT APPLICATION  
#22249 WEBER LOFTS (DEVELOPMENT)

Mr. Shackelford:

The Texas Department of Housing and Community Affairs (Department) received documentation associated with the Pre-Application and Application referenced above on January 7, 2022 and March 1, 2022, respectively. The 2022 Qualified Allocation Plan (QAP) establishes the selection criteria by which competitive Applications are to be evaluated, including 10 TAC §11.9(e)(8), which allows for one scoring point for Applications which meet the following criteria:

Funding Request Amount. The Application requests no more than 100% of the amount of LIHTC available within the subregion or set-aside as determined by the regional allocation formula on or before December 1, 2021. (1 point)

Application #22249 was submitted to compete in Urban Subregion 10. The amount of Housing Tax Credits available for this subregion published by the Department on December 1, 2021 is \$1,243,435. The amount of Housing Tax Credits requested in the Application is \$1,252,405, which is greater than the amount available in the subregion. This amount is consistent throughout the application and is supported by the letter submitted from the proposed equity provider, Enterprise Housing Credit Investment. On March 8, 2022, a representative of the Applicant contacted the Department to request that the Application be revised to reflect a lower amount. The request included the following items to be substituted for those initially submitted with the Application:





- Revised Schedule of Sources of Funds and Financing Narrative
- Letter of interest to invest equity in Weber Lofts from Enterprise Housing Credit Investment dated March 8, 2022
- Revised Development Narrative
- Revised Development Cost Schedule

Department staff responded to this request on March 9, 2022, indicating that the request could not be accommodated due to Tex. Gov't Code §2306.6708, which states:

- (a) Except as provided by Subsection (b), an applicant may not change or supplement an application in any manner after the filing deadline.
- (b) This section does not prohibit an applicant from:
  - (1) at the request of the department, clarifying information in the application or correcting administrative deficiencies in the application; or
  - (2) amending an application after allocation of housing tax credits in the manner provided by Section 2306.6712.

In response, the Applicant submitted an appeal on March 15, 2022. The appeal requests a Limited Review, as described in 10 TAC §11.201(7), to reduce the amount of Housing Tax Credit funding requested in the application. According to 10 TAC §11.201(7)(A) and (B), a Limited Review is intended to address:

- (A) "Clarification of issues that Department staff would have difficulty identifying due to the omission of information that the Department may have access to only through Applicant disclosure;" or
- (B) "Technical correction of non-material information that would cause an Application deemed non-competitive to be deemed competitive and, therefore, subject to a staff review."

There is not a necessity for clarification of the amount of Housing Tax Credits requested in the Application, as an equity financing letter affirming that amount from Enterprise Housing Credit Investment was submitted with the Application as supporting documentation. The amount of Housing Tax Credits requested is not non-material information, as altering that amount could lead to other significant changes to the Application including, but not limited to, changes to its exhibits and supporting documentation. 10 TAC §11.201(7) also establishes that issues eligible for Limited Reviews may not relate to the score of an application, and while the request does not seek to obtain additional points beyond what were requested in the application, both the initial request and the appeal cite the preservation of the application's score as the reason that the change is necessary.

Accordingly, the Department denies the Applicant's request for a Limited Review as described in 10 TAC §11.201(7). Please note that no scoring notice has been issued for this application and this determination only relates to the request for a Limited Review.

If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the 2022 Qualified Allocation Plan for full instructions on the appeals process.

If you have any questions or concerns, please contact Cody Campbell, Director of Multifamily Programs, at 512-475-1676 or by email at [cody.campbell@tdhca.state.tx.us](mailto:cody.campbell@tdhca.state.tx.us).

Sincerely,

A handwritten signature in blue ink that reads "R D Wil II". The signature is written in a cursive style with a long horizontal flourish at the end.

Bobby Wilkinson  
Executive Director



A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS & COUNSELORS

**John C. Shackelford**  
9201 N. Central Expressway  
Fourth Floor  
Dallas, Texas 75231  
(214) 780-1400 (Main)  
(214) 780-1414 (Direct)  
(214) 780-1401 (Fax)  
jshack@shackelford.law

March 15, 2022

**Via Electronic Mail**

Mr. Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas

Re: 22249 Weber Lofts, Urban Subregion 10

Dear Mr. Wilkinson:

This law firm represents Creative Urban Multifamily, LLC ("Applicant"), for the above referenced Application submitted for funding in the 2022 Housing Tax Credit Application Cycle.

Applicant submitted a Preapplication accurately and timely on January 7, 2022. The Applicant requested a self-score of 138, which included one (1) point for Funding Request Amount. In completing the full Application for submission on March 1<sup>st</sup>, Applicant again requested a self-score of 138 which included the one (1) point for Funding Request Amount. When the Application Scoring Log was published on March 7<sup>th</sup>, Applicant noticed an error in its Application in that the requested allocation amount was inconsistent with the points requested in the Application. The requested amount was \$8,900 over the amount available in the sub-region.

Section 11.201(7) of the Qualified Allocation Plan concerning Limited Reviews, allows a remedy for Applicants when an error is made in an Application.

Limited Reviews. If, after the submission of the Application, an Applicant identifies an error in the Application that could likely be the subject of a Deficiency, the Applicant may request a limited review of the specific and limited issues in need of clarification or correction. The issue may not relate to the score of an Application. This limited review may only cover the specific issue and not the entire Application. If the limited review results in the identification of an issue that requires correction or clarification, staff will request such through the Deficiency process as stated in paragraph (6) of this section, if deemed appropriate. A limited review is intended to address:

- (A) Clarification of issues that Department staff would have difficulty identifying due to the omission of information that the Department may have access to only through Applicant disclosure, such as a prior removal from a tax credit transaction or participation in a Development that is not identified in the previous participation portion of the Application; or
- (B) Technical correction of non-material information that would cause an Application deemed non-competitive to be deemed competitive and, therefore, subject to a staff review.

For example, failure to mark the Nonprofit Set-Aside in an Application that otherwise included complete submission of documentation for participation in the Nonprofit Set-Aside.

In accordance with Section 11.201 (7), Applicant is requesting a Limited Review of a specific and limited issue in need of correction. Applicant is not requesting a change in score. This Limited Review would allow staff to request a deficiency to correct the inconsistency in the Application and allow the Applicant to correct the inconsistency in the Application.

There have been several issues in the past that have been resolved through this remedy. This is the very reason this section of the rules exists. One most memorable account for this use was during the 2020 Housing Tax Credit Cycle when thirty-two (32) Applicants failed to check a box to request points for Quantifiable Community Participation. The staff allowed the Applicants to change their Applications to request points they did not request in the submission of their Applications which was specifically NOT allowed under the rule for 2020. Subsequently, the staff action was presented to the Board with a staff recommendation and the Board granted the changes to be allowed.

Unlike the previous requests, this request does not affect the Applicant's score that was requested in the Application. This request merely allows Applicant to assure the information in the Application is consistent with the requested points.

Respectfully, we request you grant the appeal and allow the Limited Review and allow Applicant the opportunity to correct the error in the Application.

Very truly yours,



John C. Shackelford

JCS/klm

cc: Beau Eccles, Esq.  
Cody Campbell  
Frank M. Garcia  
Jose Gonzalez  
Robbye Meyer