

TEXAS REGISTER

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Information Available: The 11 sections of the Texas Register represent various facets of state government Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following a 30-day public comment period.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Open Meetings - notices of open meetings.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 20 (1995) is cited as follows: 20 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "20 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 20 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, section numbers, or TRD number.

Texas Administrative Code

The Texas Administrative Code (TAC) is the official compilation of all final state agency rules published in the Texas Register. Following its effective date, a rule is entered into the Texas Administrative Code. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC West Publishing Company, the official publisher of the TAC, publishes on an annual basis.

The TAC volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals).

The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

The Titles of the TAC, and their respective Title numbers are:

- 1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the Texas Administrative Code; TAC stands for the Texas Administrative Code; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the Texas Administrative Code, please look at the Table of TAC Titles Affected. The table is published cumulatively in the blue-cover quarterly indexes to the Texas Register (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the Texas Register contains a cumulative Table of TAC Titles Affected for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more Texas Register page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704.....950, 1820

The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

Update by FAX: An up-to-date Table of TAC Titles Affected is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to Texas Register subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

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Tavio Garcia '94

WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the **Texas Register**. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the **Texas Register**, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the **Texas Register**.

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 25. Prepaid Funeral Contracts

Conversion From Trust to In- surance Funded Benefits

• 7 TAC §25.25

The Banking Department of Texas has withdrawn from consideration for permanent adoption a proposed new §25.25, which appeared in the June 6, 1995, issue of the *Texas Register* (20 TexReg 4111). The effective date of this withdrawal is July 25, 1995.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509302

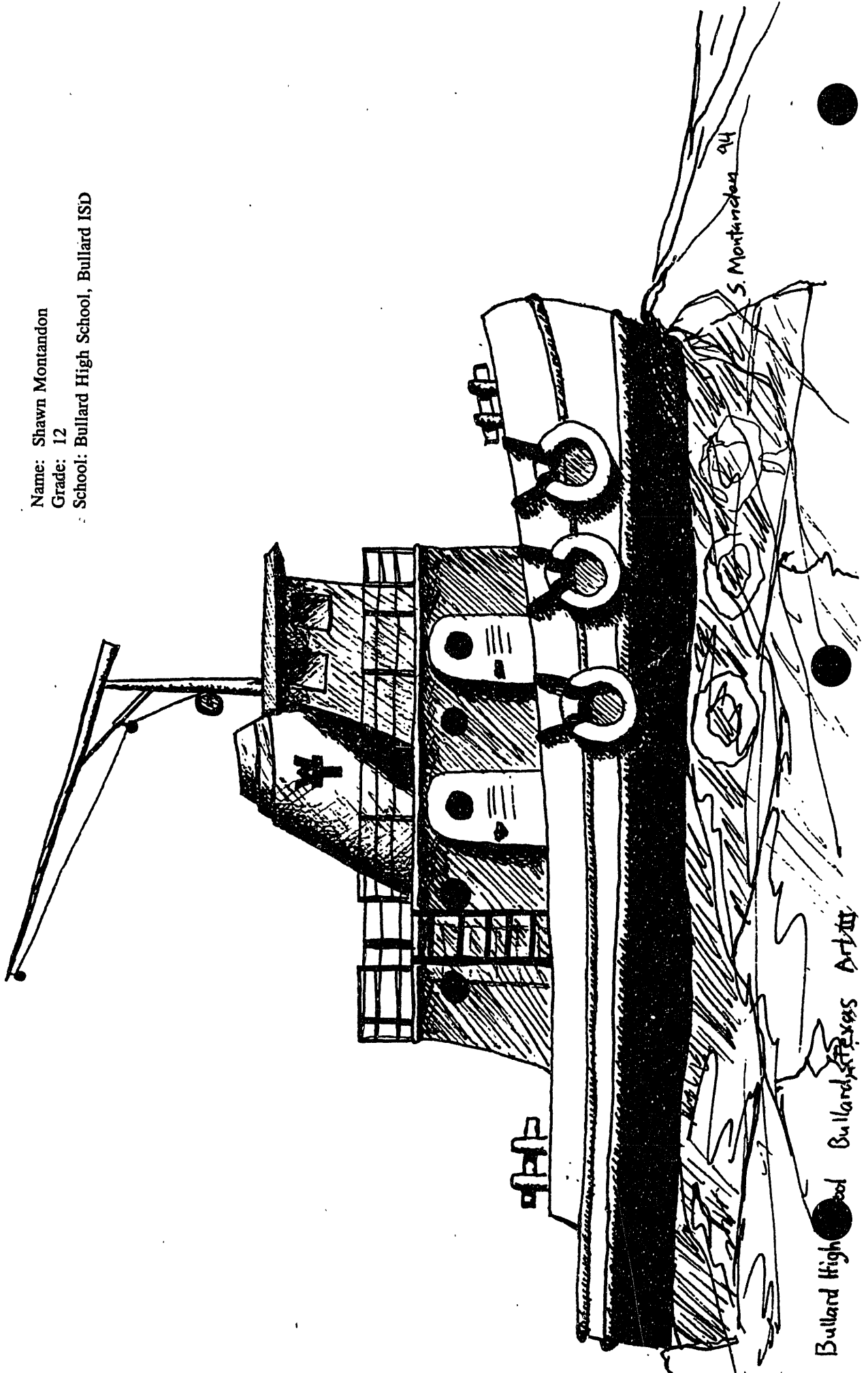
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General Counsel
Banking Department of
Texas

Effective date: July 25, 1995

For further information, please call: (512)
475-1300



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Bullard High School Bullard ISD Artist

ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 1. ADMINISTRATION

Part X. Department of Information Resources

Chapter 201. Planning and Management of Information Resources Technologies

• 1 TAC §201.7

The Department of Information Resources (DIR) adopts new §201.7, concerning interagency contracts for information resources technologies, without changes to the proposed text as published in the June 6, 1995, issue of the *Texas Register* (20 TexReg 4109).

The section is adopted pursuant to the provisions of Chapter 906, Acts, 73rd Legislature (1993), which permits the department to adopt rules defining circumstances in which certain interagency contracts are excepted from the requirement to solicit bids or proposals from private vendors.

The effect of the section is that certain contracts that cost less than a minimum amount will be excepted from the public solicitation requirement.

The Department received one comment stating that the proposed rule fails to provide adequate administrative procedures and due process protection and that it is inconsistent with fundamental administrative safeguards. The commenter stated that parties to an administrative proceeding must exhaust their administrative remedies before appealing to a court of competent jurisdiction. According to the commenter, the rule as proposed would effectively prevent vendors from appealing adverse decisions because it does not set forth a process for appeals, and the Administrative Procedures Act, Texas Government Code, Chapter 2001 (APA) requires an aggrieved party to file a motion for rehearing as a prerequisite to judicial review. In addition, the commenter stated that the proposed rule might prevent vendors from receiving impartial resolution of procurement issues because DIR is an interested party in some purchases of automated information systems. The commenter stated that the proposed rule would give DIR increased authority to award contracts to private vendors pursuant to non-

competitive procedures without independent review, thus creating the opportunity for conflicts of interest. Finally, the commenter stated that DIR would seemingly have authority to exclude vendors from contracts by failing to review their contracts for cost effectiveness, or by arbitrarily concluding that a private vendor is less cost effective than an interagency contract.

Names of interested groups or associations offering comment: GTE Telephone Operations

The department received one comment against the proposed section.

The department disagrees with the comment submitted for several reasons. First, the decisions which the commenter would seek to appeal are not "contested cases" as defined in the Administrative Procedures Act (APA), and are therefore not subject to the requirement of filing a motion for rehearing or the other procedural requirements of that Act. The department's decisions are not contested cases because they will not determine the legal rights, duties or privileges of a private vendor that seeks to sell goods or services to the state.

More to the point, a vendor seeking to sell goods or services to the state is not entitled to procedural or substantive due process protection because the vendor has no property right that would be denied or affected by a decision under the rule. The only interest mentioned by the commenter that might be affected is the prospect of a future contract for the sale of goods or services to the state. The vendor's interest in such a sale, although it is a legitimate interest, is not a personal or property right. It is therefore not entitled to the kinds of due process protection contemplated by the Texas Constitution or the APA.

Nevertheless, even if the APA were to apply, the language in §201.7(c)(4) is intended in part to assist a dissatisfied party by making it clear that all administrative remedies within the department have been exhausted. The language is not meant to imply that a dissatisfied party may not appeal to a trial court if such an appeal is authorized by law. The department may not, and does not seek to, prohibit the exercise of an interested person's legal rights, if any, to seek judicial relief.

The department disagrees that the rule would give DIR increased authority to award contracts to private vendors. The rule primarily addresses contracts between state agencies and does not directly address the award of

contracts to private vendors. On the other hand, the commenter correctly points out that the rule could conceivably be applied unfairly by the department. It is true that this rule, just as any other rule by any other administrative agency, could be applied unfairly. The hypothetical prospect of future abuse or unfairness is not an adequate justification for preventing the adoption of the rule, however. Moreover, the APA provides a remedy in such cases: the affected party may file suit in Travis County District Court to obtain a declaratory judgment regarding the validity or application of a rule if it impairs or threatens to impair the party's legal rights or privileges.

Notwithstanding the theoretical possibility of abuse of discretion, the department nonetheless believes the commenter has greatly overstated the potential for such abuse under the rule. Although the department would determine cost effectiveness under the rule, as it is required to do by the statute authorizing the rule, it would rely upon the receiving agency's certification as sufficient evidence of cost effectiveness in virtually every case. The standard of review under the rule is whether the proposed contract is clearly inconsistent with that agency's biennial operating plan. Such a standard places serious constraints on the department's latitude in the exercise of its discretion.

The section is adopted under the authority of Government Code, Chapter 2054, §2054.052, which authorizes the Department to adopt rules as necessary to carry out its responsibility under the Information Resources Management Act; and Chapter 906, Acts, 73rd Legislature (1993), which permits the department to adopt rules defining circumstances in which certain interagency contracts are excepted from the requirement to solicit bids or proposals from private vendors.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 18, 1995.

TRD-9509320
C. J. Brandt, Jr.
General Counsel
Department of Information Resources

Effective date: August 16, 1995

Proposal publication date: June 6, 1995

For further information, please call: (512) 475-4714

• 1 TAC §201.13

The Department of Information Resources adopts an amendment to §201.13, concerning information resource standards and policies, without changes to the proposed text as published in the June 6, 1995, issue of the *Texas Register* (20 TexReg 4110).

The amendment is adopted to make TCP/IP the long-term statewide standard protocol for data transport, removing its interim status.

The section defines standards for data transport networks for computers.

The Department received no comments for or against the proposed section

The amendment is adopted under Government Code, §2054.052(a), which authorizes the Department to adopt rules as necessary to carry out its responsibility under the Information Resources Management Act and Government Code, and §2054.051(b), which authorizes the Department to publish standards relating to information resources management.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 18, 1995.

TRD-9509321 C. J. Brandt, Jr.
General Counsel
Department of Information Resources

Effective date: August 16, 1995

Proposal publication date: June 6, 1995

For further information, please call (512) 475-4714

◆ ◆ ◆
TITLE 10. COMMUNITY DEVELOPMENT

Part IV. Texas Department of Housing and Community Affairs

Chapter 50. Low Income Housing Tax Credit Rules-1995B

• 10 TAC §§50.1-50.15

The Texas Department of Housing and Community Affairs (the Department) Low Income Housing Tax Credit (LIHTC) Program adopts new §§50.1-50.15, concerning low-income housing tax credits, with changes to the proposed text as published in the June 9, 1995, issue of the *Texas Register* (20 TexReg 4175).

The adoption of the new sections will provide procedures for the allocation by the Department of the remaining 55% of the state's 1995 per capita low income housing tax credits to 1995 applicants under the 1995B Qualified Allocation Plan. These tax credits are available under federal income tax laws to owners of qualified low-income rental housing projects.

On June 9, 1995, the proposed LIHTC rules were published in the *Texas Register*, thereby commencing the required 30-day comment period. Said comment period ended on July 10, 1995

During the public comment period and at the June 29, 1995, public hearing, the Department received both oral and written comments from the public. Some of the issues raised by the commenters have been addressed below by the Department in consultation with its tax credit counsel:

Prison Communities Numerous commenters offered comments supporting the inclusion of priority for prison communities in the Plan. The Department received a number of written comments specifically identifying Liberty County with respect to present and greater impending housing shortages in that community citing new prisons as the reason. Comment was also offered verbally and in writing requesting that the Department designate Liberty County as one of the Department's Targeted Counties since priority will not be given to prison communities in the proposed Plan

Department Response During the 1994 round, the Department gave priority for developments located within a community which was awarded a state prison. The list the Department utilized to designate such communities was obtained from the Texas Department of Criminal Justice. Subsequent to receipt of applications in 1994, it became apparent that some prison communities that are more rural in nature and had lower median incomes were not able to compete with those prison communities with higher median incomes or which had a "qualified census tract (QCT)" or "Difficult Development Area (DDA)" designation, which provides for 130% increase in eligible basis. Although prison communities are not receiving special consideration in the current Plan, the Department will revisit this issue during the formation of the Qualified Allocation Plan (QAP) for Program Year 1996 in order that the prison communities experiencing the most severe shortages of affordable housing and those with lower median incomes may compete more favorably.

With respect to the inclusion of Liberty County as a "Texas Targeted County", the Department recognizes targeted counties only as those counties identified by the Texas Water Development Board which have numerous and/or substantial colonias, which are subdivision with substantial substandard housing

Sponsor Characteristics: Several commenters stated their concerns with respect to Exhibit 215, wherein they specifically identified language in §50. 6(c)(4)(A) of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria, Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects) as too restrictive and contended that it unfairly prohibits developers with a successful record of past experience from claiming these points. The objections were specifically related to the requirement that an owner have "current controlling interest" in at least 150 tax credit units and in 300 units under all other affordable housing programs.

Department's Response: The Department concurs with certain points made by the commenters and to that end §50.6(c)(4)(A) of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking, Credit Amount; Tax Exempt Bond Financed Projects) has been amended to provide a range of points from two to eight points depending upon the developer's experience in the development and operation of affordable rental housing. However, the Department maintains that current ownership and operation of affordable housing provides the best the most complete record on which to gauge future performance. Several commenters have professed some experience in developing affordable housing under mortgage revenue bond programs. Such programs have, however, been marked by very minimal compliance monitoring and hence provide a poor record on which to measure past performance.

Threshold Criteria: Individuals presented comments pertaining to: Exhibit 102, proposed the addition of "or a bonded general contractor", Exhibit 103, zoning conflicts within the City of Dallas, and other general comments regarding zoning; Exhibit 106, that only interim and gap financing be mandatory at time of application submission; Exhibit 112, objections to Certified Public Accountant (CPA) certification of costs; and Exhibit 114, that the requirement for public notification be deleted because of timing issues and added expense to the owners.

Department's Response: The Department has taken into consideration comments with respect to these threshold criteria and in response to: Exhibit 102: the Department concurs and therefore, has included "bonded general contractor" as a qualified person to conduct a rehabilitation work write-up, Exhibit 103: the increase in demand for tax credits in part, contributes to the mandatory threshold criteria which states properties must have appropriate zoning for intended use at time of submission and supports the priority of those developments which demonstrate a greater degree of readiness to proceed; Exhibit 106: in order to properly conduct feasibility and long-term viability analysis as required under the Code, §42(m)(2)(B) documentation with respect to all financing is required at time of application; Exhibit 112: Although items that are includable in eligible basis are fairly clear, specific items may not be included in such basis depending on how that item is treated for tax purposes. Therefore, the required certification will help clarify which items are includable and which may not be; Exhibit 114: the Department will provide instruction for the public notice requirements to all persons on the mailing list. The instructions will be included with the initial mail-out of the "Notice of Availability of Applications" and will be received by potential applicants well in advance of the opening of the Application Acceptance Period.

Selection Criteria: Comments pertaining to Selection Criteria were: Exhibits 208 and 211 with respect to zoning density in general and for townhouses; Exhibit 210, a request was made to include the definition of a "qualified non-profit" in the Rule; Exhibit 217, a commenter suggested adding language with

respect to Historically Underutilized Businesses (HUB) designation to include the "North Texas Commission"; and Exhibit 221, pertaining to an award of additional points for developments which set aside one to two units for transitional housing.

Department's Response: With respect to comments offered regarding Exhibits 208 and 211 concerning zoning and density issues, the Department recognizes the primacy of local authority in matters regarding zoning and relies on such authority's determination of local density standards and/or requirements; Exhibit 210, the Department concurs with comments requesting a definition of a "qualified non-profit" and such has been incorporated into §50.2 of this title (relating to Definitions); Exhibit 217, language has been added to include "or other local government entity" which encompasses such entities and the North Texas Commission which may legally qualify and designate a HUB; Exhibit 221, the Department has assigned a range of priority to this exhibit which, depending on development size, provides the opportunity to set aside as little as 5.0% and still receive a score.

Developer's Fees: One commenter asked for the reinstatement of the allowance for up to 25% developer's fees for developments located within a Targeted Texas County, an award of points for development at less than the Housing and Urban Development (HUD) limitations, and an award of points for developments located in proximity to infrastructure.

Department's Response: The Department, in formulating the Plan, has taken all comments into consideration in determining the incentives for targeting development within these areas. In surveys conducted over the last two years concerning the lack of development of tax credit projects in the targeted Texas counties, the development community and most knowledgeable consultants, have identified the low median income in these areas as the chief obstacle to the development of affordable housing. They have also indicated, and staff concurs, that the availability of "soft money" from either a local, state or federal source holds the key to long-term viability for projects in these areas. The fact that all the successful 1994 applicants from targeted Texas counties had substantial rental or financing subsidies confirms this view. Even where a 25% developer fee is provided, the additional tax credits generated may not attract a high enough yield to generate the needed equity.

Development Location: One commenter cautions the Department regarding new developments with DDA/QCT areas.

Department's Response: The issue of feasibility and long-term viability of developments and other pertinent matters which specifically relate to location, will be studied as the Department continues to develop guidelines which address development location and appropriateness under this program.

Forward Commitments: A number of commenters argued that the Department should increase the amount of 1996 tax credits that could be committed to 1995B applicants.

Department's Response: The Department agrees that the 5.0% of 1996 credits currently earmarked for potential allocation to 1995 applicants should be increased to 15% and will accordingly make such recommend action to the Board.

Nonprofits: One commenter requested that the Department change its definition of local tax-exempt organization to allow nonprofits whose scope of business is not limited to the state to qualify for participation in the program.

Department's Response: The Department acknowledges that although the proposed definition precludes nonprofits whose scope of business is not limited to the state, it has, in the past allowed such entities to participate in the program. The Department concurs with the commenter that this would allow experienced nonprofits which are based outside the state to joint venture and share their expertise with local nonprofits. In addition, nonprofits that own an interest will be required to be the managing general partner of such limited partnerships. This eliminates the provision which allows the nonprofit to be the co-general partner without any managerial or decision making authority; a provision that has been much abused in the past.

Mixed-income Projects, Exhibit 210: One commenter noted that the Department should take nonlow-income units into account where a project owner offers a right of first refusal to a nonprofit entity or a tenant.

Department's Response: The Department concurs. The right of first refusal provision in the Land Use Restrictive Covenants will stipulate that nonlow-income will be priced at a fair market value.

Project Location, Exhibit 201: Several commenters reasoned that the number of points allowed for project location, 30 in all, is too high and could lead to the unnecessary concentration of low income projects.

Department's Response: In assigning points for project location, the Department took note of the fact that these targeted areas have generally been overlooked in terms of the infusion private capital for real estate or other types of investments. For this reason, a huge inventory of substandard housing has developed which needs to be rehabilitated and in some areas replaced by new construction. However, the Department concedes that there is some overlap among these designated areas, and is therefore recommending the reduction of the points assigned for Community Development Block Grant (CDBG) areas from ten to four.

The Department also recognizes that there is some duplication with respect to selection items under the Housing Needs Characteristics and is recommending the elimination of selection criterion dealing with per capita income.

Elderly Project: One commenter suggested that the points assigned for elderly housing be curtailed or that a set-aside be established for such projects.

Department's Response: The Department agrees that the 15 points assigned for elderly

housing should be reduced to ten so that family projects would not be overly disadvantaged in the selection criteria.

Substantial Readiness to Proceed, Exhibit 223: One commenter noted that applicants may not be able to provide, at the time of application, a construction contract with all parties to the construction. He also argued that the Department should allow, as evidence of the availability of a building permit, a letter from the city indicating that developer has completed all the prerequisites for a building permit.

Department's Response: The Department concurs and will accordingly require a construction contract only with the general contractor. However, on the issue of building permits, the Department believes that the only document that should satisfy is the permit itself.

Additional Low income Housing Use Period, Exhibit 3(K): After discussion with tax credit counsel, the Department has revised this provision to extend the initial 15-year "Compliance Period" by either five years for rehabilitation projects or ten years for new construction projects. This means that for a rehabilitation project, 20 years will be earliest date at which the project may elect to offer the project for sale pursuant to a qualified contract, and for new construction projects, 25 years.

Real Estate Owned (REO), Exhibit 206: The Department's definition of REO will apply only to existing residential buildings, and not to unimproved land. The reason for this is to emphasize the rehabilitation of existing structures.

Energy Conservation, Exhibit 207A: After further review, the Department is recommending that roof overhang, heat pumps and heat recovery components not be included in the list of energy saving devices. The degree of overhang needed to produce any meaningful energy saving, three feet, is thought to be unreasonable for most projects. According to opinion from the Department's Energy Assistance Division, the other two items are not pivotal in saving energy in a climate such as exist in this state.

Section 8 tenants, Exhibit 213: The Department has included language requiring that at least 5.0% of the units in a project be Section 8 tenants to qualify for this selection item.

Comprehensive Housing Affordability Strategy (CHAS) and Consolidated Plan, Exhibit 214: In recognition of HUD's new requirement that a Consolidated Plan be prepared by states and local governments, the Department will accept the substitution of a Consolidated Plan where a CHAS is required.

HUBs, Exhibit 217: After review of public comments, the Department is recommending the deletion of the requirement that HUBs be certified for at least a year. Instead, it will require that the HUB must have existed for at least a year, have conducted business as such and have been certified by a local entity or the General Services Commission.

Supportive Services, Exhibit 219: After further review, the Department is recommending that

the points for supportive services be increased from three to a maximum of five points in the hope that applicants will be challenged to come up with meaningful services. To get the maximum points, the services will be evaluated based on innovation; the duration of the service agreement; the experience of the development team; the accessibility and appropriateness of the service; and the importance of the service in enhancing the tenants standard of living.

The new sections are adopted pursuant to the authority of the Texas Government Code, Chapter 2306 and Texas Civil Statutes, Article 4413(501) as amended by the 73rd Legislature, Chapter 725 and 141, and Chapter 2001 and 2002, Texas Government Code, Texas Civil Statutes.

The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low income rental housing projects. That section provides for the allocation of available tax credit amount by state housing credit agencies. Pursuant to Executive Order AWR-91-4 (June 17, 1991), the Texas Department of Housing and Community Affairs was authorized to make housing credit allocation for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed a Qualified Allocation Plan which sets forth in §50.6 and §50.7 of this title (relating to Threshold Criteria; Evaluation Factors; Section Criteria; Final Rankings; Credit Amount; Tax Exempt Bond Financed Projects; and Compliance Monitoring).

§50.1. Scope. The rules in this chapter apply to the allocation by the Texas Department of Housing and Community Affairs of certain low-income housing tax credits authorized by applicable federal income tax laws. The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing projects. That section provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Executive Order AWR-91-4 (June 17, 1991), the Texas Department of Housing and Community Affairs was authorized to make housing credit allocations for the State of Texas. As required by the Internal Revenue Code, §42(m)(1), the Department developed a Qualified Allocation Plan which is set forth in §50.6 and §50.7 of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects; and Compliance Monitoring). Such Qualified Allocation Plan has not been signed by the Governor. Sections in this chapter establish procedures for applying for and obtaining an allocation of the low-income housing tax credit, along with insuring that the proper threshold criteria, selection criteria, priorities and preferences are followed in making such allocations. It is a goal of this Department, through these provisions, to encourage diversity through

broad geographic allocation of tax credits within the state and to promote maximum utilization of the available tax credit amount, consistent with ensuring that the tax credits are allocated to owners of projects that will serve the Department's public policy objectives and federal requirements to provide housing to persons and families of very low and low income. It is the policy of the Department to encourage the use of historically underutilized businesses in all of the Department's programs. In response to this policy, the Department has established a minimum goal of 30% participation of historically underutilized businesses in the low income housing tax credit program. Project owners are encouraged to achieve these minimum goals.

§50.2. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Ad Hoc Tax Credit Committee—That committee comprised of members of the Board of the Texas Department of Housing and Community Affairs charged with the direct oversight of the Low Income Housing Tax Credit Program, also referred to as the "Committee".

Agreement and Election Statement—A document in which the project owner elects, irrevocably, to fix the applicable credit percentage with respect to a building or buildings, as that in effect for the month in which the Department and the project owner enter into a binding agreement as to the housing credit dollar amount to be allocated to such building or buildings, which Agreement and Election Statement shall be executed by the project owner no later than five days after the end of the month of execution of the agreement as to housing credit dollar amount.

Applicable fraction—The fraction used to determine the qualified basis of the qualified low-income building, which is the smaller of the unit fraction or the floor space fraction, as defined more fully in the Code, §42(c)(1).

Applicable percentage—The percentage used to determine the amount of the low-income housing tax credit, as defined more fully in the Code, §42(b).

Application—An application in the form prescribed by the Department, including any required exhibits or other supporting materials, filed with the Department by a project owner requesting a low income housing tax credit allocation.

Application acceptance period—That period of time as published in the *Texas Register* during which applications for tax credits may be submitted to the Department.

Application round—The period beginning with the start of the application acceptance period and lasting until such time as all available credits (as stipulated by the Department) are allocated, provided that

the application round not extend beyond the last day of the calendar year.

Application Submission Procedures Manual—That certain manual produced by the Department which sets forth procedures, forms, and guidelines for the filing of applications for low income housing tax credits, which manual may be amended from time to time by the Department.

Board—The governing body of the Texas Department of Housing and Community Affairs and may also denote as used in this chapter, the tax credit ad hoc committee.

Carryover allocation—An allocation of current year tax credit authority by the Department pursuant to the provisions of the Code, §42(h)(1)(E) and Treasury Regulations, §1.42-6.

Carryover allocation document—A carryover allocation document issued by the Department to a project owner pursuant to §50.4(k) of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments).

Carryover Allocation Procedures Manual—That certain manual produced by the Department which sets forth procedures, forms, and guidelines for the filing of request for carryover allocations for low income housing tax credits, which said manual may be amended from time to time by the Department.

Code—The Internal Revenue Code of 1986, as the same may be amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the United States Department of the Treasury or the Internal Revenue Service relating to the Low Income Housing Tax Credit Program authorized by the Code, §42, and as may be amended from time to time.

Commitment notice—A commitment notice issued by the Department to a project owner pursuant to §50.4(h) of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments).

Compliance period—With respect to a building, the period of 15 taxable years, unless a longer period is elected pursuant to §50.6(c) (3)(K) of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects), beginning with the first taxable year of the credit period during which the project owner is required to maintain a building as a qualified low-income building pursuant to the Code, §42(c)(2).

Contractor—One who contracts for the construction, or rehabilitation of an en-

tire building or project, rather than a portion of the work. The contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the said subcontractors. This party may also be referred to as the "general contractor".

Controlling Interest—For a project that is a limited partnership, a "controlling interest" is serving as the managing general partner of the limited partnership with managerial and decision making authority under the limited partnership agreement for the day-to-day operations of the limited partnership. For a project owner that is a general partnership, a corporation, or a limited liability company, a "controlling interest" is ownership of at least 51% interest in the profits and losses of the general partnership, at least 51% of the outstanding voting stock of the corporation, or at least 51% of the outstanding membership interest, respectively.

Cost Certification Procedures Manual—That certain manual produced by the Department which sets forth procedures, forms, and guidelines for the filing of requests for IRS Forms 8609 for projects placed into service under the Low Income Housing Tax Credit Program, which said manual may be amended from time to time by the Department.

Credit period—With respect to a building within a project, the period of ten taxable years beginning with the taxable year the building is placed in service or, at the election of the project owner, the succeeding taxable year, as more fully defined in the Code, §42(f)(1).

Department—The Texas Department of Housing and Community Affairs, a public and official governmental Department of the State of Texas created and organized under the Texas Department of Housing and Community Affairs Act, Texas Government Code, Chapter 2306 and Texas Civil Statutes, Article 4413(501) as amended by the 73rd Legislature, Chapter 725 and 141.

Development team—All the individuals, joint venture, partnership, corporation, cooperative, trust, or other persons or entities involved in the development, construction, rehabilitation, management and/or continuing operation of the subject property, which may include any consultant(s) hired by the applicant for the purpose of the filing of an application for low income housing tax credits with the Department.

Eligible basis—With respect to a building within a project, the building's eligible basis as defined in the Code, §42(d).

Extended Low-Income Housing Commitment Agreement—An agreement between the Department, the project owner and all successors in interest to the project owner concerning the extended low-income housing use of buildings within the project throughout the extended use period as provided in the Code, §42(h)(6). The extended use period shall commence on the first day

of the compliance period and end on the date which is 30 years after said commencement date plus any additional low income housing use period elected by the project owner pursuant to §50.6(c)(3)(K) of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects). A sample copy of this is provided in the Reference Manual.

Governmental entity—Includes federal or state agencies, political subdivisions, special districts and related governmental entities.

Handicapped person—A person having a physical or mental impairment that is expected to be of long, continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that the ability to live independently could be improved by a stable residential situation, as more fully defined in Code of Federal Regulation 24, §841.1, and as may be amended from time to time

Historically underutilized businesses—Pursuant to Texas Civil Statutes, Article 601b, §§1.02, 1.03, and 1.04, entitled State Purchasing and General Services Act, a business in the form of a corporation, partnership or joint venture which is at least 51% owned, or a sole proprietorship which is 100% is owned by a person or persons who have been historically underutilized due to their identification as a member of a certain group. These individuals must have a proportionate interest and demonstrate regular, continuous, and substantial participation in the control, operation, and management activities of the entity. The following are the groups which will be considered pursuant to this definition:

(A) Black Americans—persons having origins in any of the Black racial groups of Africa;

(B) Hispanic Americans—persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race,

(C) Asian-Pacific Americans—persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, Philippines, Samoa, Guam, U.S. Trust Territories of the Pacific and the Northern Marianas;

(D) Native Americans—persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; or

(E) Women—includes all women of any ethnicity.

Homeless person—An individual or family that lacks a fixed, regular, and adequate nighttime residence as more fully defined in 24 Code of Federal Regulations, §841.1, and as may be amended from time to time.

Housing credit agency—An agency charged with the responsibility of allocating low income housing tax credits pursuant to the Code, §42.

Housing credit allocation—An allocation by the Department to a project owner of low-income housing tax credit in accordance with §50.8 of this title (relating to Housing Credit Allocations).

Housing credit allocation amount—With respect to a project or a building within a project, that amount the Department determines to be necessary for the financial feasibility of the project and its viability as a qualified low income housing project throughout the compliance period and allocated to the project.

HUD—The United States Department of Housing and Urban Development, or its successor.

Identity of interest—An identity of interests exists if:

(A) any general or limited partner, shareholder, director, officer, employee or authorized representative of the project owner is also a general or limited partner, shareholder, director, officer, employee or authorized representative of the contractor or vice versa; and/or

(B) the project owner (or any general or limited partner, shareholder, director, officer, employee or authorized representative of the project owner) can directly or through one or more intermediaries control or influence the decisions or policies of the contractor, including apparent control or influence over the decisions or policies of the contractor, or vice versa. Apparent control or influence means any relationship that exists between the project owner and contractor (or any general or limited partner, shareholder, director, officer, employee or authorized representative of the project owner and contractor) by blood or marriage.

Intermediary Costs—Costs associated with the sale or use of tax credits to raise equity capital. Such costs include syndication and partnership organization costs and fees, filing fees, broker commissions, related attorney and accounting fees, etc.

IRS—The Internal Revenue Service, or its successor.

Local tax-exempt organization—A project owner which is described in the Code, §501(c)(3) or (4), as these cited provisions may be amended from time to time, and which is registered to conduct business in the State of Texas or the governmental unit wherein the project will be situated.

General projects—Any project which would not be considered Rural as such term is defined by the Department.

Person—Includes an individual, corporation, partnership, joint ventures or forms of business entities.

Project—A low-income rental housing project the owner of which represents it to be a qualified low-income housing project within the meaning of the Code, §42(g). With regards to this definition, the project is that property which is the basis for the application for low income housing tax credits. May also be referred to as the subject property.

Project owner—Any individual, joint venture, partnership, corporation, cooperative, trust, or other person or entity that owns a project or expects to acquire a project pursuant to a purchase contract satisfactory to the Department.

Qualified Allocation Plan—An allocation plan which sets forth the threshold criteria, selection criteria, priorities, and preferences as provided in the Code, §42(m)(1) and as further provided in §50.6 and §50.7 of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects; and Compliance Monitoring).

Qualified basis—With respect to a building within a project, the building's eligible basis multiplied by the applicable fraction, as more fully defined in the Code, §42(c)(1).

Qualified market analyst—An individual designated as an MAI, SRPA, Certified General Real Estate Appraiser (Texas) or equivalent training who is independent of the development team and has at least five years of experience in real estate evaluation. The market analyst must not be related to the project consultant, the third party CPA employed for certifying the 10% test or the final project cost certification.

Qualified nonprofit organization—An organization that is described in the Code, §501(c)(3) or (4), as these cited provisions may be amended from time to time, that is exempt from federal income taxation under the Code, §501(a), that is not affiliated with or controlled by a for profit organization, and includes as one of its exempt purposes the fostering of low-income housing, as more fully defined in the Code, §42(h)(5)(C), and Temporary Treasury Regulation, §1.42-1T(c)(5)(ii).

Qualified nonprofit project—A project which a qualified nonprofit organization is to own an interest (directly or through a partnership) and materially participate (within the meaning of the Code, §469(h), as may be amended from time to time) in its development and operation throughout the compliance period.

RECDS—Rural Economic and Community Development Services (RECDS).

Real Estate Owned (REO) projects—Any existing residential development

that is owned or that is being sold by an insured depository institution in default, or by receiver or conservator of such an institution, or is a property held by Fannie Mae, Freddie Mac, federally chartered banks, or by a federally approved mortgage company or savings and loan association or any other federal agency.

Reference Manual—That certain manual, and any amendments thereto, produced by the Department which sets forth reference material pertaining to the Low Income Housing Tax Credit Program.

Rehabilitation expenditure—Amounts incurred in connection with the rehabilitation of which the project owner represents to be "rehabilitation expenditures" within the meaning of the Code, §42(e)(2).

Reservation notice—A reservation notice issued by the Department to a project owner pursuant to §50.4(f) of this title (relating Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments).

Residential development—Any project that is comprised of at least one "unit" as such term is defined in this title.

Rules—The Department's low income housing tax credit rules, §§50.1-50.15 of this title (relating to Low Income Housing Tax Credit Rules).

Rural area—A rural area is:

(A) open country which is not part of or associated with an urban area;

(B) any town, village, city or place, including the immediately adjacent densely settled area which is not part of or associated with an urban area and which:

(i) has a population not in excess of 10,000 if it is rural in character; or

(ii) has a population in excess of 10,000 but not more than 20,000, and

(I) is not contained within a MSA; and

(II) has a serious lack of mortgage credit for low and moderate income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development; or

(C) an area classified as a rural areas prior to October 1, 1990, with a population exceeding 10,000, but not in excess of 25,000, which is rural in character, and has a serious lack of mortgage credit for lower and moderate income families. This is effective through receipt of the decennial census data in the year 2000.

Rural project—A project located outside the boundaries of any Metropolitan Statistical Area (MSA) and any Primary Metropolitan Statistical Area (PMSA) or located within the boundaries of an MSA or a PMSA which is designated by the RECDS as an eligible area for purposes of RECDS housing assistance programs. Areas eligible for RECD assistance are listed in the Reference Manual.

Selection criteria—Criteria used to determine housing priorities of the Department which are appropriate to conditions in the state.

Small development—A project consisting of not more than ten single-family detached units or 35 multifamily units, which is not a part of, or contiguous to, a larger project, and which has or will apply to the Department for a tax credit allocation. The definition excludes those projects which would otherwise qualify as rural projects.

Special housing project—Any project developed specifically for special housing need groups, including mental health/mental retardation projects, group homes, housing for the homeless, transitional housing, elderly projects, congregate care facilities, persons with HIV/AIDS, housing in the colonias or as defined in the State Low Income Housing Plan or in the Consolidated Plan.

State housing credit ceiling—The limitation imposed by the Code, §42(h), on the aggregate amount of housing credit allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with the Code, §42(h)(3).

Sustaining occupancy—The figure at which occupancy income is equal to all operating expenses and mandatory debt service requirements for a project.

Threshold criteria—Criteria used to determine the project's qualifications which are the minimum level of acceptability for consideration under the Low Income Housing Tax Credit Program.

Total housing development cost—The total of all costs incurred by the project owner in acquiring, constructing, rehabilitating and financing a project, as determined by the Department based on the information contained in the project owner's application. Such costs include intermediary costs, reserves and any expenses attributable to commercial areas. Projects which include commercial space must allocate the relative portion of all applicable expenses to the commercial space and exclude the same from total development costs. In determining the Equity Gap calculation, the Department will not deduct from the project's sources of funds the amount of financing associated with the commercial use, unless such financing specifically identifies in its terms that it is being provided for the commercial use.

Townhouse—A Single-family dwelling unit constructed in a row of attached units sharing a common wall and with open space on at least two sides.

Unit—Any residential rental unit in a project consisting of an accommodation containing separate and complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation. The term "unit" includes a single room occupancy housing unit used on a non-transient basis.

§50.3. State Housing Credit Ceiling.

(a) The Department shall determine the state housing credit ceiling for each calendar year as provided in the Code, §42(h)(3)(C).

(b) The Department shall publish each such determination in the *Texas Register* within 30 days after notification by the Internal Revenue Service.

(c) The aggregate amount of housing credit allocations made by the Department during any calendar year shall not exceed the state housing credit ceiling for such year as provided in the Code.

§50.4. Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments.

(a) Any project owner requesting a housing credit allocation for a project must submit an application to the Department which application shall be originally executed by the project owner. This application shall contain full and complete information as to each item specified in the Application Submission Procedures Manual, as amended. The Department will require, as a part of a completed application, information to be submitted by the project owner which identifies the number of historically underutilized businesses to be used in the development and/or continuous operation of the project, in a form specified within the Application Submission Procedures Manual. Further, the Department will require the project owner to supply sufficient documentation which will represent the means by which these historically underutilized businesses were or are to be selected. The project owner is also advised that the Department will be requesting information pertaining to the use of historically underutilized businesses in the actual development of the project at the time of final allocation of tax credits, pursuant to §50.8(c) of this title (relating to Housing Credit Allocations). When any item is marked "not applicable," the project owner shall provide a written explanation why such item is "not applicable." Failure to provide a detailed written explanation to will result in the application being deemed

incomplete and not accepted for filing. The Department is also authorized to request the project owner to provide any additional information it deems relevant as clarification to the application.

(b) As part of the complete application the applicant must submit the most current Phase I Environmental Assessment of the subject property, dated not more than 12 months from the date of application to the Department. In the event that a Phase I Environmental Assessment on the project is older than 12 months, the project owner may supply the Department with an update letter from the person or organization which prepared the initial assessment; provided, however, that the Department will not accept any Phase I Environmental Assessment which is more than 24 months old. This environmental assessment should include, but is not limited to, a review of records, interviews with people knowledgeable about the property, a certification that the environmental engineer has conducted an inspection of the property, the building(s), and adjoining properties, as well as any other industry standards concerning the preparation of this type of environmental assessment. If the report establishes that environmental hazards currently exist on the property, or are originating off-site but would nonetheless affect the property, the project owner must provide either a plan for the abatement of the hazard or an operation and maintenance plan for the control of the hazard. The environmental assessment shall be conducted by an environmental or professional engineer and be prepared at the expense of the project owner. For projects which have had a Phase II Environmental Assessment performed and hazards identified, the project owner is required to maintain a copy of said assessment on site available for review by all persons which either occupy the property or are applying for tenancy. Properties financed through the RECDS, scattered site projects of 15 units or less in established residential neighborhoods or properties with four units or fewer will not be required to supply this information; however, the project owners of such projects are hereby notified that it is their responsibility to ensure that the property is maintained in compliance with all state and federal environmental hazard requirements. Those projects which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms with the requirements of this subsection. An environmental report that is not submitted with the application will result in the application being deemed incomplete and not accepted for filing.

(c) The Market Study required by the Department shall comply with the Uniform Standards of Professional Appraisal Practice and with paragraphs (1) and (2) of

this subsection and other guidelines provided for the Reference Manual.

(1) A Market Study prepared by a qualified market analyst who is independent of the development team, and which is not dated more than six months prior to the date of application, is required as part of the complete application. Projects which are comprised of 35 units or fewer or whose funds have been obligated by RECDS are not required to provide the Department with a market study; provided that the Department may request information with respect to the operating expenses, proposed new construction or rehabilitation cost or other information. In the event that a Market Study on a project is older than six months, a project owner may supply the Department with an updated Market Study from the person or organization which prepared the initial report; provided, however, the Department will not accept any Market Study which is more than 12 months old. The Market Study shall be prepared for the Department at the expense of the project owner and shall include, at a minimum, the following information:

(A) an evaluation of the existing occupancy rates in comparable multifamily rental residential developments in the same market area as the proposed project;

(B) project absorption rates for at least one year from the date of the study for units in comparable multifamily rental residential developments in the same market area as the project. Further, provide a projection of the time necessary for the project to achieve sustaining occupancy;

(C) an evaluation of the current physical condition of existing low income rental housing units in the market area;

(D) an evaluation of the need for affordable housing within the project market area, which includes an analysis of any existing federal, state and/or locally subsidized rental housing units in the market area;

(E) an evaluation of the appropriateness of the unit-mix and size in terms of market demand;

(F) an evaluation of the appropriateness of the location and total development cost of the project from a market feasibility standpoint;

(G) an evaluation of the appropriateness of the anticipated operating

costs of the project for the housing market in which the project is located;

(H) an evaluation of the appropriateness of the existing or proposed physical amenities at the project for the low income target population;

(I) a summary of qualifications of the individuals who participated in the development of the Market Study;

(J) a statement from the qualified market analyst concerning any identity of interest in the development of the property; and

(K) such other matters as the Department, in its discretion, may determine to be relevant to the Department's evaluation of the need for the project and the allocation of the requested housing credit allocation amount.

(2) A written certification is required, from the qualified market analyst who prepared the Market Study required under paragraph (1), stating that:

(A) the projected total housing development costs of the proposed project do or do not appear to be reasonable. The qualified market analyst must provide the Department with sufficient documentation to support his/her conclusion with regards to the reasonableness of the development costs;

(B) the projected total operating costs of the proposed project do or do not appear to be reasonable. The qualified market analyst must provide the Department with sufficient documentation to support his/her conclusions with regards to the reasonableness of the projected operating costs;

(C) the proposed project, in light of the vacancy and absorption rates for the applicable market area, is or is not likely to result in an unreasonably high vacancy rate for comparable units within the market area (i. e., standard, well maintained units within such market area that are reserved for occupancy by low and very low income tenants). The qualified market analyst must provide the Department with sufficient documentation to support his/her conclusion with regard to the effects of the project's development on the vacancy rates for comparable units within the market area;

(D) the projected initial rents for the project are or are not below the rental range for comparable projects within the market area. The qualified market ana-

lyst must provide the Department with sufficient documentation to support his/her conclusion with respect to the data on comparable rents in the project's market area; and

(E) project reserves are/are not adequate to cover operating shortfalls until the project achieves sustaining occupancy. The qualified market analyst must provide the Department with sufficient documentation to support his/her conclusions with regards to the adequacy of the project reserves. The market analyst must provide adequate documentation to support each conclusion stated.

(d) A project owner may file an application at any time during the application acceptance period(s), as published from time to time by the Department in the *Texas Register*.

(e) The Department will not accept an application that is incomplete or that is not filed in accordance with the Application Submission Procedures Manual, as amended. The Department will not recommend an application for funding if it includes a principal who has been:

(1) barred, suspended, or terminated from procurement in a state or federal program or whose is listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs, whether in the hardcopy or electronic form;

(2) has been convicted within the past five years of, is under indictment for or is on probation for a state or federal crime involving fraud, bribery, theft, misrepresentations of materials facts, misappropriation of funds, or other similar criminal offenses;

(3) is subject to enforcement action under state or federal securities law, or is the subject of an enforcement proceeding with a state or federal agency or another governmental entity; or

(4) is the owner of a property that is currently out of compliance or has been out of compliance with an affordable housing program administered by a local, state, or federal entity.

(f) After eligible applications have been evaluated, ranked and underwritten as provided in §50.6 of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects), the Department shall, as applicable, issue a reservation notice or notice of denial of credit to the applicant. The reservation notice:

(1) shall confirm that the Department has received the project owner's application and has found the application to be in satisfactory form containing all re-

quired information or shall clearly specify any remaining conditions which must be met prior to the presentation of the application to the Ad Hoc Tax Credit Committee; and

(2) shall reserve to the project owner the housing credit allocation amount specified therein, subject to the feasibility determination described at §50.8(a) of this title (relating to Housing Credit Allocations) and compliance by the project owner with the remaining requirements of this chapter and such other conditions as the Department may set forth in the reservation notice, and subject further to approval by the Board of the project owner's application. The reservation notice shall expire on the date specified therein.

(3) The notice of the Department's denial of credits will enumerate the reasons why the project is not being recommended for credits and provide suggestions as to how the application may be improved.

(4) If the entire state housing credit ceiling for the applicable calendar year has been reserved, committed or allocated in accordance with this chapter, the Department shall place all remaining applications on a waiting list. If at any time prior to the end of the application round, one or more reservation notices, commitment notices or carryover allocation documents expire and a sufficient amount of the state housing credit ceiling becomes available, the Department shall issue a reservation notice to the project owner in the manner and with the effect described in paragraph (1) and (2) of this subsection. In the event that the Department makes a reservation or offers a commitment within the last month of the calendar year, it will require immediate action by the applicant to assure that an allocation or carryover allocation can be issued before the end of that same calendar year.

(g) Within ten business days of the date an application is received, the Department shall notify in writing the mayor or other equivalent chief executive officer of the municipality, if the project or a part thereof is located in a municipality; otherwise the Department shall notify the chief executive officer of the county in which the project or a part thereof is located, to advise such individual that the project or a part thereof will be located in his/her jurisdiction and request any comments which such individual may have concerning such project. Such comments shall be part of the documents required to be reviewed by the Board under this subsection if received by the Department within 30 days after receipt of such certified mail notification to said individual; otherwise, if comments are received by the Department after 30 days, same may be reviewed at the discretion of the Board under this subsection. If the local municipal

authority expresses opposition to the project, the Department will visit the proposed site or project within 30 days of notification.

(h) Following the issuance of a reservation notice the Department shall place the application on the agenda for review by the Board at the next meeting of the Board at which applications will be considered. Within ten calendar days after the Board makes its determination, the Department shall act upon the application in accordance with either paragraph (1) or (2) of this subsection as applicable. The Board's decisions shall be based upon its evaluation of the project's consistency with the criteria and requirements set forth at §50.6 of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects) and these rules and its compliance with the terms and conditions of the reservation notice. In making a determination to allocate tax credits, the Department and Board may not rely solely on the number of points scored by an applicant. They may, in addition, also take into account such factors as the concentration of low income projects within specific markets or submarkets, geographic dispersion of the credits on a state-wide basis, site conditions, or the type of housing being proposed.

(1) If the Board approves the application, the Department will issue a commitment notice to the project owner which commitment notice:

(A) shall confirm that the Board has approved the application; and

(B) shall state the Department's commitment to make a housing credit allocation to the project owner in a specified amount, subject to the feasibility determination described at §50.8(a) of this title (relating to Housing Credit Allocations), compliance by the project owner with the remaining requirements of this chapter, and any other conditions set forth therein by the Department. This commitment notice shall expire on the date specified therein, unless the commitment has been accepted and the conditions to receipt of an allocation set forth therein shall be met.

(C) The Department shall notify, in writing, the mayor or other equivalent chief executive officer of the municipality in which the property is located informing him/her of the Board's issuance of a commitment notice.

(2) If the Board disapproves or fails to act upon the application, the Department shall issue to the project owner a

written notice stating the reasons for the Board's disapproval or failure to act.

(i) A project owner may request that the Department extend the expiration date of a commitment notice which has not expired by submitting a written request for such action, accompanied by the extension fee specified in §50.11 of this title (relating to Program Fees). The request shall specify the term of the extension requested and the reason or reasons why the project owner has been unable to satisfy the requirements of this chapter prior to the original expiration date. The Department may consider and grant such extension requests in its discretion; provided, however, that in no event shall the expiration date of a commitment notice be extended beyond the last business day of the applicable calendar year.

(j) A project owner must indicate acceptance of the Department's offer of a commitment of tax credit authority by executing the commitment notice and paying the commitment fee specified in §50.11 of this title (relating to Program Fees) prior to the expiration date set forth in the notice. Together with or following the project owner's acceptance of the commitment, the owner may request the Department to execute an Agreement and Election Statement, in the form prescribed by the Department, for the purpose of fixing the applicable credit percentage for the project as that for the month in which the commitment was accepted, as provided in the Code, §42(b)(2). Upon receipt of a duly dated and executed Agreement and Election Statement and the accepted commitment notice, if the project owner is in compliance with the rules of this chapter, the Department shall execute the Agreement and Election Statement and return a copy to the project owner. The Agreement and Election Statement may be executed by the project owner no later than five days after the end of the month in which the offer of commitment was accepted.

(k) Prior to the expiration of the commitment notice a project owner who has been issued a commitment notice may request the Department to execute a carryover allocation document. The carryover allocation must be properly completed, signed, dated and notarized by the project owner and delivered to the Department along with any and all other documentation prescribed in the Carryover Allocation Procedures Manual, as amended. The commitment fee as specified in §50.11 of this title (relating to Program Fees) must be received by the Department prior to the processing of any carryover allocation documentation.

(l) Prior to the issuance of the Form 8609, project owners must date, sign and acknowledge before a notary an extended low-income housing commitment agreement. The project owner shall then record

said extended low-income housing commitment agreement, along with any and all exhibits attached thereto, in the real property records of the county where the project is located and return the original document, duly certified as to recordation by the appropriate county official, to the Department. Receipt of such certified recorded original by the Department is required prior to issuance of Form 8609.

§50.5. Set-Asides, Reservations and Preferences.

(a) The remainder of the state's annual per capita credit ceiling of \$12,634,875 will be set-aside as follows: Rural Projects-10%; General Projects-90%.

(b) The Department may redistribute the credits depending on the level of demand exhibited in each set-aside. After all available per capita credits have been reserved, committed or allocated, the Department will group all other projects which have not received a reservation, commitment or allocation into the General Projects set-aside, from which the Department will select the highest prioritized development, pursuant to §50.6 of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects). The Department will provide information concerning the appropriate set-aside for each application round in the *Texas Register*. Applicants may submit an application only in one set-aside and only one application for each site.

(c) No reservation notice or commitment notice shall be issued with respect to any project, the total development cost of which, as determined by the Department, or the acquisition, construction or rehabilitation cost of which exceed the limitations established from time to time by the Department and the Board as more specifically provided for within the Reference Manual. The Department will reduce the applicant's estimate of developer's and/or contractor fees in instances where these fees are considered excessive, as more specifically provided for within the Application Submission Procedures Manual, as amended. In the instance where an identity of interest exists between the project owner and the contractor, and both parties are claiming developer's fees and contractor's overhead, profit, and general requirements the Department will reduce the total fees estimated to a level that it deems appropriate. Further, the Department shall deny or reduce the amount of low income housing tax credits on any portion of costs which it deems excessive or unreasonable. The Department also may require bids in support of the costs proposed by any applicant.

§50.6. Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects.

(a) Threshold criteria. To have an application considered for selection criteria, a project owner must first supply all required information and demonstrate that the project meets all of the requirements of the threshold criteria set forth as follows and as more specifically provided for in the Application Submission Procedures Manual, as amended. Only those applications meeting threshold criteria will be further considered. Project owners whose applications do not meet threshold criteria will be so informed in writing. The following are the threshold criteria that are mandatory requirements at the time of application:

(1) EXHIBIT 101: Label as EXHIBIT 101, the following documents:

(A) a letter from the design architect specifying the type of amenities proposed at the development;

(B) original photographs of the signage, existing buildings, and interior photographs; and

(C) original photographs of development site and surrounding area. The Department will consider requests for waiver of the following requirement pertaining to amenities which must be provided at the development site. All waiver requests must be submitted in writing at the time of application submission, detailing reasons for the waiver request. Small developments (35 units or less), scattered site developments, or special housing developments are the only development types which will be considered for a waiver. All other property owners must provide at least four of the following amenities: limited access security fence; designated playground and equipment; community laundry room/laundry hook-up in units; furnished community room; recreation facilities; public telephone(s); on-site day care, Senior Center, or Community meals room; storage areas; or covered parking. All projects must adhere to the Texas Property Code statute relating to Security Devices for Residential Tenancies.

(2) EXHIBIT 102: Label as EXHIBIT 102(A) or (B), according to the development type, provide construction costs breakdown associated with the proposed new construction or rehabilitation. Additionally, all rehabilitation projects must provide a detailed work write-up/physical assessment report with estimated cost which is prepared by a registered architect, professional engineer or bonded general contractor detailing the scope of work to be

performed throughout the rehabilitation process.

(3) EXHIBIT 103: Shall be evidence of readiness to proceed in one of the following items under each subparagraphs (A)-(E) of this paragraph.

(A) Label as EXHIBIT 103(A), evidence of site control through one of the following:

(i) a recorded warranty deed in the name of the ownership entity, or entities which comprise the general partner;

(ii) a contract for sale or lease (the minimum term of the lease must be at least 45 years) in the name of the ownership entity, or entities which comprise the general partner which is valid for the entire period the development is under consideration for tax credits or at least 90 days; which ever is greater; or

(iii) an exclusive option to purchase in the name of the ownership entity, or entities which comprise the general partner which is valid for the entire period the development is under consideration for tax credits or at least 90 days, which ever is greater.

(B) Label as EXHIBIT 103(B), evidence of current and appropriate zoning in the form of a letter from the appropriate municipal authority. If zoning is not required, the applicant must submit a letter from the local municipal/county authority so stating. If the property is currently a non-conforming use as presently zoned, provide the following:

(i) a detailed narrative of the nature of non-conformance;

(ii) the applicable destruction threshold; and

(iii) owners rights to reconstruct in the event of damage.

(C) Label as EXHIBIT 103(C), evidence of the availability of all necessary utilities/services to the development site. Exhibits must be in the form of a letter from the appropriate municipal provider/local service provider, or in the form of the last monthly bill which must clearly identify the development by name and address. Necessary utilities are GAS/ELECTRIC; TRASH; WATER, and SEWER.

(D) Label as EXHIBIT 103(D), evidence of permanent financing in only one of the following forms:

(i) permanent financing in place in the form of a deed of trust in the name of the ownership entity which identifies the mortgage as the general part-

ner or entities which comprise the general partner;

(ii) conditional commitment or term sheet issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the ownership entity, or entities which comprise the general partner and which has been executed and accepted by both parties (the term of the loan must be for a minimum of 15 years with a 25-year amortization); or

(iii) if the development will be financed through owner contributions, provide a letter from a third party CPA verifying capacity of the property owner to proposed financing and that funds are committed solely for such purpose.

(E) Label as EXHIBIT 103(E), a copy of the current title report which shows that the ownership of the land/project is vested in the exact name of the applicant, general partner or entities which comprise the general partner (purchaser) or the entity/person (seller) with which the applicant, general partner or entities which comprise the general partner has executed an option to purchase, a purchase and sale agreement, a long-term lease or option to lease.

(4) EXHIBIT 104: Label as EXHIBIT 104, evidence of pre-application notification by the applicant to the local chief executive officer of the locality of the development. Such evidence must be in the form of a copy of the certified mail receipt, overnight mail receipt, or confirmation letter from said official.

(5) EXHIBIT 105: must be current year's (and also the most current) financial statement(s) of the corporation or general partner(s) and its principals which is not more than 12 months old prepared and submitted on EXHIBIT 106, which is provided as part of this Application Submission Procedures Manual. Audited financial statements not more than 12-month old for the general partner and corporation, or unaudited financial statement not more than 90 days old, may be accepted in lieu of EXHIBIT 106, if prepared by a qualified third party CPA.

(6) EXHIBIT 106: must be the original copy of the completed and executed Previous Participation and Background Certification Form (EXHIBIT 106) which is provided as part of the Application Submission Procedures Manual.

(7) EXHIBIT 107: Label as EXHIBIT 107, a current rent roll for occupied projects undergoing rehabilitation. The rent roll must disclose terms and rate of lease, tenant names or vacancy, dates of first occupancy and expiration of lease. Vacant and

proposed new construction projects will, of course, be exempt from this requirement.

(8) EXHIBIT 108: Label as EXHIBIT 108, for rehabilitation developments, historical operating statements of the subject development to date for the past three years, or since the date of acquisition of the development and for new construction, submit 15-year proforma estimates of operating expenses and all supporting documentation to support projections. Rehabilitation projects that are currently vacant and cannot provide historical operating statements must submit a 15-year proforma of operating expenses.

(9) EXHIBIT 109: Label as EXHIBIT 109 on the cover page only, a Market Study addressing all items listed in §50.4(c)(1)(A)-(K) of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments) and the Reference Manual.

(10) EXHIBIT 110: Label as EXHIBIT 110 on the cover page only, a Phase I Environmental Study prepared in accordance with §50.4(c) of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments).

(11) EXHIBIT 111: Label as EXHIBIT 111 certification from a tax professional (CPA or attorney) who does not have any direct or indirect financial interest in the project, certifying that the estimated project costs included in eligible basis are properly classified as includable in eligible basis pursuant to IRC, §42, as amended, and are presented in accordance with standard accounting procedures.

(12) EXHIBIT 112: If applying for acquisition credits, Label as EXHIBIT 112, an appraisal of the project apportioning the value of the land and the improvements, a valuation report from the local tax appraisal district and a valid contract verifying the acquisition cost.

(13) EXHIBIT 113: Label as EXHIBIT 113, a copy of the public notice published in a widely circulated newspaper in the area in which the proposed development will be located. Such notice must run for at least twice within a two week period, except on holidays, prior to the submission of the application to the Department. The notice must be prepared in accordance with the guidelines established in the Application Submission Procedures Manual.

(b) Evaluation factors. The Department will consider applications for a housing credit allocation using the evaluation

and point system described herein and in the Application Submission Procedures Manual:

(1) Applications will be initially evaluated against the threshold criteria as they are accepted for filing in the Department during any application acceptance period. Applications not meeting the threshold criteria will be terminated and returned to the applicant without further review.

(2) The applications will then be ranked according to the points scored under the selection criteria in accordance with the rules and the Application Submission Procedures Manual.

(3) Applications which receive the highest number of points, in each set-aside category during the applicable round, and if a sufficient amount of state housing tax credits are available, will be eligible for an evaluation by an Underwriter. If such evaluation warrants, and subject to §50.4(h) of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments), a reservation notice will be issued as provided in §50.4(f) of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments), and the Department's recommendation will be submitted to the Ad Hoc Tax Credit Committee and to the Board for action. The Department may have an outside third party perform the underwriting evaluation to the extent it determines appropriate. The expense of any third party underwriting evaluation shall be paid by the applicant prior to the commencement of the aforementioned evaluation.

(4) Applications which have not received a reservation notice will be placed on waiting list until such time as additional credits become available during the application round.

(5) Applications not receiving a reservation notice at the end of the application round are deemed to be terminated. The applicant may re-apply to the Department during the next application acceptance period.

(c) Selection criteria—Pursuant to subsection (b)(1)-(5) of this section, applications receiving the highest number of points in each set aside category, in each application acceptance period, if a sufficient amount of state housing credit ceiling is available, will be eligible for an evaluation by an Underwriter. All applications will be ranked according to the selection criteria listed in paragraphs (1)-(9) of this subsection.

(1) DEVELOPMENT LOCATION.

(A) EXHIBIT 201: Label as EXHIBIT 201, a copy of the census map (may be obtained from HUD or the local planning department) if the subject property is located within a Qualified Census Tract as defined by the Secretary of HUD and qualifies for the 130% increase in eligible basis, pursuant to the Code, §42(d)(5)(C). The census map must clearly identify the proposed development to be located within a Qualified Census Tract. Census tract numbers must be clearly marked on the map, and must be identical to the qualified census tract number stated in the Department's Reference Manual. Applicants for projects in Difficult Development Areas or a targeted Texas county must indicate this designation in the space provided in the Application Submission Procedures Manual. (10 points)

(B) EXHIBIT 202: Label as EXHIBIT 202, evidence that the proposed development contributes significantly to the economic development of the community by location within a targeted Community Development Block Grant area. Such evidence must be in the form of a letter from the appropriate municipal authority stating the development name and address, and that the subject development is within the targeted area. Label as EXHIBIT 202(A) a map clearly indicating development location within the CDBG area. (4 points)

(C) EXHIBIT 203: Label as EXHIBIT 203, evidence that the proposed development is located within a city-sponsored neighborhood preservation/redevelopment area or a designated state or federal empowerment/enterprise zone. Such evidence must be in the form of a letter and a map from a city/county official verifying the proposed development to be located within a preservation/redevelopment area or empowerment/enterprise zone. In order to qualify for these points, an applicant whose project is located within a city-sponsored redevelopment area must submit documents evidencing that the designated area was:

(i) created by the local city council/county commission;

(ii) targets a specific geographic area; and

(iii) offers tangible and significant area-specific incentives or benefit over and above those normally provided by the city or county. Public Improvement Districts (PIDs), Tax Increment Financing Zones (TIFs), or similar districts organized under the Texas Local Government Code are prime examples of such redevelopment efforts. (10 points)

(2) HOUSING NEEDS CHARACTERISTICS.

(A) The proposed development is located in a county in which 10% or more of the households are below the poverty level as set forth in the Department's "County Data Elements Guide" incorporated into the Reference Manual. Utilize the percentages below to assess the appropriate score:

- (i) 10% to 20% of households are below the poverty level (3 points);
- (ii) 21% to 31% of households are below the poverty level (5 points);
- (iii) 32% to 42% of households are below the poverty level (7 points);
- (iv) 42% + of households are below the poverty level (9 points).

(B) The proposed development is located in a county in which more than 20% of the renter households have incomes at 50% or less of the Area Median Income (AMGI) as set forth in the County Data Elements Guide. Utilize the following percentages to assess the appropriate score:

- (i) 20% to 30% of renter households have incomes at 50% or less of the AMGI (3 points);
- (ii) 31% to 41% of renter households have incomes at 50% or less of the AMGI (5 points);
- (iii) 42% to 52% of renter households have incomes at 50% or less of the AMGI (7 points);
- (iv) 53% + of renter households have incomes at 50% or less of the AMGI (9 points).

(C) The proposed development is located in a county in which 20% or more of the rental units have a cost burden as set forth in the County Data Elements guide. Utilize the following percentages to assess the appropriate score:

- (i) 20% to 30% of rental units have a cost burden (4 points);
- (ii) 31% to 41% of rental units have a cost burden (6 points);
- (iii) 42% + of rental units have a cost burden (8 points).

(D) The proposed development is located in a county in which 10% or more of all renters live in overcrowded conditions as set forth in the County Data Elements Guide. Utilize the following percentages to assess the appropriate score:

- (i) 10% to 15% of renters live in overcrowded conditions (2 points);
- (ii) 16% to 21% of renters live in overcrowded conditions (3 points);
- (iii) 22% to 28% of renters live in overcrowded conditions (5 points);
- (iv) 29% + of renters live in overcrowded conditions (7 points).

(3) PROJECT CHARACTERISTICS.

(A) EXHIBIT 204: Label as Exhibit 204, evidence that the proposed development to be purchased qualifies as a federally assisted building within the meaning of the Code, §42(d)(6)(B), and is in danger of having the mortgage assigned to HUD, RECDs, or a federal mortgage insurance fund. Such evidence must be a letter from the institution to which the development is in danger of being assigned. (5 points)

(B) EXHIBIT 205: Label as EXHIBIT 205, evidence that the proposed development is a low-income building with mortgage prepayment eligibility as provided for in the Code, §42(d)(6)(C). Such evidence must be a copy of the HUD regulatory agreement which evidences the prepayment clause. (5 points)

(C) EXHIBIT 206: Label as EXHIBIT 206, evidence that the applicant is purchasing(ed) a property (no earlier than 1994) owned by HUD, an insured depository institution in default, or a receiver or conservator of such an institution, or is an REO property held by FNMA, FHLMC, federally chartered banks or by a federally approved mortgage company or savings and loan association or any other federal agency. Such evidence must be in the form of a binding contract to purchase from such federal or other entity as described above, closing statements, or recorded warranty deed. (5 points)

(D) The proposed development's composition offers a unit mix which is conducive to housing large families. To qualify for these points, these units must have at least 1000 square feet of living space for three bedrooms or 1200 square feet for four bedrooms. Three points will be awarded for the first 15% of the units in the development that are three or larger. An additional point will be awarded in 5.0% increments for every 5.0%, up to 30% of units which are three bedrooms or larger, up to a maximum of three points. In computing qualified units for this selection item where

the project is a mixed-income development, only tax credit units should be included.

(i) 15% of the units in the development are three or four bedrooms (3 points).

(ii) An additional point will be awarded for every 5.0% of units that are three or four bedrooms up to a maximum of three points (3 points).

(E) EXHIBIT 207: Label as Exhibit 207A, for new Construction, a letter from the architect which certifies that at least three of the following energy saving devices will be utilized in the construction of each tax credit unit. The devices selected must be certified as included in each tax credit unit of the project upon placement in service.

- (i) Ceiling Fans.
- (ii) Low-Emittance-
Windows.
- (iii) Insulation which exceeds code for walls and ceilings.
- (iv) Solar Screens (maximum of 3 points). Label as Exhibit 207B for rehabilitation, an energy audit of 10% of the tax credit units and common areas, conducted by a local utility servicer or a registered architect. Upon placement in service, another audit will be required of the same units to certify that the design features and/or construction components installed in each tax credit unit exceeds local/regional building code with respect to energy efficiency. In the event that an energy audit is unobtainable because the units are currently vacant and uninhabitable, a certification from a registered architect will suffice. (3 points)

(F) EXHIBIT 208: Label as EXHIBIT 208, evidence that the proposed development's financing involves leveraging of resources from a nonprofit private foundation (which is not related to the lender, developer, sponsor, or syndicator) federal, state and/or local governmental entity(s). Such evidence must be a letter of commitment from the entity which states the terms of the loan or grant and all other conditions. The donation of land, waiver of fees or tax abatement will also be considered under this criterion provided that value of the contribution is quantified and verifiable.

(i) 5.0% of total residential costs are funded by private nonprofit foundation or government resources. (3 points)

(ii) One additional point will be awarded for every 2.0% of total residential costs funded from such contributions up to a maximum of three points. (3 points)

(G) The proposed development provides low density housing of less than ten units per acre or as follows:

(i) ten units or less per acre (6 points);

(ii) 11 to 15 units per acre (4 points);

(iii) 16 to 20 units per acre (2 points).

(H) The subject project is an existing residential development seeking rehabilitation credits. (8 points)

(I) Project is a mixed-income development comprised of both market rate units and qualified tax credit units. Project's applicable fraction is no greater than 75%. (6 points) Project's applicable fraction is no greater than 60%. (10 points)

(J) EXHIBIT 209: Label as EXHIBIT 209, evidence that the proposed historic residential development has received an historic property designation by a federal, state or local governmental entity. Such evidence must be in the form of a letter from the designating entity identifying the development by name and address and stating that the project is:

(i) listed in the National Register of Historic Places under the U. S. Department of the Interior in accordance with the National Historic Preservation Act of 1966;

(ii) located in a registered historic district and certified by the U.S. Department of the Interior as being of historic significance to that district;

(iii) identified in a city, county, or state historic preservation list; or

(iv) designated as a state landmark. (6 points)

(K) Property owner will provide additional low-income housing use period beyond the initial 15-year compliance period. For rehabilitation projects, one point will be awarded for every year beyond the 15-year initial compliance period that the project owner commits to maintaining the project as a qualified low income project pursuant to the Code and the Land Use Restrictive Covenants and for new construction projects, one point will be awarded for two years that project owner has elected. The effect of committing to additional years of low-income use in this manner will be to extend by the number of years elected:

(i) the "Compliance Period" as defined in the Land Use Restrictive Covenants;

(ii) the 30-year extended use period contemplated by the Code, §42(h)(6)(D); and

(iii) the earliest date at which an owner may seek to terminate the extended use period pursuant to the "qualified contract" exception found in the Code, §42(h)(6)(E). For example, by electing five years of additional low income use period, the project's total low income use period will be 38 years (i.e., the 20-year Compliance Period, plus 15-year Extended Use Period, plus three-year Vacancy Decontrol Rule).

(I) For rehabilitation projects, the property owner elects five years of additional low income use period beyond the initial 15-year compliance period (5 points).

(II) For new construction projects, the property owner elects ten years of additional low income use period beyond the initial 15-year compliance period (5 points)

(L) Property owner will set-aside units for households with incomes at 50% or less of Area Median Gross Income (AMGI) for occupancy of the tax credit units (TCU's) in the development. The rents for these units must not be higher than the allowable tax credit rents at the 50% AMGI level. Utilize the percentages below to assess the appropriate score.

(i) Four points will be awarded for the first 10% of the units in the development that are set-aside for tenants with incomes at 50% or less of AMGI. (4 points)

(ii) An additional point will be awarded for every 5.0% of additional units set-aside for tenants with incomes at 50% or less of AMGI up to a maximum of four points. (4 points)

(M) EXHIBIT 210: Label as EXHIBIT 210, evidence that the property owners have committed to offer a right of first refusal to a qualified non profit entity or the tenants (for a 90-day period) of the subject property at the end of the compliance period (if an election is made under subparagraph (K) of this section, the "Compliance Period" will be the initial 15-year period plus the five years in the case of a rehabilitation project or ten years for a new construction project) for a purchase price no less than the sum of the principal amount of outstanding indebtedness secured by the project (other than indebtedness incurred within the 5-year period immediately preceding the date of said notice); and all Federal, state and local taxes incurred or

payable by the project owner as a consequence of such sale. (For mixed-income projects, the qualified contract for a mixed-use building will specify a price for the nonlow-income portion equal to the fair market value). Such evidence must be in the form of a notarized statement from property owner which clearly states such intention. This commitment will also be evidenced in the Land Use Restrictive Covenant upon placement in service (3 points);

(N) Proposed development is comprised of single family detached homes, duplexes, triplexes, fourplexes or townhouse. To qualify for these points, the single family homes must have a density of not more than ten units per acre and the multifamily project a density of not more than 18 units per acre. (5 points)

(O) EXHIBIT 211: Label as EXHIBIT 211, evidence that a majority of the development's residential units, as of the end of the application acceptance period, are vacant and uninhabitable. Such evidence must be in the form of a letter and report from the local municipal authority citing substantial code violations. To qualify for these points, the applicant must not have owned a significant or controlling interest in the entity that had title to the project during the period in which the such units were rendered uninhabitable. (8 points)

(P) EXHIBIT 212: Label as EXHIBIT 212, evidence that at least 5.0% of the development's current residents include Section 8 tenants. Such evidence must be in the form of the contract between the project owner and the local housing authority. (3 points)

(Q) EXHIBIT 213: Label as EXHIBIT 213, evidence from the local municipal authority stating that the proposed development fulfills a need for additional affordable rental housing as evidenced in a local CHAS or Consolidated Plan (Comprehensive Housing Affordability Strategy). (5 points)

(R) The project is a Small Development. A Small Development is defined as a project consisting of not more than ten single family detached homes or 35 multifamily units, which is not a part of, or contiguous to, a larger project, and which has not or will not apply to the Department for a tax credit allocation. This definition excludes those projects which would otherwise qualify as a rural project. (5 points)

(4) SPONSOR CHARACTERISTICS.

(A) EXHIBIT 214: Label as EXHIBIT 214, evidence that the ownership

entity, general partner, or its principals have a record in successfully developing and operating affordable rental housing under a program operated by HUD, RECDs, RTC, HOME, LIHTC or any other verifiable source which provides affordable housing. With respect to the properties listed as developed and operated, such ownership entity or general partner must be either the project owner or has the controlling interest in the project owner. The term "successful" is defined as developing, operating, and maintaining current controlling interest of at least 150 units under the tax credit program, or at least 150 units under all other affordable housing programs except RECDs and developments in rural areas. For RECDs and rural projects, a minimum of 25 units are required. For the tax credit program, evidence in the form of a copy of the IRS Form 8609 for the first building is required for projects awarded credits by Texas Department of Housing and Community Affairs. For tax credit projects which received an allocation from another state, a copy of the development agreement and partnership agreement must also be submitted. For HUD subsidized properties, the evidence must include the most recent Housing Quality Standards inspection and the Annual Performance Review (HUD Form 9822). For other affordable housing programs, documentation (including development and partnership agreements) evidencing current ownership and operation of the project is required. Applicants whose experience in affordable housing was through mortgage revenue bonds, must submit documentation which shows that the ownership entity/general partner and its principals have developed and had or currently maintain controlling interest in the project owner. Such evidence should include a copy of the financing and/or regulatory agreements, warranty deed which shows the ownership entity as the grantee, the partnership and development agreements, the name, address and contact person of the bond trustee, issuer, and compliance agent. Additional information to be provided shall include a schedule of properties owned, years of ownership, addresses of properties, number of units in the properties, and the percentage of direct or indirect ownership of each property. Property owners in non-compliance with any of the aforementioned programs or have had a pattern of defaults and foreclosures are ineligible to claim the points for this item.

(i) Project owner or general partner has developed and currently maintains a controlling interest in at least 150 affordable housing units under the tax credit or other affordable housing programs. (8 points)

(ii) Project owner or general partner has developed and had a controlling interest in at least 150 affordable

housing units under the tax credit or other affordable housing program for a period of not less than five years. (4 points)

(iii) Project owner or general partner has developed and had or currently maintain a controlling interest in at least 150 market-rate units for a period if not less than five years. (2 points)

(B) EXHIBIT 215: Label as EXHIBIT 215, evidence that the local public housing authority or its affiliates (operating within its area of jurisdiction) has existed for at least 24 months and is either the project owner; or has the controlling interest in the project owner. (3 points)

(C) EXHIBIT 216: Label as EXHIBIT 216, evidence that a HUB, which has conducted business as such, has existed for at least one year and has been certified by the General Services Commission, and is either the project owner or has the controlling interest in the project owner. (5 points)

(5) PARTICIPATION OF LOCAL TAX EXEMPT ORGANIZATIONS.

(A) EXHIBIT 217: Label as EXHIBIT 217, evidence that the subject development has significant participation by a qualified non profit entity with substantial experience in the development and management of affordable housing. To qualify under this section, a non profit entity must have existed for at least 24 months prior to the date of the application with respect to the subject development, and must either be the project owner or hold the controlling interest in the project owner. Additional information to be provided with respect to the non profit entity shall include a schedule of properties owner (whether directly or indirectly) years of ownership, addresses of properties, number of units in the properties, and the percentage of direct or indirect ownership of each property. (3 points)

(B) EXHIBIT 218: Label as EXHIBIT 218, evidence that property owner has an executed agreement with a local tax exempt organization for the provision of special supportive services that would not otherwise be available to the tenants. The supportive services will be evaluated based upon the following:

(i) the duration of the service agreement;

(ii) the accessibility and appropriateness of the service to the tenants;

(iii) the experience of the service provider; and

(iv) the importance of the service in enhancing the tenants standard of living. The supportive service will be in-

cluded in the Land Use Restrictive Covenants (Up to 5 points).

(6) TENANT POPULATIONS WITH SPECIAL HOUSING NEEDS.

(A) This criterion applies exclusively to elderly projects located in areas that are not served by RECDs. In addition, the project must provide significant facilities and services specifically designed to meet the physical and social needs of the residents. Significant services may include congregate dining facilities, social and recreation programs, continuing education, welfare information and counseling, referral services, transportation and recreation. Other attributes of such projects include providing hand rails along steps and interior hallways, grab bars in bathrooms, routes that allow for physical handicap accessibility, lever type doorknobs and single lever faucets as well as elevators for projects of over two stories. In addition, not more than 20% of the units in the project should be larger than two bedroom units. Such a project must conform to the Fair Housing Act of 1988 and must be a project in which:

(i) is intended for, and solely occupied by persons 62 years of age or older; or

(ii) intended and operated for occupancy by at least one person 55 years of age or older per unit, where at least 80% of the total housing units are occupied by at least one person who is 55 years of age or older; and

(iii) adheres to policies and procedures which demonstrate an intent by the owner and manager to provide housing for persons 55 years of age or older. (10 points)

(B) EXHIBIT 219: Label as EXHIBIT 219, evidence verifying that the subject development provides units specifically equipped for persons with physical or mental disabilities. Such evidence must be in the form of a certification from an accredited architect stating the number of units which are/will be designed to meet American National Standards for buildings and facilities providing accessibility and usability for physically handicapped persons (ANSI A117.1) and will conform to the Fair Housing Act of 1988. "Equipped" means that features that make the units fully usable to such persons are installed in the units at the time of construction.

(i) 6.0% to 10% of units are equipped for persons with physical/mental disabilities. (4 points)

(ii) 11% to 15% of units are equipped for persons with physical/mental disabilities. (6 points)

(iii) 16% + of units are equipped for persons with physical/mental disabilities. (8 points)

(C) EXHIBIT 220: Label as EXHIBIT 220, evidence that the property owner will provide units, or subject development is designed for, transitional housing for homeless persons on a non-transient basis, with supportive services designed to assist tenants in locating and retaining permanent housing. Such evidence must include a detailed narrative describing the type of proposed housing; a referral agreement with an established organization which provides services to the homeless, and a marketing plan designed to attract qualified tenants and housing providers, as well as a list of supportive services.

(i) 5.0% to 10% of units will be set-aside as transitional housing for the homeless. (4 points)

(ii) 11% to 15% of units will be set-aside as transitional housing for the homeless. (6 points)

(iii) Project is 100% set-aside as transitional housing for the homeless. (15 points)

(7) PUBLIC HOUSING WAITING LISTS. EXHIBIT 221: Label as EXHIBIT 221, evidence that the property owner has committed in writing to the local public housing authority (PHA), the availability of units which also states that the property owner agrees to consider as potential tenants, those households on the PHA's waiting list. Property owner's letter to the PHA must be accompanied by a marketing plan outlining how these units will be marketed to individuals on the waiting list. If no PHA is within the locality of the development PHA, property owner must utilize the nearest authority or office responsible for administering Section 8 programs. Such evidence must include a copy of property owner's letter to the local PHA; a copy of the marketing plan submitted with letter to the local PHA, verification of receipt by the PHA in the form of certified return receipt or overnight mail receipt; and a letter received from an appropriate municipal authority, or local PHA stating the need for additional affordable housing units within it's jurisdiction (3 points)

(8) SUBSTANTIAL READINESS TO PROCEED. EXHIBIT 222: Label as EXHIBIT 222, evidence of substantial readiness to proceed. Such evidence must be in the form of building permits and construction contracts with the general contractor for the construction or rehabilitation of the project (4 points); or if property is Rural and financed by RECDS, a copy of the "Obligation of Funds" report issued by the RECDS. (4 points)

(9) BONUS POINTS. Application is received within the first ten days of the application acceptance period. (2 points)

(d) Final Ranking. The Department will evaluate projects according to the strength of the project in meeting the threshold and selection criteria. After evaluating and scoring all applications received, the Department will rank such applications according to the number of points received. In the event that two or more applications receive the same number of points in any given set-aside category, the Department will utilize the following factors in the order presented in paragraphs (1)-(7) of this paragraph in making a determination as to which project will receive a preference in consideration for a tax credit commitment:

(1) project which is a special housing project as defined in §50 2 of this title (relating to Definitions);

(2) which have substantial community support as evidenced by the commitment of local public funds toward the construction, rehabilitation and acquisition and subsequent rehabilitation of the project;

(3) which serve the lowest income tenants;

(4) which demonstrates the highest substantial readiness to proceed as evidenced by the selection criteria, more specifically provided for in subsection (c)(8) of this section;

(5) whose unit composition provides the highest percentage of three bedrooms or greater sized units;

(6) which obligate the project owner (as evidenced by the Declaration of Land Use Restrictive Covenant Document) to serve qualified tenants for the longest period of time, and

(7) which provide for the most efficient usage of the low income housing tax credit on a per unit basis

(e) In reaching the final ranking of an application, the Department will take into consideration the project owner's history in the tax credit program and other affordable housing programs. The Department may deduct up to ten points from the final score of any applicant which, in the past, has not placed developments into service for which the Department has made an allocation, OR if a property owner has failed to perform under the obligations of any previous commitment notice. The Department may disqualify or impose limitation or disabilities upon a project owner, developer, and its partners or principals with respect to the competition for allocations of tax credits as a consequence of material misstatement or omission, noncompliance with any Code requirements, or any of the terms, conditions or obligations of

the program for any project that has received a reservation or allocation, or for failure to place in service buildings for which credits were allocated. The Department will disqualify an applicant who has been convicted of fraud, theft, misappropriation of funds, misrepresentation to the Department, noncompliance under this program or another program administered by this Department or other governmental entities. Additionally, applicants are advised that the Department reserves the right to reject applications which include principals who have been excluded from federal and non federal procurement programs (either debarment or suspension); been convicted of a felony offense; been indicted or subject to enforcement action under state of federal securities law; and negligent in the physical upkeep of subject property, or negligent in the operation of the subject property, as deemed so by another federal or state authority. All such rejections of applications are at the sole discretion of the Department.

(f) Credit Amount. The Department shall issue tax credits only in the amount needed for the financial feasibility and viability of a project throughout the compliance period. The issuance of tax credits or the determination of any allocation amount in no way represents or purports to warrant the feasibility or viability of the project by the Department. The Department will limit the allocation of tax credits to no more than \$1.2 million to each developer, project owner, general partner, sponsor or related entities unless otherwise provided for by the Department. In making determinations under the preceding sentence, the Department may take into account such factors as the percentage of interest held by a particular individual or entity in a project, the amount of fees or other compensations paid to a particular individual or entity with respect to a project, any other financial benefits received by a particular individual or entity with respect to a project, and such definitions of the concept of "related entity" as the Department determines to be appropriate under the circumstances.

(g) Limitations on the size of projects. Rural projects involving new construction must not exceed 50 units. Non-rural projects involving new construction will be limited to 250 units.

(h) Tax Exempt Bond Financed Projects. Applications for projects which receive at least 50% of their financing from the proceeds of tax-exempt bonds which are subject to the state volume cap as described in the Code, (§42(h) (4)(B)) are also subject to evaluation under the Qualified Allocation Plan. Such projects must meet all the threshold requirements stipulated in the qualified allocation plan, demonstrate consistency with local CHAS or Consolidated Plan, and meet the underwriting guidelines established by the Department.

§50.7. Compliance Monitoring.

(a) The Code, §42(m)(1)(B)(iii), requires each State Allocating Agency to include in its "Qualified Allocation Plan" a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring projects for noncompliance with the provisions of the Code, §42 and in notifying the Internal Revenue Service (the Service), or its successor, of such noncompliance of which such agency becomes aware. This procedure does not address forms and other records that may be required by the Service on examination or audit.

(b) The Department will also monitor compliance with any additional covenants made by the project owner in the extended low-income housing commitment agreement.

(c) The owner of a low-income housing project must keep records for each qualified low-income building in the project showing:

(1) the total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);

(2) the percentage of residential rental units in the building that are low income units;

(3) the rent charged on each residential rental unit in the building including documentation to support the utility allowance;

(4) the number of occupants in each low-income unit;

(5) the low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;

(6) the annual income certification of each low-income tenant per unit, in the form designated by the Department in the Compliance Reference Guide, as may be amended;

(7) documentation to support each low-income tenant's income certification, consistent with the verification procedures required by HUD under §8 of the United States Housing Act of 1937 (§8). In the case of a tenant receiving housing assistance payments under §8, the documentation requirement is satisfied if the public housing authority provides a statement to the project owner declaring that the tenant's income does not exceed the applicable income limit under the Code, §42(g) as described in the Compliance Reference Guide;

(8) the eligible basis and qualified basis of the building at the end of the first year of the credit period;

(9) the character and use of the nonresidential portion of the building included in the building's eligible basis under the Code, §42(d), (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project); and

(10) additional information as required by the Department.

(d) Record retention provision. The owner of a low-income housing project is required to retain the records described in subsection (c) of this section for at least six years after the due date (with extensions) for filing the federal income tax return for that year; however, the records for the first year of the tax credit period must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

(e) Certification and Review.

(1) Certification. Annually, at the time and in the form designated by the Department, the owner of a low-income housing project must certify that for the preceding 12-month period:

(A) the project met the minimum set-aside test which was applicable to the project;

(B) there was no change in the applicable fraction of any building in the project, or that there was a change, and a description of the change;

(C) the owner has received an annual income certification from each low-income tenant and documentation to support that certification;

(D) each low-income unit in the project was rent-restricted under the Code, §42(g)(2);

(E) all units in the project were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under the Code, §42(i)(3)(B)(iii));

(F) each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;

(G) either there was no change in the eligible basis (as defined in the Code, §42(d)) of any building in the project, or that there has been a change, and the nature of the change;

(H) all tenant facilities included in the eligible basis under the Code, §42(d), of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;

(I) if a low-income unit in the project became vacant during the year, reasonable attempts were, or are being, made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any other units in the project were, or will be, rented to tenants not having a qualifying income;

(J) if the income of tenants of a low-income unit in the project increased above the limit allowed in the Code, §42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was, or will be, rented to tenants having a qualifying income; and

(K) an extended low-income housing commitment agreement as described in the Code, §42(h)(6)(B), was in effect for buildings subject to the Revenue Reconciliation Act of 1989, §7106(c)(1) (generally any building receiving an allocation after 1989).

(2) Review.

(A) At least annually, at the time designated by the Department, the owner of a low-income housing project must send to the Department for its review for compliance with the requirements of the Code, §42, the certification described in paragraph (1) of this subsection.

(B) The Department will inspect, at a minimum, 20% of low-income housing projects each year, including inspection of each income certification, the documentation the owner has received to support that certification, the rent record for each low-income tenant and any additional information that the Department deems necessary in at least 20% of the low income units in those projects. The Department shall give reasonable notice to the owner that an inspection will occur; however, the projects and records to be reviewed will be chosen by the Department in its discretion.

(C) The Department may, at the time and in the form designated by the Department, require the owners of low-income housing projects to submit for compliance review, information on tenant income and rent for each low-income unit, and may require an owner to submit for

compliance review a copy of the income certification, the documentation the owner has received to support that certification and the rent record for any low-income tenant.

(3) Exception. The Department may, at its discretion, enter into a Memorandum of Understanding with the RECDS, whereby the RECDS agrees to provide to the Department information concerning the income and rent of the tenants in buildings financed by the RECDS under its §515 program. Owners of such buildings may be excepted from the review procedures of paragraph (2)(B) or (C) of this subsection or both; however, if the information provided by RECDS is not sufficient for the Department to make a determination that the income limitation and rent restrictions of the Code, §42(g)(1) and (2), are met, the owner must provide the Department with additional information.

(f) Inspection provision. The Department retains the right to perform an on site inspection of any low-income housing project through either the end of the compliance period or the end of the period covered by any extended low-income housing commitment agreement, whichever is later. An inspection under this subsection may be in addition to any review under subsection (e)(2) of this section.

(g) Notification of Noncompliance.

(1) Notice to owner.

(A) The Department will provide prompt written notice to the owner of a low-income housing project if the Department does not receive the certification described in subsection (e)(1) of this section or discovers through audit, inspection, review or any other manner, that the project is not in compliance with the provisions of the Code, §42.

(B) The Department will specify a correction period which will not exceed 90 days, during which the owner may respond to the Department's findings, bring the property into compliance, or supply any missing certifications. The Department may extend the correction period for up to six months if it determines there is good cause for granting an extension.

(2) Notice to the Internal Revenue Service.

(A) The Department is required to file Form 8823, Low Income Housing Credit Agencies Report of Non-compliance, with the Internal Revenue Service no later than 45 days after the end of the correction period including any extension, and no earlier than the end of the correction period, whether or not the non-compliance or failure to certify is corrected.

The Department will explain on Form 8823 the nature of the noncompliance or failure to certify and will indicate whether the owner has corrected the noncompliance or failure to certify.

(B) The Department will retain records of noncompliance or failure to certify for six years beyond the Department's filing of the respective Form 8823. In all other cases, the Department will retain the certification and records described in this section for three years from the end of the calendar year the Department receives the certifications and records.

(h) Notices to the Department.

(1) An owner of a low-income housing project must notify the Department in writing prior to any sale, transfer, exchange, or renaming of the project or any portion of the project.

(2) An owner of a low-income housing project must notify the Department in writing of any change of address to which subsequent notices or communications shall be sent.

(i) Liability. Compliance with the requirements of the Code, §42, is the sole responsibility of the owner of the building for which the credit is allowable. By monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the owner including the owner's noncompliance with the Code, §42.

(j) These provisions apply to all buildings for which a low-income housing credit is, or has been, allowable at any time. The Department is not required to monitor whether a building or project was in compliance with the requirements of the Code, §42, prior to January 1, 1992. However, if the Department becomes aware of noncompliance that occurred prior to January 1, 1992, the Department is required to notify the Service in a manner consistent with subsection (g) of this section.

§50.8. Housing Credit Allocations.

(a) The housing credit allocation amount shall not exceed the dollar amount the Department determines is necessary for the financial feasibility and the long term viability of the project throughout the compliance period. Such determination shall be made by the Department at the time of issuance of the reservation notice; at the time of review by the Board prior to issuance of commitment notice; at the time the Department makes a housing credit allocation; and/or the date the building is placed in service. Any housing credit allocation amount specified in a reservation notice, commitment notice, allocation and/or carryover allocation document is subject to

change by the Department dependent upon such determination. Such a determination shall be made by the Department based on its evaluation and procedures, considering the items specified in the Code, §42(m)(2)(B), and the Department in no way or manner represents or warrants to any project owner, sponsor, investor, lender or other entity that the project is, in fact, feasible or viable.

(b) When the project owner is in full compliance with the rules in this chapter, the commitment notice, the Carryover Allocation Procedures Manual and all fees as specified within §50.11 of this title (relating to Program Fees) have been received by the Department, the Department, if requested, shall execute a carryover allocation document which has been properly completed, executed and notarized by the project owner. The Department shall return one executed copy to the project owner.

(c) All projects receiving a carryover allocation will be required to provide regular reports, in a format prescribed by the Department as more fully defined in the Carryover Allocation Procedures Manual, outlining progress towards placing the project in service. The Department may not allocate additional credits to a developer/project owner that is unable to provide evidence, satisfactory to the Department, of progress towards placement in service for a project(s) that is in carryover. An allocation will be made in the name of the project owner identified in the related commitment notice. If an allocation is made in the name of the party expected to be the general partner in an eventual owner partnership, the Department will, upon request, approve one transfer of allocation to such owner partnership in which such party is the sole general partner. Any other transfer of an allocation will be subject to approval by the Department in its discretion. The approval of any such transfer by the Department does not constitute a representation to the effect that such transfer is permissible under the Code or without adverse consequences thereunder.

(d) The Department shall make a housing credit allocation to any project owner who holds a commitment notice which has not expired, and for which all fees as specified in §50.11 of this title (relating to Program Fees), have been received by the Department. Satisfactory evidence must be received by the Department that one or more buildings within the project is completed and been placed in service in accordance with the provisions of the Department's Cost Certification Procedures Manual. The Department shall make each such housing credit allocation by mailing or delivering IRS Form 8609 (or any successor form adopted by the Internal Revenue Service) to the project owner, with Part I

thereof completed in all respects and signed by an authorized official of the Department. The delivery of the IRS Form 8609 will only occur after the project owner has complied with all procedures and requirements listed within the Cost Certification Procedures Manual. Regardless of the year of application to the Department for low income housing tax credits, the current year's Cost Certification Procedures Manual must be utilized when filing all cost certification requests. A separate housing credit allocation shall be made with respect to each building within a project which is eligible for a housing credit.

(e) In making a housing credit allocation, the Department shall specify a maximum applicable percentage, not to exceed the applicable percentage for the building permitted by the Code, §42(b), and a maximum qualified basis amount. In specifying the maximum applicable percentage and the maximum qualified basis amount, the Department shall disregard the first-year conventions described in the Code, §42(f)(2)(A) and §42(f)(3)(B). The housing credit allocation made by the Department shall not exceed the amount necessary to support the extended low-income housing commitment as required by the Code, §42(h)(6)(C)(i).

(f) Project inspections may be required to show that the project is built or rehabilitated according to required plans and specifications. A copy of all project inspections required and accepted by the lender financing the project shall be acceptable to the Department as a certification that the project is built to plans and specifications if such inspections are required by the lender during the construction of the project. At a minimum, such inspections must include an inspection at the start-up phase and the interim phase, and a final inspection at the time the project is placed in service. If no project inspections are required by the lender financing the project, the Department may require inspections to be made of the project; such inspections may be at the start-up phase, the interim phase, or a final inspection at the time the project is placed in service, and shall be performed by an independent, third party inspector. The project owner shall pay all fees and costs of said inspections.

(g) At the time each building in the project is placed in service, the project owner shall be responsible for furnishing the Department with documentation which satisfies the requirements as set forth in the Cost Certification Procedures Manual. The Department may require copies of receipts and statements for materials and labor utilized for the new construction or rehabilitation and, if applicable, a closing statement for the acquisition of the project.

§50.9. Department Records; Certain Required Filings.

(a) At all times during each calendar year the Department shall maintain a record of the following:

(1) the cumulative amount of the state housing credit ceiling that has been reserved pursuant to reservation notices during such calendar year;

(2) the cumulative amount of the state housing credit ceiling that has been committed pursuant to commitment notices during such calendar year;

(3) the cumulative amount of the state housing credit ceiling that has been committed pursuant to carryover allocation documents during such calendar year;

(4) the cumulative amount of housing credit allocations made during such calendar year; and

(5) the remaining unused portion of the state housing credit ceiling for such calendar year.

(b) Not less frequently than quarterly during each calendar year, the Department shall publish in the *Texas Register* each of the items of information referred to in subsection (a) of this section.

(c) The Department shall mail to the Internal Revenue Service, not later than the 28th day of the second calendar month after the close of each calendar year during which the Department makes housing credit allocations, the original of each completed (as to Part I) IRS Form 8609, a copy of which was mailed or delivered by the Department to a project owner during such calendar year, along with a single completed IRS Form 8610, Annual Low-Income Housing Credit Agencies Report. When a carryover allocation is made by the Department, a copy of Form 8609 will be mailed or delivered to the project owner by the Department in the year in which the building(s) is placed in service, and thereafter the original will be mailed to the Internal Revenue Service in the time sequence above mentioned. The original of the carryover allocation document will be filed by the Department with IRS Form 8610 for the year in which the allocation is made. The original of all executed Agreement and Election Statements shall be filed by the Department with the Department's IRS Form 8610 for the year a housing credit allocation is made as provided in this section.

§50.10. Department Responsibilities. In making a housing credit allocation under this chapter, the Department shall rely upon information contained in the project owner's application to determine whether a building is eligible for the credit under the Code, §42. The project owner shall bear full

responsibility for claiming the credit and assuring that the project complies with the requirements of the Code, §42. The Department shall have no responsibility for ensuring that a project owner who receives a housing credit allocation from the Department will qualify for the housing credit. The Department will reject, and consider barring the project owner from future participation in the Department's tax credit program as a consequence thereof, any application in which fraudulent information, knowingly false documentation or other misrepresentation has been provided. The aforementioned policy will apply at any stage of the evaluation or approval process.

§50.11. Program Fees.

(a) Each project owner that submits an application shall submit to the Department, along with such application, a non refundable application fee, as set forth in the Application Submission Procedures Manual.

(b) For each project which is to be evaluated by an independent third party underwriter in accordance with §50.6(b)(3) of this title (relating to Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects), the project owner will be so informed in writing prior to the commencement of any reviews by said underwriter. The cost for the third party underwriting will be set forth in the Application Submission Procedures Manual, and must be received by the Department prior to the engagement of the underwriter. The fees paid by the project owner to the Department for the third party underwriting will be credited against the commitment fee established in subsection (c) of this section, in the event that a commitment notice is issued by the Department to the project owner.

(c) Each project owner that receives a commitment notice shall submit to the Department, not later than the expiration date on the commitment billing notice, a non refundable commitment fee, as set forth in the Application Submission Procedures Manual. The commitment fee shall be paid by cashier's check. Projects located within one of the targeted Texas counties, as indicated in the Reference Manual, will be exempt from the requirement to pay a commitment fee, in the event that commitment notice is issued.

(d) Each project owner that requests an extension of the expiration date of a commitment notice, reservation notice, or wait list notice shall submit to the Department, along with such request, a non refundable extension fee, as set forth in the Application Submission Procedures Manual and shall be paid by cashier's check. Such extension shall be granted at the discretion of the Department.

(e) Upon the project being placed in service, the project owner will pay a compliance monitoring fee in the form of a cashier's check, as set forth in the Application Submission Procedures Manual. The compliance monitoring fee must be received by the Department prior to the release of the IRS Form 8609 on the project.

(f) Public information requests are processed by the Department in accordance with the provisions of Texas Civil Statutes, Article 6252-17a, codified as Government Code, Chapter 552, and as amended by the Acts during the 73rd Legislature, and as may be amended from time to time. The General Services Commission and the Department determine the cost of copying, and other costs of production.

(g) The amounts of the application fee, commitment fee, compliance monitoring fee, administrative fees, extension fee, and other applicable fees as specified in the Application Submission Procedures Manual will be revised by Board resolution from time to time as necessary to ensure that such fees cover the Department's administrative expenses.

§50.12. Manner and Place of Filing Applications.

(a) All applications, letters, documents, or other papers filed with the Department will be received only between the hours of 8:00 a.m. and 5:00 p. m. on any day which is not a Saturday, Sunday or a holiday established by law for state employees.

(b) All items submitted to the Department shall be mailed or delivered to Low Income Housing Tax Credit Program, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 300, Austin, Texas 78704.

§50.13. Withdrawals, Cancellations, Amendments.

(a) A project owner may withdraw an application prior to receiving a reservation, commitment, carryover allocation document or housing credit allocation, or may cancel a reservation notice or commitment notice by submitting to the Department a notice, as applicable, of withdrawal or cancellation.

(b) The Department may consider an amendment to a project if the revisions are:

- (1) consistent with the Code and the tax credit program;
- (2) do not occur while the project is under consideration for tax credits;
- (3) do not involve a change in the number of points scored;

(4) do not involve a change in the project's site; or

(5) do not involve a change in the set-aside election.

§50.14. Waiver and Amendment of Rules.

(a) The Board, in its discretion, may waive any one or more of these rules in cases of natural disasters such as fires, hurricanes, tornadoes, earthquakes, or other acts of nature as declared by Federal or State authorities.

(b) For purposes of §50.8(b) of this title (relating to Housing Credit Allocations), the requirements for making a housing credit allocation, as set forth in the Cost Certification Procedures Manual, shall apply to all project owners which received an executed carryover allocation document from the Department on, before or after January 1, 1993.

(c) The Department may amend this chapter at any time in accordance with the provisions of Texas Civil Statutes, Article 6252-13a, codified as Government Code, Chapter 2001, and as amended by the Acts of the 73rd Legislature, and as may be amended from time to time.

(d) The Department will waive the requirement for an application fee, as set forth in §50.11(a) of this title (relating to Program Fees), in the event of a resubmission of a project which received a conditional commitment of tax credits, but due to the lack of available tax credit authority the Department was unable to issue a commitment notice.

§50.15. Forward Reservations; Binding Commitments.

(a) Anything in §50.4 of this title (relating to Applications; Environmental Assessments; Market Study; Reservations; Notification; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments) or elsewhere in this chapter to the contrary notwithstanding, the Department may determine to issue reservations and commitments of tax credit authority with respect to projects from the state housing credit ceiling for the calendar year following the year of issuance (each a "forward commitment"). The Department may make such forward commitments:

- (1) with respect to projects placed on a waiting list in any previous application round during the year; or
- (2) pursuant to an additional application round.

(b) If the Department determines to make forward commitments pursuant to a new application round, it shall provide in-

formation concerning such round in the *Texas Register*. In inviting and evaluating applications pursuant to an additional allocation round, the Department may waive or modify any of the set-asides set forth in §50.5(a) and (b) of this title (relating to Set-Asides, Reservations and Preferences) and make such modifications as it determines appropriate in the threshold criteria, evaluation factors and selection criteria set forth in §50.6 of this title (relating to Threshold Criteria, Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects) and in the dates and times by which actions are required to be performed under this chapter. The Department may also, in an additional application round, include projects previously evaluated within the calendar year and rank such projects together with those for which applications are newly received.

(c) Unless otherwise provided in the reservation notice or commitment notice with respect to a project selected to receive a forward commitment or in the announcement of an application round for projects seeking a forward commitment, actions which are required to be performed under this chapter by a particular date within a calendar year shall be performed by such date in the calendar year of the anticipated allocation rather than in the calendar year of the forward commitment.

(d) Any forward commitment made pursuant to this section shall be made subject to the availability of state housing credit ceiling in the calendar year with respect to which the forward commitment is made. No more than 15% of the per capita component of state housing credit ceiling anticipated to be available in the State of Texas in a particular year shall be allocated pursuant to forward commitments to project applications carried forward without being ranked in the new application round pursuant to subsection (f) below. If a forward commitment shall be made with respect to a project placed in service in the year of such commitment, the forward commitment shall be a "binding commitment" to allocate the applicable credit dollar amount within the meaning of the Code, §42(h)(1)(C).

(e) If tax credit authority shall become available to the Department later in a calendar year in which forward commitments have been awarded, the Department may allocate such tax credit authority to any eligible project which received a forward commitment, in which event the forward commitment shall be canceled with respect to such project.

(f) In addition to or in lieu of making forward commitments pursuant to subsection (a) of this section, the Department may determine to carry forward project applications on a waiting list or otherwise

received and ranked in any application round within a calendar year to the subsequent calendar year, requiring such additional information, applications and/or fees, if any, as it determines appropriate. Project applications carried forward may, within the discretion of the Department, either be awarded credits in a separate allocation round on the basis of rankings previously assigned or may be ranked together with project applications invited and received in a new application round. The Department may determine in a particular calendar year to carry forward some project applications under the authority provided in this subsection, while issuing forward commitments pursuant to subsection (a) of this section with respect to others.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 26, 1995.

TRD-9509330 Henry Flores
Executive Director
Texas Department of
Housing and
Community Affairs

Effective date: August 16, 1995

Proposal publication date: June 9, 1995

For further information, please call: (512) 475-3916

TITLE 31, NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 53. Finance

License Fees and Boat and Motor Fees

• 31 TAC §53.8

The Texas Parks and Wildlife Commission, in a regularly scheduled public hearing held June 1, 1995, adopts an amendment to §53.8, with changes to the proposed text as published in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3131).

The retail fish dealer's license, proposed at \$86.25, was set at \$86. The rounding down in the license fee is expected to facilitate ease of purchase of the license and to facilitate collection and accounting of this license fee. The nonresident five day special hunting license, proposed as \$50, was set at \$35. The special resident sportfishing license was proposed at \$1.50-\$6.00 and Commission set the fee at \$6.00.

The Commission did not adopt proposed fee increases including: resident combination hunting and fishing license; resident hunting license; lifetime combination hunting and fishing license; lifetime hunting license; lifetime fishing license; turkey stamp; conservation

permit; exempt and duplicate exempt red drum tags; and sportsman's license. All other proposed fee changes were adopted as proposed.

Increases in the fees are necessary to continue current levels of service directed to the public good and to adjust temporary license fees for consistency with other fixed period license fees. This rule action also implements the provisions of Senate Bill 750 relating to shrimp license management.

Adoption of this rule increases fees in several licenses related to the Texas shrimping industry. Senate Bill 750 directs the Commission to increase the amount of these licenses by 15% up to \$25 and earmark these funds for activities related to shrimp license management. The rule also sets new fees for nonresident hunting activities, bringing these fees into more close correspondence to similar fees in other surrounding states.

Public comment on the adopted increases in non-resident hunting license fees was received from 13 individuals. Eleven phone calls, one letter via facsimile, and one personal public comment at the Commission Meeting were received. All eleven phone calls and the letter received via facsimile were from individuals expressing concern about the \$25 increase (from \$25 to \$50) for the Non-Resident Five-Day Special Hunting License. All expressed concern about a 100% increase in the fee and the anticipated negative effect on the number of hunters who would be willing to pay such an increase. They were also concerned about the effect on local economies from loss of the lucrative non-resident hunting business, particularly waterfowl hunting guides and related businesses. Public comment was received from the Texas Wildlife Association, which was generally supportive of the need for non-resident hunting license fee increases; but also expressed concern about the economic impact of the anticipated reductions in hunter participation due to the fee increases. All individuals submitting public comment positively endorsed the discounted fee (\$6.00) for non-resident hunters under 17 years of age.

The Texas Wildlife Association spoke in support of some fee increases and in opposition to others.

The department agreed with the suggestion that the fee increases for resident hunting and fishing activities should be more closely considered. The Commission deferred action on these items. The Department agreed with comments concerning the Non-Resident Five Day Hunting License and increased the fee by only \$10 instead of the \$25 originally proposed as the upper range limit for this license. The fee increase is necessary to continue the present level of services and brings this license into price correspondence with the non-resident licenses in surrounding states.

The amendment is adopted under the authority of Parks and Wildlife Code, §11.027, which provides the Parks and Wildlife Commission authority to set certain license fees.

§53.8. License Fees Set by Commission. The following license fee amounts

are effective for the licensing period beginning September 1, 1995:

- (1) resident combination hunting and fishing—\$25;
- (2) resident hunting—\$13;
- (3) special resident hunting—\$6.00. Nonresident hunters who are under 17 years of age on the date of license purchase are designated as residents and may purchase a special resident hunting license;
- (4) duplicate hunting—\$6.00;
- (5) general nonresident hunting—\$250;
- (6) resident trapper—\$15;
- (7) nonresident special hunting—\$100;
- (8) resident retail fur buyer—\$75;
- (9) resident wholesale fur dealer—\$150;
- (10) nonresident banded bird hunting—\$10;
- (11) game breeder—\$15;
- (12) hunting boat—\$75;
- (13) scientific breeder's permit—\$150;
- (14) fur-bearing animal propagation—\$75;
- (15) nonresident trapper—\$250;
- (16) commercial game bird breeder—Class I—\$150;
- (17) apprentice falconer's permit—\$50;
- (18) general falconer's permit—\$100;
- (19) master falconer's permit—\$150;
- (20) falconer's renewal permit—\$50;
- (21) nonresident five-day falconer's permit—\$20;
- (22) white-winged dove stamp—\$7.00;
- (23) commercial game bird breeder—Class 2—\$15;
- (24) wild caught alligator hide tag—\$10;
- (25) hunting lease—small—\$25;
- (26) hunting lease—medium—\$50;
- (27) hunting lease—large—\$75;
- (28) archery hunting stamp—\$7.00;
- (29) waterfowl hunting stamp—\$7.00;

(30) nonresident retail fur buyer's-\$300;

(31) nonresident wholesale fur dealer's-\$500;

(32) resident fishing-\$13;

(33) special resident sportfishing-\$6.00;

(34) nonresident fishing-\$30;

(35) fishing duplicate-\$6.00;

(36) temporary nonresident fishing-\$20;

(37) Lake Texoma fishing-\$7.50;

(38) saltwater sportfishing stamp-\$7.00;

(39) freshwater trout stamp-\$7.00;

(40) retail fish dealer's-\$46;

(41) saltwater trotline tags-\$3.00;

(42) fishing guide-\$75;

(43) resident commercial fishing boat-\$15;

(44) bait dealer's-\$30;

(45) wholesale fish dealer's-\$525;

(46) wholesale fish dealer's-truck-\$325;

(47) retail fish dealer's-truck-\$86;

(48) commercial fishing boat-Menhaden Only-\$3,500;

(49) Menhaden Fish Plant Permit-\$150;

(50) resident commercial gulf shrimp boat-\$275;

(51) shrimp house operator-\$425;

(52) individual bait shrimp trawl tags-\$23;

(53) bait shrimp dealer's-\$115;

(54) commercial bay shrimp boat license transfer-\$195;

(55) resident commercial bait shrimp boat-\$195;

(56) nonresident general commercial fisherman-\$150;

(57) nonresident general commercial finfish fisherman-\$150;

(58) resident commercial finfish fisherman-\$75;

(59) resident general commercial fisherman-\$20;

(60) nonresident commercial gulf shrimp boat-\$1,025;

(61) finfish import-\$75;

(62) resident and non-resident fishing under 17-no charge;

(63) resident lifetime combination hunting and fishing-\$800;

(64) resident lifetime hunting-\$500;

(65) resident lifetime fishing-\$400;

(66) resident commercial oyster boat captain's-\$25;

(67) nonresident commercial oyster boat captain's-\$100;

(68) nonresident commercial bait shrimp boat-\$525;

(69) duplicate resident commercial bay shrimp boat license plates-\$5.00;

(70) duplicate resident commercial bait shrimp boat license plates-\$5.00;

(71) duplicate resident commercial gulf shrimp boat license plates-\$5.00;

(72) duplicate nonresident commercial bay shrimp boat license plates-\$5.00;

(73) duplicate nonresident commercial bait shrimp boat license plates-\$5.00;

(74) duplicate nonresident commercial gulf shrimp boat license plates-\$5.00;

(75) duplicate resident commercial fishing boat license plates-\$5.00;

(76) duplicate resident commercial oyster boat license plates-\$5.00;

(77) duplicate nonresident commercial fishing boat license plates-\$5.00;

(78) duplicate nonresident commercial oyster boat license plates-\$5.00;

(79) commercial bait shrimp boat license transfer-\$195;

(80) transfer of any licenses (except commercial bay shrimp boat and commercial bait shrimp boat licenses) authorized by Chapter 47, 66, 76, or 77, Parks and Wildlife Code-\$5.00;

(81) resident commercial mussel and clam fisherman's-\$30;

(82) nonresident commercial mussel and clam fisherman's-\$800;

(83) resident shell buyer's-\$100;

(84) nonresident shell buyer's-\$1,500;

(85) mussel dredge fee-\$30;

(86) muzzleloader stamp-\$10;

(87) nonresident five day special hunting-\$35;

(88) nonresident spring turkey hunting-\$100;

(89) resident commercial bay shrimp boat-\$195;

(90) nonresident commercial bay shrimp boat-\$525;

(91) tarpon tag fee-\$100;

(92) duplicate tarpon tag fee-\$25;

(93) temporary resident sportfishing-\$10.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 30, 1995.

TRD-9509256

Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date: August 14, 1995

Proposal publication date: April 28, 1995

For further information, please call: (512) 389-4642

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing Proclamation

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, July 6, 1995, adopts amendments to §65.3 and 65.78, concerning the use of the sand pump as a legal device for the taking of aquatic organisms, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3966).

Regulations concerning taking and possession of aquatic species did not provide a legal means and method or a possession limit for taking of ghost shrimp (*Callichirus islagraunde*) for use as live bait. Department staff ascertained that the sand pump and its use, as defined in these rules, in combination with a possession limit of 20 ghost shrimp would have minimal negative impact on populations of the ghost shrimp.

The amendments provide parameters for use of sand pumps in taking of ghost shrimp and set the possession limit at 20 ghost shrimp per fisherman.

The department conducted a series of eight public hearings regarding use of sand pumps as a legal means for taking of ghost shrimp. One respondent spoke in favor of the sand pump at the public hearing held in Nueces County. The department received no other comment concerning the sand pump as a

legal means and method for taking of ghost shrimp.

The department received no public comment from an association or other group concerning the proposed amendments.

Department staff ascertained that the sand pump constitutes a biologically sound means for collection of ghost shrimp and that a possession limit of 20 ghost shrimp would have no negative impact on populations of this aquatic organism.

General Provisions

• 31 TAC §65.3

The amendment is adopted under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with the authority to establish wildlife resource regulations for this state.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 14, 1995.

TRD-9509296 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date: August 14, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 389-4642

• 31 TAC §65.72

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing, July 6, 1995, adopts an amendment to §65.72, concerning the bag, possession, and size limits of red snapper, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3967).

The amendment is necessary to adequately protect the marine resources of the state.

The amendment implements regulations developed by the Gulf of Mexico Fishery Management Council for federal waters where most of the red snapper fishing occurs. The amendment insures consistency in regulation and enforcement, and reduces confusion for red snapper anglers. In addition, the yield per recruit and spawning success of the overfished red snapper stocks would be improved.

The department conducted a series of eight public hearings regarding the proposed changes in minimum size limit, bag and possession limits for red snapper. The department received a total of ten public comments in opposition to the proposed changes in red snapper size and bag limits.

Commenters opposing the proposed rules questioned the validity of fishery data used in making the recommendation; suggested that a five-fish bag limit for red snapper did not justify the expense of the fishing trip; and were concerned about inconsistency between the commercial and sportfishing interests.

The department responds that it works closely with the Gulf Council and the National Marine Fisheries Service on the scientific assessment of red snapper stocks. While questions are routinely raised concerning the best data sets and models for use in these assessments, the department believes the current conditions in the red snapper fishery justifies more conservative harvest regulations; the red snapper recovery efforts to date have actually led to an increased success rate for anglers, so that while keeping more than five red snapper will not be allowed, the probability of catching five red snapper on a trip will be improved; and the new size and bag limits apply equally to recreational and commercial fishermen in Texas waters. Commercial fishermen in federal waters are restricted by quotas and closed seasons. The department made no changes as a result of the comments.

The department received no comment from an association or other group concerning the proposed amendment.

The amendment is adopted under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983) which provides the Parks and Wildlife Commission with the authority to establish wildlife resource regulations for this state.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 14, 1995.

TRD-9509298 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date: August 14, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 389-4642

Seasons and Bag Limits- Fishing Provisions

• 31 TAC §65.78

The amendment is adopted under the Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Parks and Wildlife Commission with the authority to establish wildlife resource regulations for this state.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 14, 1995.

TRD-9509297 Paul M. Shinkawa
Acting General Counsel
Texas Parks and Wildlife
Department

Effective date: August 14, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 389-4642

Title 37. PUBLIC SAFETY AND CORRECTIONS Part VI. Texas Department of Criminal Justice

The Texas Department of Criminal Justice adopts the repeal of §§152.1, 152.9, 152.21, and 152.31 and new §152.6, concerning general allocation provisions. Section 152.6 is adopted with changes to the proposed text as published in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3633). Sections 152.1, 152.9, 152.21, and 152.31 are adopted without changes and will not be republished.

This rule adoption takes affect due to the amendment of Texas Government Code, §499.071, 74th Legislature, Regular Session, to repeal the admissions allocation formula and require a scheduled admissions policy.

The adopted sections will enable timely acceptance into state facilities of persons with felony convictions.

For clarification purposes, the agency is changing the chapter title and incorporating subchapters for the remaining sections that are not being repealed.

No comments were received regarding adoption of the repeals and new section.

Chapter 152. General Allocation Provisions

• 37 TAC §§152.1, 152.9, 152.21, 152.31

The repeals are adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board, §499.071 (as amended by the 74th Legislature, Regular Session), and §499.121(c), which requires the institutional division to accept inmates from county jails within 45 days of reaching paper-ready status.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509323 Carl Reynolds
General Counsel
Texas Department of
Criminal Justice

Effective date: August 16, 1995

Proposal publication date: May 16, 1995

For further information, please call: (512) 463-9693

Subchapter A. Prison Admissions

• 37 TAC §152.6

The new section is adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board, §499.071 (as amended by the 74th Legislature, Regular Session), and §499.121(c),

which requires the institutional division to accept inmates from county jails within 45 days of reaching paper-ready status.

§152.6. Transfer Facility Admissions and Transfers. The institutional division shall apply the prison admissions policy to admissions into transfer facilities. The division shall transfer inmates from transfer facilities into prison units of the institutional division within the time period required by state law.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509324 Carl Reynolds
General Counsel
Texas Department of
Criminal Justice

Effective date: August 16, 1995

Proposal publication date: May 16, 1995

For further information, please call: (512) 463-9693

Chapter 163. Community Justice Assistance Division Standards

The Texas Department of Criminal Justice-Community Justice Assistance Division (TDCJ-CJAD) adopts amendments to §§163.3, 163.5, 163.21, 163.25, 163.31, 163.33, 163.35, 163.37, 163.39, 163.41, 163.43, and 163.45, new §163.42 and §163.47 and the repeal of §163.23, concerning Community Justice Assistance Division Standards, without changes to the proposed text as published in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3634).

These amendments provide for: complaint notices to be placed in CSCDs; a description of what constitutes core services; methods for measuring the success of programs; elimination of four tier supervision; and increasing the deadline from 45 days to 60 days to complete case classification and strategies for case supervision.

The amendments also provide a 90 day extension in which to attain the required 40 hours annual training; Substance Abuse Felony Punishment (SAFPF) training for officers who supervise SAFPF participants; and TDCJ-CJAD to provide CSCDs with information on HIV-AIDS. The residential standards provide for feasibility studies; requirements for public meetings; placement and discharge criteria; and the criteria for residential policies and procedures manual. The term "probation" is changed to "community supervision," "probation officer" is changed to "community supervision officer," "probationers" is changed to "offenders," and "CJAD" is changed to "TDCJ-CJAD," in order to provide consistent and updated terminology known statewide. These sections are being amended as part of the recodification process required for imple-

menting legislative mandates. The TDCJ-CJAD proposes new §163.42 and §163.47, concerning what constitutes substantial non-compliance with TDCJ-CJAD standards and a procedure for contested matters with TDCJ-CJAD. These new standards are part of the recodification process required for implementing legislative mandates. The TDCJ-CJAD proposes the repeal of §163.23 concerning the membership of Community Justice Councils and Community Justice Task Forces. This prior standard of TDCJ-CJAD is being repealed as part of the recodification process as redundant of statutory language.

The adoption of the sections represent an effort to improve community supervision resulting in increased efficiency of operations of the TDCJ-CJAD for the next five years.

No comments were received regarding adoption of the proposed sections.

- 37 TAC §§163.3, 163.5, 163.21, 163.25, 163.31, 163.33, 163.35, 163.37, 163.39, 163.41, 163.42, 163.43, 163.45, 163.47

The new sections and amendments are permitted by Code of Criminal Procedure, Article 42.13, §2(a), which gives the Board of Criminal Justice authority to adopt reasonable rules establishing: minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of community supervision and corrections departments; a list and description of core services that should be provided by each department; methods for measuring the success of community supervision and corrections programs; and a format for community justice plans.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509325 Carl Reynolds
General Counsel
Texas Department of
Criminal Justice

Effective date: August 16, 1995

Proposal publication date: May 16, 1995

For further information, please call: (512) 463-9693

- 37 TAC §163.23

The repeal is permitted by Code of Criminal Procedure, Article 42.13, §2(a), which gives the Board of Criminal Justice authority to adopt reasonable rules establishing: minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of community supervision and corrections departments; a list and description of core services that should be provided by each department; methods for measuring the success of community supervision and corrections programs; and a format for community justice plans.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509326 Carl Reynolds
General Counsel
Texas Department of
Criminal Justice

Effective date: August 16, 1995

Proposal publication date: May 16, 1995

For further information, please call: (512) 463-9693

Chapter 165. State Aid Distribution and Monitoring

- 37 TAC §§165.41, 165.43, 165.60-165.67

The Texas Department of Criminal Justice-Community Justice Assistance Division (TDCJ-CJAD) adopts the repeal of §§165.41, 165.43, and 165.60-165.67, concerning the administration and funding of Community Corrections Programs and all aspects of the Performance Reward Program, without changes to the proposed text as published in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3651).

The repeals are adopted as part of the recodification process to eliminate obsolete or redundant standards.

The adopted repeals represent an effort to improve community supervision resulting in increased efficiency of operations of the TDCJ-CJAD for the next five years.

No comments were received regarding adoption of the repeals.

The repeals are permitted by Code of Criminal Procedure, Article 42.13, §2(a), which gives the Board of Criminal Justice authority to adopt reasonable rules establishing: minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of community supervision and corrections departments; a list and description of core services that should be provided by each department; methods for measuring the success of community supervision and corrections programs; and a format for community justice plans.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509327 Carl Reynolds
General Counsel
Texas Department of
Criminal Justice

Effective date: August 16, 1995

Proposal publication date: May 16, 1995

For further information, please call: (512) 463-9693

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

Food Distribution Program

• 40 TAC §11.107

The Texas Department of Human Services (DHS) adopts an amendment to §11.107, with changes to the proposed text as published in the May 19, 1995, issue of the *Texas Register* (20 TexReg 3706).

The justification for the amendment is to allow recipient agencies who meet the criteria to receive commodities by direct shipment instead of commercial distribution. Except for recipient agencies that were already receiving direct shipments when commercial distribution was implemented, all recipient agencies must use commercial distribution.

The amendment will function by reducing the warehousing and distribution costs of recipient agencies who qualify for direct shipment. However, because distributors will probably increase their rates to make up for lost volume, costs for recipient agencies who must continue to use commercial distribution will probably increase.

No written comments were received regarding adoption of the amendment. Special Nutrition Program (SNP) staff received a comment by telephone from an individual representing Affiliated Foods, the commercial distributor of commodities in Amarillo and the surrounding area. The individual strongly opposed the proposed change, stating that allowing direct shipments of donated foods will hurt the commercial distributors and, perhaps, drive some smaller schools out of the commodity program. Before publication in the *Texas Register*, SNP staff received several comments from interested parties. Three school districts (Angleton ISD, Nederland ISD, and Beaumont ISD) commented in support of the proposed change. Also commenting in support of the proposed change, on behalf of 20 Rio Grande Valley school districts, was the Valley Association of District Managed Food Service Administrators. In supporting the proposed rule, the Valley Association recommended that DHS allow each school district the option of whether or not they wish their diverted commodity product to be shipped to their designated commercial warehousing and distribution system or to their choice of storage facilities.

Two commercial distributors and three school districts opposed the proposed change. Professional Food Systems (PFS), serving the Houston, Arlington, and El Paso areas, and Grocery Supply Company, serving the San Antonio area, agreed with Affiliated Foods' comments that the direct shipment of commodities to school districts would adversely affect their businesses and could cause smaller school districts to leave the program.

The school districts expressing negative comments were Aransas Pass ISD, Los Fresnos CSD, and Kingsville ISD. Their concern is that schools which do not meet criteria for direct shipments will incur increased costs.

DHS is adopting paragraph (d)(7) with a change. DHS has deleted the phrase "designate in its agreement with DHS only one facility to receive shipments of commodities."

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

The amendment implements the Human Resources Code, §§22.001-22-024 and §§33.001-33.024

§11.107. Warehousing and Distribution of Donated Foods.

(a)-(b) (No change.)

(c) DHS has contracted for a commercial warehousing and distribution system. Recipient agencies must operate under the commercial warehousing and distribution system, unless they qualify for direct shipments of donated food as specified in subsections (d)-(f) of this section.

(d) For an individual recipient agency to qualify for direct shipments of United States Department of Agriculture (USDA)-donated commodities, the recipient agency must:

(1) enter into a written agreement with DHS to receive direct shipments of donated food;

(2) accept delivery of a single product in a quantity of no less than one truckload. DHS will allocate the food USDA makes available to Texas on a "fair-share" basis; a fair share that is less than 1/2 a truckload will be rounded to zero and a fair-share that is at least 1/2 of a truckload will be rounded to a truckload;

(3) have storage facilities for dry, chilled, and frozen products;

(4) meet USDA and DHS requirements for receiving and storing commodities, including requirements for sanitation, odor control, and temperature;

(5) ensure availability of storage facility staff to schedule appointments and receive shipments throughout the year, including summer and holidays;

(6) provide DHS with three months advance notice when ordering or changing orders for commodities;

(7) provide DHS with four months advance notice before changing a direct shipment destination;

(8) process and submit receiving orders (ONRRs) to DHS daily;

(9) comply with the requirements of Food and Nutrition Services (FNS) Instruction 709-5, titled "Shipment and Receipt of Food," and comply with other requirements for receiving and storing commodities as specified by DHS;

(10) allow USDA, DHS, and their representatives to inspect and monitor warehousing operations and to conduct inventories and audits;

(11) provide to DHS, during the warehouse approval process, a copy of a current health inspection certificate for the warehouse facility;

(12) maintain a physical and book inventory of all commodities;

(13) maintain records for processed foods according to DHS specifications;

(14) retain DHS-required records for three years and 90 days after the date the contract ends or, if applicable, until all litigation, claims, and audits are resolved;

(15) submit all reports required by DHS;

(16) accept all scheduled shipments, regardless of the shipment or loading method;

(17) have sufficient warehouse space to accommodate all inbound freight; and

(18) assume responsibility for all commodities in the recipient agency's care and control, including financial responsibility and bearing the risk of loss, damage, and theft.

(e) For a cooperative representing recipient agency schools, such as school co-ops, to qualify for direct shipments of USDA-donated commodities, the co-op must:

(1) meet the requirements for individual recipient agencies specified in subsection (d) of this section;

(2) provide to DHS a copy of a legal agreement, signed by representatives of each recipient agency and meeting the requirements of state laws governing inter-local cooperation contracts;

(3) agree to use DHS specifications to equitably allocate USDA-donated commodities to each member of the school co-op;

(4) follow DHS specifications for submitting worksheets for ordering commodities;

(5) maintain for each recipient agency in the school co-op an ongoing planned assistance level (PAL) balance and to report it monthly, as specified by DHS;

(6) provide proof of purchase of "all risk" escalating insurance with coverage equal to or greater than the cost value of commodities on hand at any time or, as a condition of ongoing eligibility, provide proof that such insurance remains in effect; and

(7) meet local, state, and federal requirements for temperature and sanitation when delivering commodities.

(f) For an organization, association, or a combination of two or more non-school, recipient agencies, such as a non-school co-op, to qualify for direct shipments of USDA-donated commodities, the non-school co-op must:

(1) meet the requirements for individual recipient agencies specified in subsection (d) of this section;

(2) agree to use DHS specifications to equitably allocate USDA-donated commodities to each member of the non-school co-op;

(3) follow DHS specifications for submitting worksheets for ordering commodities;

(4) provide proof of purchase of "all risk" escalating insurance with coverage equal to or greater than the cost value of commodities on hand at any time or, as a condition of ongoing eligibility, provide proof that such insurance remains in effect; and

(5) meet local, state, and federal requirements for temperature and sanitation when delivering commodities.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 25, 1995.

TRD-8509284

Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Effective date: September 1, 1995

Proposal publication date: May 19, 1995

For further information, please call: (512) 450-3765

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Name: Johanna Tietz
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Johanna Tietz
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Art 1

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TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure 1 for 40 TAC 20.103(b)(7)(A)

building historical cost (excluding land)	\$110,000
less 10% salvage value	<u>- 11,000</u>
depreciable basis	\$ 99,000
divided by 30 years	= \$3,300 depreciation expense per year

Figure 1 for 40 TAC 48.2703(d)

**In-home and Family Support Program
Income Copayment Schedule**

Percent (%) Copay:		10%	20%	30%	40%	50%
Family Size	Median Income	105% of Median Income	110% of Median Income	115% of Median Income	120% of Median Income	125% of Median Income
1	\$21,158	\$22,216	\$23,274	\$24,332	\$25,390	\$26,448
2	27,668	29,051	30,435	31,818	33,202	34,585
3	34,178	35,887	37,596	39,305	41,014	42,723
4	40,688	42,722	44,757	46,791	48,826	50,860
5	47,198	49,558	51,918	54,278	56,638	58,998
6	53,708	56,393	59,079	61,764	64,450	67,135
Maximum Copayment Amount	\$0	\$720	\$1440	\$2160	\$2880	\$3600
Percent (%) Copay:		60%	70%	80%	90%	100%
Family Size		130% of Median Income	135% of Median Income	140% of Median Income	145% of Median Income	150% of Median Income
1		\$27,505	\$28,563	\$29,621	\$30,679	\$31,737
2		35,968	37,352	38,735	40,119	41,502
3		44,431	46,140	47,849	49,558	51,267
4		52,900	54,929	56,963	58,998	61,032
5		61,357	63,717	66,077	68,437	70,797
6		69,820	72,506	75,191	77,877	80,562
Maximum Copayment Amount		\$4320	\$5040	\$5760	\$6480	\$7200

NOTE: For families larger than six, add three percentage points for each additional family member to 132% (which is the factor for a family of six) and multiply the new percentage by the State Median Income (SMI) for a family of four. Example: To calculate the SMI for a family of seven: (3% + 132% = 135% X \$40,688 SMI for family of four) = \$54,929.

Figure 2 for 40 TAC 48.2703(d)

**[In-home and Family Support Program
Income Copayment Schedule**

Percent (%) Copay:		10%	20%	30%	40%	50%
Family Size	Median Income	105% of Median Income	110% of Median Income	115% of Median Income	120% of Median Income	125% of Median Income
1	\$21,161	\$22,219	\$23,277	\$24,335	\$25,393	\$26,451
2	27,673	29,057	30,440	31,824	33,208	34,591
3	34,184	35,893	37,602	39,312	41,021	42,730
4	40,695	42,730	44,765	46,799	48,834	50,869
5	47,206	49,566	51,927	54,287	56,647	59,008
6	53,717	56,403	59,089	61,775	64,460	67,146
Maximum Copayment Amount	\$0	\$720	\$1440	\$2160	\$2880	\$3600
Percent (%) Copay:		60%	70%	80%	90%	100%
Family Size		130% of Median Income	135% of Median Income	140% of Median Income	145% of Median Income	150% of Median Income
1		\$27,509	\$28,567	\$29,625	\$30,683	\$31,742
2		35,975	37,359	38,742	40,126	41,510
3		44,439	46,148	47,858	49,567	51,276
4		52,904	54,938	56,973	59,008	61,043
5		61,368	63,728	66,088	68,449	70,809
6		69,832	72,516	75,204	77,890	80,576
Maximum Copayment Amount		\$4320	\$5040	\$5760	\$6480	\$7200

NOTE: For families larger than six, add three percentage points for each additional family member to 132% (which is the factor for a family of six) and multiply the new percentage by the State Median Income (SMI) for a family of four. Example: To calculate the SMI for a family of seven: (3% + 132% = 135% X \$40,695 SMI for family of four) = \$54,938.]



Name: Amy Bush
Grade: 11
School: Bullard High School, Bullard ISD

Amy Bush
11/29
Bullard HS
Art I

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department of Agriculture

Monday, August 14, 1995, 8:00 a.m.

1893 West Mockingbird Lane, Radisson Hotel

Dallas

Texas Grain Sorghum Producers Board

AGENDA:

Call to order

Discussion and action: Minutes; financial reports; supplement to the budget; funds returned to General Fund; increase assessment; 1995-1996 budget approval; credit cards; 1995 election; funding consideration; research proposals.

Discussion: Research updates; other business

Adjourn

Contact: Jack Eberspacher, P.O. Box 560, Abernathy, Texas 79311-0560, (806) 298-4501.

Filed: July 27, 1995, 10:03 a.m.

TRD-9509365

Texas Alcoholic Beverage Commission

Monday, August 7, 1995, 9:00 a.m.

5806 Mesa Drive, Suite 185

Austin

AGENDA:

9:00 a.m.—Call to order.

Convene in open meeting.

Announcement of executive session.

1. Executive session:

a. briefing regarding operations of the general counsel's office; and

b. discussion of *Ouiroga v. TABC*.

Continue open meeting.

2. Take action, including a vote, if appropriate on topics listed for discussion under executive session.

3. Approval of minutes of July 10, 1995, meeting.

4. Administrator's report.

5. Request for rule change to 16 TAC §45.113(h)(3) to increase promotional item cost from \$1.00 and 16 TAC §45.113(f)(7) to allow gifts to consumers under national promotions, discussion, comment and possible action. (Relaxation of Certain Restrictions)

6. New 16 TAC §33.5 as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4897); discussion, comment and possible adoption. (Food and Beverage Certificate)

7. Amend 16 TAC §33.23 as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4898); discussion, comment and possible adoption. (Alcoholic Beverage License and Permit Surcharges)

8. New 16 TAC §33.24 as published in the June 30, 1995, issue of the *Texas Register* (20 TexReg 4671); discussion, comment and possible adoption. (Conduct Surety Bond)

9. Amend 16 TAC §39.1 as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4899); discussion, comment and possible adoption. (Tax Stamps)

10. Amend 16 TAC §50.9 as published in the June 30, 1995, issue of the *Texas Register* (20 TexReg 4672); discussion, comment and possible adoption. (Licensee/Permittee Exemption from Administrative Action)

11. Public comment.

Contact: Doyné Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: July 27, 1995, 8:27 a.m.

TRD-9509362

Texas Appraiser Licensing and Certification Board

Thursday, August 3, 1995, 10:00 a.m.

Conference Room 235-A, 1101 Camino La Costa

Austin

Budget Committee

AGENDA:

Call to order, discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board concerning

the fiscal year 1996 operating budget, the fiscal year 1995 operating budget, and other fiscal matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 26, 1995, 10:59 a.m.

TRD-9509341

Thursday, August 3, 1995, 1:00 p.m.

Room 123, 1101 Camino La Costa

Austin

Enforcement Committee

AGENDA:

Call to order; discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board concerning any or all complaints numbered 94-029, 95-003, 95-005, 95-008, and 95-011 through 95-028; discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board concerning a proposed agreed order in complaint 94-011; executive session for consultation with, and advice from, legal counsel with respect to pending or contemplated litigation or settlement offers, pursuant to Texas Government Code, §551.071; reconvene in public session; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 26, 1995, 10:59 a.m.

TRD-9509342

Friday, August 4, 1995, 8:00 a.m.

Conference Room 235-A, 1101 Camino La Costa

Austin

Education Committee

AGENDA:

Call to order; consideration of the minutes of the April 20, 1995, Education Committee meeting; discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board concerning approval of courses for meeting qualifying (pre-licensure) education and appraiser continuing education (ACE) requirements; discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board on other educational matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 26, 1995, 10:59 a.m.

TRD-9509342

Friday, August 4, 1995, 9:30 a.m.

Conference Room 235, 1101 Camino La Costa

Austin

AGENDA:

Call to order; consideration of minutes of the June 7-8, 1995, TALCB meeting; comments by chairman; presentation on the Texas Open Meetings Act by Attorney General's Office; public hearing on proposed amendments to, and discussion and possible action to adopt proposed amendments to the Rules of the TALCB, 22 TAC §153.1 relating to Definitions, §153.7 relating to Categories of Appraiser Certification, §153.13 relating to Educational Requirements, §153.15 relating to Experience Required for Certification or Licensing, §153.16 relating to Provisional License, §153.17 relating to Renewal of Certification, License or Trainee Approval, Continuing Education, §153.25 relating to Temporary Certification and Licensure, and §153.27 relating to Certification and Licensure by Reciprocity; discussion and possible action concerning licensure and certification by reciprocity; discussion and possible action concerning the application, certification/licensing or other board procedures, policies and interpretations; report from the Education Committee and possible action concerning recommendations regarding approval of courses and other educational matters; report from the Public Relations Committee and possible action concerning recommendations; report from the Budget Committee and possible actions concerning recommendations regarding the fiscal year 1996 operating budget, the fiscal year 1995 operating budget, and other fiscal matters; report from the Enforcement Committee; discussion and possible action concerning any or all complaints numbered 94-029, 95-003, 95-005, 95-008, and 95-011 through 95-028; discussion and possible action on a proposed agreed order in complaint 94-011; discussion and possible action on peer review and peer review materials; staff reports; comments and presentations from visitors; selection of dates of subsequent meetings; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 26, 1995, 10:59 a.m.

TRD-9509340

Texas Board of Architectural Examiners

Thursday, August 3, 1995, 1:00 p.m.

The Austin North Hilton and Towers, Magnolia Room, 6000 Middle Fiskville Road
Austin

Education/Qualification Committee

AGENDA:

Call to order, recognition of guests, chairman's opening remarks, consider/act on ap-

proval of minutes, consider/act on education/qualification and examination matters, public comment, and adjournment.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Carolyn Lewis at (512) 458-1363 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Cathy Hendricks, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: July 26, 1995, 1:03 p.m.

TRD-9509348

Friday, August 4, 1995, 8:30 a.m.

The Austin North Hilton and Towers, Magnolia Room, 6000 Middle Fiskville Road
Austin

Personnel/Resource Committee Meeting

AGENDA:

Call to order; roll call; recognition of guests; chairman's opening remarks; consider/act on approval of minutes; consider/act on personnel/resources matters; executive session to deliberate the evaluation of the executive director per Texas Open Meetings Act, §551.074, Texas Government Code; reconvene in open session; public comment; and adjournment.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Carolyn Lewis at (512) 458-1363 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Cathy Hendricks, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: July 26, 1995, 1:03 p.m.

TRD-9509347

Texas Boll Weevil Eradication Foundation, Inc.

Wednesday, August 2, 1995, 7:00 p.m.

Glasscock County Courthouse

Garden City

AGENDA:

In accordance with the Texas Agriculture Code, §74.114 (1994 Supplement), the Texas Boll Weevil Eradication Foundation and the Texas Department of Agriculture will hold a public hearing to provide information to the public regarding the proposed

eradication program for the proposed St. Lawrence Boll Weevil Eradication Zone.

Contact: Frank Myers, P.O. Box 5089, Abilene, Texas 79608-5089, 1-800-687-1212 or (915) 672-2800.

Filed: July 25, 1995, 3:48 p.m.

TRD-9509303

◆ ◆ ◆
**Advisory Commission on
State Emergency Commu-
nications**

Thursday, August 3, 1995, 9:30 a.m.

6505 North IH-35, Doubletree Hotel, Robertson Room

Austin

Audit Committee

AGENDA:

Call to order; review, discuss, and consider status of internal auditor's recommendations for audit topics for fiscal year 1995; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942, (512) 305-6911.

Filed: July 26, 1995, 4:00 p.m.

TRD-9509355

Thursday, August 3, 1995, 10:30 a.m.

6505 North IH-35, Doubletree Hotel, Robertson Room

Austin

Executive Committee

AGENDA:

Call to order; review and discussion of executive director's self-evaluation of 1995 performance; recess and convene into executive session called pursuant to Open Meetings Act and pursuant to Government Code, Chapter 551, Subchapter D, §551.074(a)(1), consultation regarding personnel matters; reconvene; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942, (512) 305-6911.

Filed: July 26, 1995, 4:01 p.m.

TRD-9509356

Thursday, August 3, 1995, 12:30 p.m.

6505 North IH-35, Doubletree Hotel, South Ballroom

Austin

ACSEC Technical Briefing

AGENDA:

Call to order; briefing overview; the changing telecommunications network and its impact on 9-1-1; wireline and wireless impact into 9-1-1 databases; the evolving 9-1-1 CPE environment; mapped ALI and its impact on 9-1-1; the Telecom Bill and its impact on 9-1-1; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6911 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe, Suite 2-212, Austin, Texas 78701-3942, (512) 305-6911.

Filed: July 26, 1995, 4:02 p.m.

TRD-9509357

◆ ◆ ◆
**State Employee Charitable
Campaign**

Tuesday, August 8, 1995, Noon.

1212 North Velasco

Angleton

Local Employee Committee-Brazoria County

AGENDA:

1. Preview campaign video
2. Review campaign implementation in key accounts
3. Final plans for campaign kickoff

Contact: Stephanie Cone, P.O. Box 1959, Angleton, Texas 77516, (409) 849-9402, Fax (409) 848-0259.

Filed: July 26, 1995, 8:59 a.m.

TRD-9509316

Tuesday, August 8, 1995, 2:00 p.m.

210 East Ninth Street

Fort Worth

Local Employee Committee-Metro Tarrant County

AGENDA:

1. Complete plans for kick-off
2. Complete plans for training
3. Approve draft of fiscal agreement with participating agencies and federations
4. Discuss ways to promote participation

Contact: Sara Marshall, 210 East Ninth Street, Fort Worth, Texas 76102, (817) 878-0000, Fax (817) 878-0092.

Filed: July 26, 1995, 8:59 a.m.

TRD-9509317

Wednesday, August 23, 1995, 3:00 p.m.

214 Spruce Street

Texarkana

Local Employee Committee-Texarkana

AGENDA:

1. Campaign kickoff
2. Review brochure and materials
3. Report on training in Tyler
4. Report on meeting in Paris and Mount Pleasant, Texas

Contact: John Barnett, 214 Spruce Street, Texarkana, Texas 75501, (903) 794-3105, Fax (903) 793-6320.

Filed: July 26, 1995, 8:59 a.m.

TRD-9509318

◆ ◆ ◆
**Office of the Govern-
nor-Criminal Justice Divi-
sion**

Wednesday-Thursday, August 9-10, 1995, 8:45 a.m.

Wyndham Hotel, 4140 Governor's Row, Wyndham A Room

Austin

Governor's Juvenile Justice and Delinquency Prevention Board Annual Planning Meeting

AGENDA:

August 9, 1995

I. Call to order; II. Welcome; III. Board cultural awareness training; IV. 1997 plan/funding process; V. Results of public hearings; VI. Staff presentation of draft problems for 1997 plan, board discussion of problems, and board prioritization of problem statements; VII. Adjourn

August 10, 1995

I. Call to order; II. Approve minutes; III. Staff report on results of board prioritization of problem statements; IV. Implementation; V. Board discussion of fund allocations for fiscal year 1997; VI. Staff reports; VII. Youth members of the board; VIII. Adjourn.

Contact: Glenn Brooks, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: July 26, 1995, 11:55 a.m.

TRD-9509345

Texas Department of Health

Friday, August 11, 1995, 9:30 a.m.

Room M-618, Texas Department of Health,
1100 West 49th Street

Austin

Kidney Health Care Advisory Committee

AGENDA:

The committee will meet to discuss and possibly act on: travel claims; Kidney Health Care (KHC) budgetary issues (status of Fiscal Year (FY) 1995 budget; and status of FY 1996-1997 budget); division updates (community input meetings; benefits for FY 1996-1997; reimbursable drug list and related issues; calcium distribution project; and KHC annual seminar); old business (legislative update; and advisory committee nominations); new business (proposed rules revisions; legislative changes affecting advisory committee; advisory committee annual report; and cyclosporine distribution project); and public comment.

Contact: Manual Zapata, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7796. For ADA assistance, contact Richard Butler at (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 26, 1995, 8:22 a.m.

TRD-9509310

Texas Incentive and Productivity Commission

Friday, August 4, 1995, 10:00 a.m.

Clements Building, 15th and Lavaca, Fifth Floor, Committee Room #5

Austin

Revised Agenda

AGENDA:

Revised Agenda:

Deleting from Agenda Item III, "Consideration of Employee Suggestions for Approval"

Texas Natural Resource Conservation Commission

582-0177 James D. Mosley

Adding Agenda Item V, "Consideration of 1995 Productivity Bonus Applications for Approval"

Texas Youth Commission-Team plans

State Board of Plumbing Examiners

General Land Office-Team plans

Office of Public Insurance Counsel

Texas Alcoholic Beverage Commission

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: July 27, 1995, 9:59 a.m.

TRD-9509364

Texas Natural Resource Conservation Commission

Thursday, August 10, 1995, 10:00 a.m.

Corpus Christi Water Utilities Training Room, Holly Road at Ayers

Corpus Christi

Scientific/Technical Advisory Committee of the Corpus Christi Bay National Estuary Program

AGENDA:

I. Call to order/introduction/minutes

II. Program update

III. Presentation of subcommittee reports on fiscal year 1996 project proposals and discussion

IV. Report by living resources draft report review team and discussion

V. Comp development process and timeline

VI. Presentation by Andy Robertson of NOAA

VII. Additional items/adjourn

Contact: Richard Volk, Campus Box 290, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 985-6767.

Filed: July 26, 1995, 3:26 p.m.

TRD-9509353

Friday, August 18, 1995, 10:00 a.m.

Room 107W, Building C, 12123 Park 35 Circle (off North IH-35 between Yager Lane and Parmer Lane)

Austin

Office of Hearings Examiners

AGENDA:

Roman Forest Consolidated Municipal Utility District (the District); TNRCC Docket Number 95-0610-DIS; for a hearing before a hearings examiner on an application requesting approval of standby fees. The amount of the standby fee requested is \$216 per equivalent single family connection per year for years 1995, 1996, and 1997. Any revenues collected from the standby fees shall be used to pay operation and maintenance expenses of the District. The nature and purpose of standby fees is to distribute a fair portion of the cost burden for operation and maintenance of the District's facilities and/or financing capital costs of the District's facilities to owners of property

who have not constructed improvements but have water and/or wastewater facilities or capacity available.

Contact: Bill Zukauckas, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 25, 1995, 3:05 p.m.

TRD-9509300

Monday, August 21, 1995, 10:00 a.m.

Building C, Room 308E, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by Walter H. Sudduth doing business as Sudduth Water Supply to amend its Certificate of Convenience and Necessity (CCN) Number 12118 and to decertify portions of West Brazos Water Supply Corporation's CCN Number 11283 and Golinda Water Supply Corporation's CCN Number 10009 to provide water utility service in Falls County, Texas. The proposed service area includes the Sudduth Subdivision located approximately three miles north of downtown Chilton, Texas and is generally bounded on the northwest by FM Road 2839, on the east by State Highway 434, and on the south by a tributary of Bull Hide Creek. The total area being requested includes approximately 181 acres and 35 proposed additional customers. TNRCC Docket Number 95-0906-UCR.

Contact: Sylvia McClellan, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 25, 1995, 11:38 a.m.

TRD-9509287

Tuesday, August 29, 1995, 10:00 a.m.

Room 254S of Building E, 12118 North IH-35, TNRCC Park 35 location

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on Virgil B. Pettigrew's application Number RE-0293 (TNRCC Docket Number 95-0787-REC) for approval, pursuant to Texas Water Code, §16.236 and 30 TAC 301, of an existing, unpermitted levee, including repairing and raising 22,400 linear feet. The levee is located immediately south of FM 85 at the Trinity River, Trinity River Basin, Navarro County, Texas. The project is approximately ten miles west of the town of Seven Points. Applicant seeks to raise by three feet the existing 22,400 linear feet of levee and thereby change the levee protection from nine-year to 25-year flood protec-

tion for 3,800 acres of agricultural land. The current levee was repaired to the existing grade by the Corps of Engineers in 1992-1994. If approved, the construction will begin within one year and be completed within six months (weather permitting), according to the applicant. All construction operations have been and will be supervised by the Fort Worth District Corps of Engineers for compliance with environmental and wetland requirements. Cooperation with the U.S. Fish and Wildlife has resulted in the ranch setting aside acreage as a waterfowl habitat.

Contact: Leslie Limes, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 25, 1995, 1:01 p.m.

TRD-9509289

Wednesday, August 30, 1995, 11:00 a.m.
(Rescheduled from August 3, 1995)

Environmental Pollution Control, Auditorium, 7411 Park Place

Houston

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by Longhorn Town Utility District for an amendment to Permit Number 12356-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 125,000 gallons per day to a volume not to exceed an average flow of 710,000 gallons per day. The permittee is also requesting a variance to the buffer zone requirements in accordance with 30 Texas Administrative Code Chapter 309, §309.13(e)(1)(B). The proposed amendment will enforce more stringent effluent limitations as needed, in order to meet existing applicable rules and regulations. The Longhorn Town Utility District Wastewater Treatment Facilities are approximately 0.5 mile south of Interstate Highway 10 and 0.5 mile east of Baker Road in Harris County, Texas. TNRCC Docket Number 95-1034-MWD.

Contact: Kerry Sullivan, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 25, 1995, 11:39 a.m.

TRD-9509288

Tuesday, September 12, 1995, 10:00 a.m.

Tuesday, September 12, 1995, 10:00 a.m.

Alamodome, Meeting Room L, 100 Montana Street

San Antonio

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by City of San Antonio for

Proposed Permit Number 03724 to authorize a discharge of previously monitored effluents at a volume not to exceed 3,280,000 gallons during any 24-hour period plus a discharge of groundwater and stormwater at a volume not to exceed 1,580,000 gallons during any 24-hour period. The applicant operates the Alamodome multi-purpose stadium. The plant site is at 100 Montana Street in the City of San Antonio, Bexar County, Texas. TNRCC Docket Number 95-0921-MWD.

Contact: Cecile Hanna, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: July 25, 1995, 11:38 a.m.

TRD-9509286

◆ ◆ ◆
Texas Board of Nursing Facility Administrators

Monday, August 7, 1995, 9:00 a.m.

Hilton Hotel and Towers, 60000 Middle Fiskville Road

Austin

Examination Ad Hoc Committee

AGENDA:

The board will discuss and possibly act on: roll call; introduction of guests; Nursing Facility Administrators survey results and writing of test questions to be used on licensure exams.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: July 26, 1995, 8:22 a.m.

TRD-9509309

Tuesday, August 8, 1995, 9:00 a.m.

Hilton Hotel and Towers, 60000 Middle Fiskville Road

Austin

Examination Ad Hoc Committee

AGENDA:

The board will discuss and possibly act on: roll call; introduction of guests; test questions.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

Filed: July 26, 1995, 8:22 a.m.

TRD-9509308

Public Utility Commission of Texas

Wednesday, August 2, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

There will be an open meeting for discussion, consideration, and possible action on: Election of a Chairman; P.14357 publication of a new rule concerning Voting Procedures for Telephone Cooperatives Seeking to Partially Deregulate; D. 13949 West Texas Utilities for Approval of Deferred Accounting Treatment of Certain Oklahoma Related Costs; D. 12700 El Paso Electric Company for authority to change rates and of Central and South West Corporation and El Paso Electric for approval of acquisition; D. 14152 complaint of City of Denton against GTE Southwest, Inc.; staff report on the potential for stranded investment; FERC (D. Numbers RM95-8-000 and RM94-7-001); D. 14447; MCI Telecommunications Corporation's Petition for an investigation of the practices of SWB; agency restructuring; internal operating procedures; COA/SOCCA process; budget and fiscal matters; adjournment for closed session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in closed session.

Contact: Amalija J. Hodgins, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 25, 1995, 4:45 p.m.

TRD-9509307

Thursday, October 5, 1995, 9:00 a.m.
(Rescheduled from: September 5, 1995, 9:00 a.m.)

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits has been rescheduled in Docket Number 14121-complaint of David and Carolyn Jaska against GTE Southwest, Inc.

Contact: Amalija J. Hodgins, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 25, 1995, 2:03 p.m.

TRD-9509295

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Texas Low-Level Radioactive Waste Disposal Authority

Wednesday, August 9, 1995, 6:00 p.m.

Austin North Hilton Hotel, 6000 Middle Fiskville Road

Austin

Board of Directors Budget Committee

AGENDA:

The committee will review and consider the Authority's operating budget for fiscal year 1996.

Contact: Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: July 26, 1995, 4:47 p.m.

TRD-9509360

Wednesday, August 9, 1995, 6:30 p.m.

Austin North Hilton Hotel, 6000 Middle Fiskville Road

Austin

Workshop of the Board of Directors

AGENDA:

The board will review and discuss the proposed fiscal year 1996 contracts.

Contact: Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: July 26, 1995, 4:46 p.m.

TRD-9509358

Thursday, August 10, 1995, 8:00 a.m.

Room 109, John H. Reagan Building, 15th and Congress Avenue

Austin

Board of Directors

AGENDA:

The board will meet in executive session to evaluate the general manager's job performance; approve minutes; hear a report from the Budget Committee; hear the general manager's report on the year-to-date financial status, consider approval of 1995 budget adjustments, fiscal year 1996 operating budget, and USAS voucher signature authorization; discuss the possible purchase of officers and directors liability insurance, be updated on the Texas compact and the status of the Barnwell, South Carolina waste disposal site, and hear a report on the 74th legislative session; be given status reports on the license application and site access; be briefed on the Ward Valley, California site, updated on the EPA standard for low-level waste, and review the status of agency contracts; hear a report on the community development and county working groups, public information program, and the quality assurance program. The board will consider the approval of new contracts and contract amendments for fiscal year 1996. The board will discuss and consider the distribution of impact assistance payments to Hudspeth County, discuss possible selection of bond counsel, possible personnel action for the general manager, and consider the financial statements for the general manager and deputy general manager. The board will hear public comments before adjourning.

Contact: Lawrence R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: July 26, 1995, 4:47 p.m.

TRD-9509359

Texas Real Estate Research Center

Friday, August 11, 1995, 9:00 a.m.

Omni Hotel, Executive Room, 700 San Jacinto Boulevard

Austin

Advisory Committee

AGENDA:

- 1) Opening remarks
- 2) Approval of minutes
- 3) Current budget report
- 4) Review and approval of 1995-1996 recommended budget
- 5) Date of next meeting
- 6) Preliminary plan of work
- 7) Review of audit report
- 8) Other business
- 9) Adjourn

Contact: R. Malcolm Richards, Real Estate Center, Texas A&M University, College Station, Texas 77843-2115, (409) 845-9691.

Filed: July 26, 1995, 2:52 p.m.

TRD-9509354

Texas State Technical College System

Saturday, July 29, 1995, 9:15 a.m.

Holiday Inn, Y.O. Ranch Hotel, 2033 Sidney Baker, Spanish Oaks Room

Kerrville

Board of Regents Executive Session

Revised Agenda

AGENDA:

Add item

Discuss job descriptions, assignments, and administrative responsibilities relative to Waco/Marshall.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 25, 1995, 11:38 a.m.

TRD-9509285

Texas Title Insurance Guaranty Association

Wednesday, August 2, 1995, 10:30 a.m.

Via conference call from Commissioners conference room, 333 Guadalupe

Austin

Board of Directors

AGENDA:

Texas Title Insurance Guaranty Association

Special Meeting

Board of Directors Agenda

August 2, 1995, 10:30 a.m.

Via telecommunication

Commissioner's conference room

333 Guadalupe

Austin, Texas 78701

I. Call meeting to order

II. Consideration of and possible action on request from Commissioner Elton Bomer regarding funding of audit of title agent statistical reports

III. Consideration of and possible action on request from David Durden, Texas Department of Insurance, regarding purchase of computers compatible to department networking for title examiners

IV. Consideration of and possible action on request from Ethel Benedict regarding reimbursement of expenses for continuing accounting education and for tuition for additional college courses in accounting pertinent to their audit functions.

V. Adjourn.

Contact: Burnie Burner, 301 Congress Avenue, Suite 800, Austin, Texas 78701, (512) 474-1587.

Filed: July 25, 1995, 4:43 p.m.

TRD-9509306

Texas State Treasury

Monday, August 7, 1995, 10:00 a.m.

200 East Tenth Street, Room 227

Austin

State Depository Board

AGENDA:

1. Approval of minutes from the February 7, 1995 meeting.
2. Approval of state depository applications.
3. Discussion of proposed rule changes regarding acceptable collateral.
4. Discussion of depository changes under Senate Bill 1128.

5. Discussion of depository approval process for the 1996-1997 biennium.

6. Discussion of agenda for the next meeting.

Contact: Ellen Rathgeber, 200 East Tenth Street, Austin, Texas 78701, (512) 463-5971.

Filed: July 26, 1995, 8:35 a.m.

TRD-9509312

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University Interscholastic League

Wednesday, August 2, 1995, 9:30 a.m.

Sheraton Hotel

Austin

Standing Committee on Music of the Legislative Council

AGENDA:

- A. Quorum call
- B. Adoption of meeting rules
- C. Adoption of agenda
- D. Approval of minutes
- E. Discussion of proposals and staff recommendations

Old business

New business

H. Announcements

I. Adjournment

Contact: Dick Floyd, 23001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: July 26, 1995, 3:10 p.m.

TRD-9509352

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Texas Board of Veterinary Medical Examiners

Monday, August 7, 1995, 10:00 a.m.

Fourth Floor Conference Room, 1946 South IH-35

Austin

Board

AGENDA:

The Board will meet in this special called meeting to adopt rule 575. 15-Fee Schedule

and Rule 573.67-Temporary License Suspension. Additional rules to be considered for proposal include rule 573.71 addressing Employment by Non-Profit and Municipal Corporations, rule 573.72-Animal Reproduction, and rule 573.73 concerning Palpation.

Persons requiring reasonable accommodations are requested to contact Judy Smith, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183 or TDD 1-800-735-2989 within 72 hours of the meeting to make appropriate arrangements.

Contact: Ron Allen, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183.

Filed: July 26, 1995, 10:00 a.m.

TRD-9509319

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Regional Meetings

Meetings Filed July 25, 1995

The Middle Rio Grande Development Council (Emergency Meeting.) Board Executive Committee met at 200 North Getty, Uvalde, July 26, 1995, at 1:00 p.m. (Reason for emergency: Need to proceed and take action on agenda items in order to comply with requirements.) Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9509283.

The Uniforce Alamo Quality Workforce Planning Committee met at 1400 Villaret, Palo Alto College, San Antonio, July 31, 1995, at 3:30 p.m. Information may be obtained from Walter N. Ague, 1300 San Pedro Avenue, San Antonio, Texas 78212-4299, (210) 733-2970. TRD-9509291.

The West Central Texas Council of Governments Big Country Quality Work Force Planning Cooperative will meet at 1025 East North Tenth, Abilene, August 7, 1995, at 9:00 a.m. Information may be obtained from Roxann Hamilton, 809 North Judge Ely, Abilene, Texas 79601, (915) 672-5633. TRD-9509290.

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Meetings Filed July 26, 1995

The Austin-Travis County MHMR Center Public Relations Committee will meet at 1430 Collier Street, Board Room, Austin, August 2, 1995, at 12:30 p.m. Information

may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9509361.

The Dawson County Central Appraisal District Board of Directors will meet at 1808 Lubbock Highway, Lamesa, August 2, 1995, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9509344.

The East Texas Council of Governments JTPA Board of Directors will meet at 1306 Houston Street, Kilgore, August 3, 1995, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9509334.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, August 10, 1995, at 7:00 p.m. Information may be obtained from Ronald E. Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9509346.

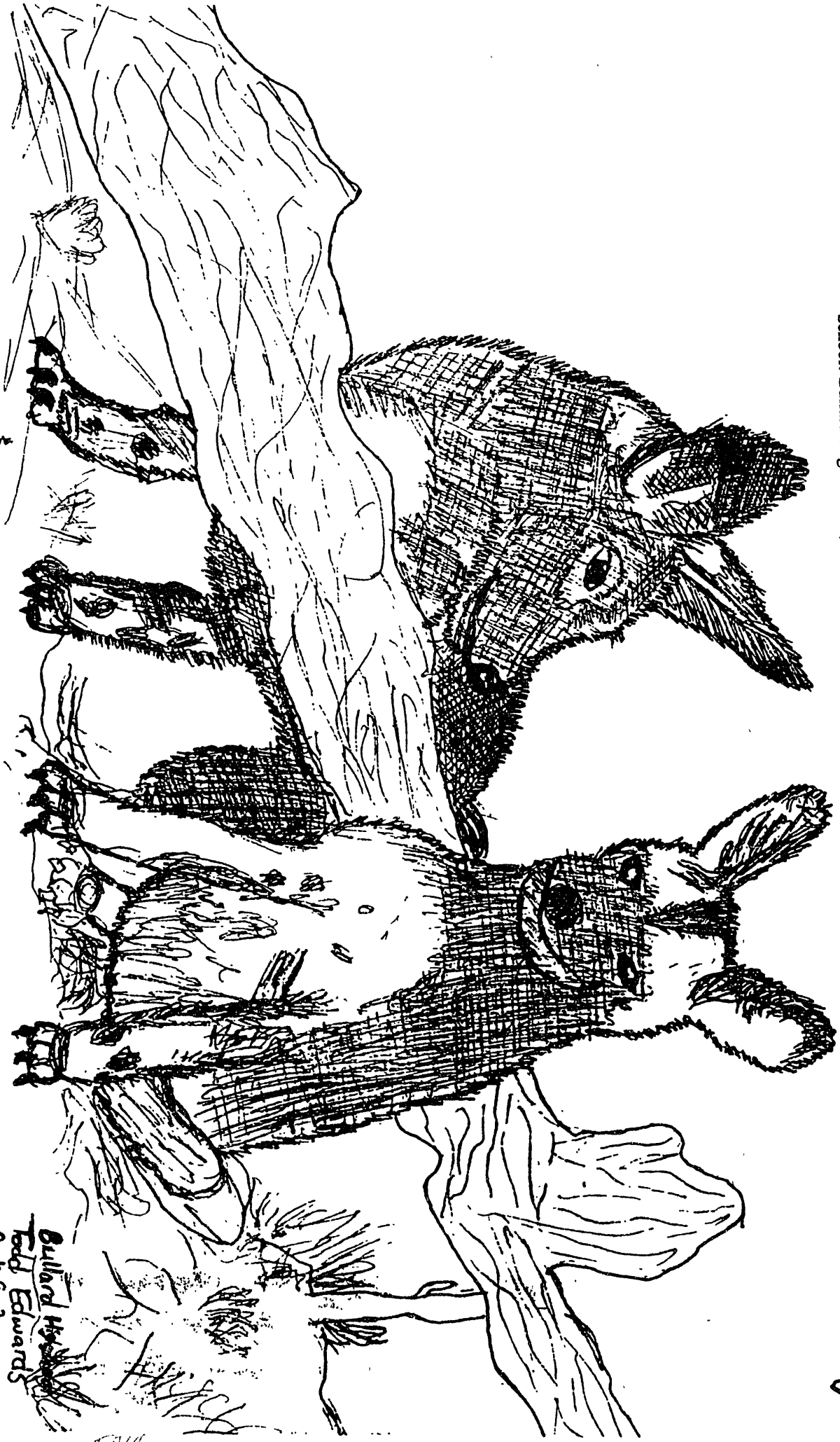
The San Antonio-Bexar County Metropolitan Planning Organization Bicycle Mobility Task Force will meet in the B Room, Municipal Plaza Building, Corner of Main and Commerce, San Antonio, August 2, 1995, at 4:00 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9509333.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, August 8, 1995, at 4:00 p.m. Information may be obtained from Eddie Chalmers, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9509337.

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Meetings Filed July 27, 1995

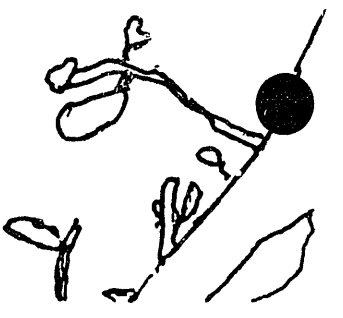
The Dallas Central Appraisal District Board of Directors (Regular Meeting) will meet at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, August 2, 1995, at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9509363.

Name: Todd Edwards
Grade: 9
School: Bullard High School, Bullard ISD



Bullard High School
Todd Edwards
A.T.C. 9

5814



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Commission on Alcohol and Drug Abuse

Summary of Public Comments on the Intended Use of Federal Funds for Fiscal Year 1996

The Omnibus Reconciliation Act of 1981 (Public Law 97-35, as amended) and Government Code, Title 10, §2105.052 require public input into state plans on the intended use of federal funds allocated under the Substance Abuse Prevention and Treatment (SAPT) Block Grant. Additionally, the Improving America's Schools Act of 1994 (Public Law 103-382) requires that the State Plan be developed in consultation and coordination with parents, students and community-based organizations. Consistent with these mandates, the Texas Commission on Alcohol and Drug Abuse (commission) held public hearings in February in the cities of Amarillo, Arlington, El Paso, Victoria and Austin. Testimony was heard regarding the commission's intended use of SAPT block grant funds and Safe and Drug-Free Schools grant funds for fiscal year 1996. Comments following will address these block grants, the magnitude of the substance abuse problem, and the current availability of and need for substance abuse prevention, intervention and treatment services.

At these hearings, a preliminary summary of the intended use of funds for federal fiscal year 1996 (beginning October 1, 1995) was provided. Public comments were solicited for use in preparation of the final plans. All written and oral comments have been considered in preparation of the final fiscal year 1996 intended use report. A summary of the public comments follows:

The comments pertaining to alcohol and drug abuse services centered around ten broad areas of concern: expanded prevention services; increased youth services; expanded services for court-committed clients; increased services for adult treatment in community-based programs; increased detoxification services; increased services for women and for women with children; increased services for persons with HIV/AIDS and substance abuse addiction; increased emphasis on multicultural programs and issues; increased funding for services in rural areas of the state; and support for and expansion of services for persons in the criminal justice system.

The first area of testimony centered on the need to increase prevention and intervention services, particularly in conjunction with family strengthening. Roughly one-third of the speakers in the five cities spoke concerning the need for intensified efforts to educate both children and the public to prevent substance abuse and chemical addiction. A total of 27 comments were heard in support of preven-

tion, most of which requested additional funding and encouraging a mix of services, with special emphasis on parenting skills and strengthening of the family unit. One witness took issue with a comment made at the commission's Program Directors' Meeting in May, 1995, that "prevention is not measurable", citing the economic benefits of prevention over treatment. Another testified to the need for prevention services for Hispanic persons.

In conjunction with the requests for increased prevention services came a second area of testimony involving the need for expanded youth treatment services. Requests were heard statewide for increased treatment services, for greatly increased services for inhalant abusers, and for programs designed to address illegal gang activity and substance abuse. Additionally, the need for transitional treatment centers for youth completing inpatient treatment and services through Texas Youth Commission was voiced. (The 74th Legislature has instructed the commission to expend 45% of the agency's treatment dollars for fiscal year 1996 for youth services, increasing to 55% for fiscal year 1997.) Five speakers advocated greater funding and support for the Drug Abuse Resistance Education (D.A.R.E.) programs; three requested more support for peer assistance programs and student assistance programs. (It should be noted that since these hearings took place, the commission has been notified that Safe and Drug-Free Schools and Communities funding, which had been administered through the commission for several years, would be administered by the Governor's Office for Criminal Justice Policy in fiscal year 1996. D.A. R.E. programs currently funded by the Commission, as well as other youth programs receiving Safe and Drug-Free Schools and Communities funds through the commission, must now apply through the Criminal Justice Division of the Governor's Office) .

Additional funding for court commitment services for singly-diagnosed substance abusers was a frequent request. Specifically, two witnesses mentioned the need for better participation in the program by judges statewide, three requested increased court commitment services statewide, and two persons discussed the need for increased funding for court commitment services for pregnant women and women with children.

The fourth-most mentioned topic of discussion centered on increased community-based treatment services for non-incarcerated individuals seeking help. Speakers in each city discussed the need for expanded treatment services for the adult population. (While dollars from community-based programs have not been diverted to programs for incarcerated clients, this perception remains widespread and was voiced by four witnesses. The emphasis on incarcerated individuals as a commission priority had, however, limited opportunities for expansion services for non-

incarcerated persons) One speaker testified concerning the increasing overhead costs due to HIV, tuberculosis and other requirements which have been added by the commission to treatment modalities, and one witness attested to the increased cost of business due to licensing requirements. Another witness suggested that the commission reimburse both inpatient and outpatient treatment services at the same rate

Continuing, a comment concerning problems with the 1-800 referral phone number, three witnesses concerned over the continued long waiting lists (in some locations as much as 12 weeks), and three requests for overall increased funding for adult services, from screening and assessment through aftercare continuation services were heard. There was, additionally, support from five individuals for the new managed care model under consideration at the commission, support from one witness for funding of private sector programs, and support for employee assistance/workplace programs

A fifth area of concern involved requests for increased detoxification services statewide, including development of a women's detox facility. In conjunction with detox services, seven speakers addressed the lack of transportation for such individuals requiring services.

Speakers in each of the five cities reiterated the desperate need for increased services for women, women with children and pregnant women. Two specific requests involved increased aftercare services for pregnant women who have completed treatment and for prenatal substance abuse services

A seventh topic of concern involved the need for more treatment services for those persons who have tested HIV-positive. Five persons requested greater inpatient services for HIV/substance abuse treatment; one testified in support of treatment services for gay and lesbian individuals with HIV or AIDS. One speaker asked the commission to take the lead in HIV/substance abuse treatment for the nation, while another requested increased tuberculosis awareness. Three other witnesses requested more state support for need exchange programs.

Additionally, speakers requested a greater emphasis on multicultural aspects of addiction prevention and treatment, with three witnesses expressing concern over the failure rate of minority counselors when taking the counselor licensing exam. Two other persons requested more ethnically sensitive programs, which included a request for an Asian/American program.

The ninth major subject of discussion involved services for rural Texas, covering the entire spectrum of services from screening and assessment through aftercare services. While transportation is a major problem in some remote areas, the limited number of beds available for all facets of substance abuse treatment was the most commonly discussed concern, with nine witnesses addressing the issue. The gravest shortages in rural areas are in women's treatment, detox services and youth treatment beds.

The last area involved support for the commission's criminal justice initiative, including requests for new funding of additional Treatment Alternative to Incarceration (TAIP) programs in rural areas of the state, and for the development of more group homes for persons leaving Transitional Treatment Centers. One witness suggested that the federal Department of Housing and Urban Development (HUD) had immediate funds for the creation of housing for releasees. (It should be noted that the 74th Legislature

authorized the Texas Department of Criminal Justice to continue substance abuse treatment services for incarcerated individuals; the commission's funding for the Treatment Alternative to Incarceration Program (TAIP), the In-Prison Treatment Programs (IPTC), the Substance Abuse Felony Punishment Programs (SAFP), and the Transitional Treatment Centers (TTC) will end August 31, 1995).

Finally, two speakers mentioned concern over the increased trade in heroin into Texas; four expressed concern over the rising incidence of domestic violence and substance abuse; and one mentioned the continuing need for information on alternate sources of funding.

This summary of comments pertaining to the substance abuse portion of the SAPT Block Grant for fiscal year 1995 is published in response to the Omnibus Budget Reconciliation Act of 1991 (Public Law 97-35, as amended) and Government Code, Title 10, §2105.052. Those comments pertaining to Drug-Free Schools and Communities are published in response to The Improving America's Schools Act of 1994 (Public Law 103-382).

Issued in Austin, Texas on July 25, 1995.

TRD-9509339

Tom Mann
General Counsel
Texas Commission on Alcohol and Drug
Abuse

Filed: July 26, 1995

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Office of the Attorney General
Notice of Public Hearing

A public hearing on rules concerning license suspension for nonpayment of child support will be held on August 23, 1995, at the John H. Reagan Building, Room 101, Austin, Texas, beginning at 1:00 p.m.

The Family Code, Chapter 232, license suspension for nonpayment of child support, directs the Office of the Attorney General to promulgate forms and procedures to implement the chapter. The proposed forms and procedures have been published as proposed rules, 1 TAC, Chapter 55, Subchapter H. The proposed rules were published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5555).

The Office of the Attorney General invites comment on these proposed rules at the August 23 hearing. Please address any questions about the rules or the hearing to Karen Pettigrew, Assistant Attorney General, Child Support Division, Office of the Attorney General, P.O. Box 12107, Austin, Texas 78711-2107, (512) 463-2181, extension 5009.

Issued in Austin, Texas, on July 26, 1995.

TRD-9509338

Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: July 26, 1995

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Office of Consumer Credit
Commissioner
Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Stat-

utes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1. 04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/31/95-08/06/95	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(3)	08/01/95-08/31/95	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose. (3)For variable rate commercial transactions only.

Issued in Austin, Texas, on July 24, 1995.

TRD-9509329 Leslie L. Pettjohn
Commissioner
Office of Consumer Credit Commissioner

Filed: July 26, 1995

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Texas Education Agency

Request for Applications Concerning Creating Safe and Drug-Free Schools and Communities, 1995-1996

Filing Authority. Request for Applications (RFA) #701-95-028 is filed under the Elementary and Secondary Education Act, as amended, Title IV, the Safe and Drug-Free Schools and Communities Act.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications (RFA #701-95-028) from school districts or cooperatives of school districts to carry out drug and violence prevention programs. School districts or cooperatives of school districts located within counties with a referral rate of 4.0% or higher for juveniles referred to juvenile departments for alleged delinquent behavior and alleged conduct in need of supervision are eligible to apply. An Education Service Center (ESC) may act as a fiscal agent. Funds received by a fiscal agent of a co-op must be used to provide services to campuses the local education agency (LEA) identifies in its application as having the greatest need. If an LEA is a member of a Safe and Drug-Free Schools formula co-op, the fiscal agent must apply for the LEA.

Description. The Safe and Drug-Free Schools and Communities Project will support campus programs that prevent violence in and around schools by strengthening programs that: prevent the illegal use of alcohol, tobacco, and drugs; prevent violence; involve parents; and coordinate with related federal, state, and community efforts and resources.

Dates of Project. Approximately 50-100 projects will be implemented during the 1995-1996 school year. Applicants should plan for a starting date of no earlier than November 13, 1995, and an ending date of no later than June 28, 1996.

Project Amount. Using student enrollment as a funding guideline, each project will receive up to \$300,000 for the 1995-1996 school year. Contingent on funding available from the United States Department of Education, an anticipated total of \$7 million will be awarded. This project is funded 100% from federal funds. Project funding in subse-

quent years will be based on satisfactory progress toward the project's goals and objectives, activities, and general budget approval by the State Board of Education (SBOE) and the commissioner of education.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. The TEA reserves the right to select from the highest ranking applications those that address all requirements in the RFA. Special consideration will be given to: (1) urban and rural LEAs, as defined by the Public Education Information Management System (PEIMS); (2) programs that are cost effective; and (3) diversity of students and districts, including geographical and regional diversity. The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred before an application is approved. The issuance of the RFA does not obligate TEA to award a grant or to pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-95-028 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Hellen R. Bedgood, Division of Accelerated Instruction, Texas Education Agency, (512) 463-9006.

Deadline for Receipt of Applications. The deadline for receiving an application in the Document Control Center of the Texas Education Agency is 5: 00 p.m., Central Standard Time, Friday, September 22, 1995.

Issued in Austin, Texas, on July 26, 1995.

TRD-9509314 Criss Cloudt
Executive Associate Commissioner for
Policy Planning and Evaluation
Texas Education Agency

Filed: July 26, 1995

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General Land Office

Response to Comments on Proposed Restoration Plan

On January 7, 1992, an unauthorized discharge of 123,900 gallons of crude oil from a ruptured pipeline owned by Exxon Pipeline Company (Exxon), affected approximately 38 acres of a high marsh community adjacent to Chilipin Creek, San Patricio County, Texas. The discharged oil caused injury to the marsh system biota and reduced the

ecological services provided by the marsh. A response measure employed, in-situ burning may have added to this reduction in ecological services. A habitat evaluation procedure was used to determine the total service reduction, in habitat units, provided by the burned and oiled marsh. Habitat units are a qualitative measure of ecological value.

The Texas General Land Office (GLO), the Texas Parks and Wildlife Department (TPWD), the Texas Natural Resource Conservation Commission (TNRCC), natural resource trustees for the State of Texas, and the United States Department of the Interior (DOI), natural resource trustee for the United States Government (hereafter collectively referred to as the Trustees), initiated a preassessment screen and concluded in early 1993 that potential injury had occurred to the natural resources of Chiltipin Creek and that a natural resource damage assessment was warranted. Exxon and the Trustees concluded the natural resource damage assessment by agreeing that Exxon would pay the Trustees \$130,000 for damages to natural resources. The settlement agreement between the Trustees and Exxon was published in the March 4, 1994, issue of the *Texas Register* (19 TexReg 1562).

A claim for damages to compensate for injury to natural resources arises out of an unauthorized discharge of oil. The claim may be asserted only by trustees for natural resources pursuant to the Oil Pollution Act of 1990 (OPA), 33 United States Code Annotated, §§2701, et seq. In Texas, the Oil Spill Prevention and Response Act (OSPRA), Texas Natural Resource Code, Chapter 40, specifically authorizes a natural resource damage cause of action and delineates specific procedures for the damage assessment process. Damages received by trustees can be used only to restore, rehabilitate, replace or acquire the equivalent of the injured natural resources pursuant to OPA and OSPRA. The Trustees developed and proposed a restoration plan to compensate the public by using the \$130,000 damage payment to acquire the equivalent of injured natural resource. The proposed restoration plan and request for comments was published in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3202). The Trustees responded to 15 comments. The Trustees have adopted the proposed restoration plan with one minor change; identifying the GLO as the grantee, on behalf of the Trustees, of a conservation easement on Shamrock Island from the Nature Conservancy of Texas, Inc. (NCT)

The proposed restoration plan published in the April 28, 1995, issue of the *Texas Register* (20 TexReg 3202) acquires the equivalent of injured natural resources, resulting from the January 7, 1992, oil spill by providing for the preservation of Shamrock Island's natural resources. Shamrock Island is currently privately owned. The Trustees approve transfer of the natural resource damage amount paid by Exxon to the NCT for the purchase of Shamrock Island. The NCT agrees to maintain the island as a natural area and grant a conservation easement to the GLO, on behalf of the Trustees, thus ensuring the preservation of Shamrock Island as an important bird rookery.

The Trustees have determined that the most effective use of the damages recovered as a result of the negotiated natural resource damage settlement in this matter is the purchase and subsequent preservation of Shamrock Island. This plan satisfies the Trustees' obligation to acquire the equivalent of the natural resources injured by the oil spill. Shamrock Island, an area of about 130 acres, contains extensive bird rookeries and highly productive intertidal wetlands. It provides ecological services in excess of those diminished by the oil spill at the marsh near Chiltipin

Creek. The restoration plan provides for the transfer of \$130,000 in recovered damages to the NCT for the purchase of Shamrock Island.

General Comments

Regarding the restoration plan, one commenter indicated concern that the proposed plan does not clearly identify the interest the Trustees will acquire and their role in the acquisition of Shamrock Island. The role of the Trustees is defined in an agreement between the Trustees and NCT that will be published in the *Texas Register* upon execution. That agreement calls for the purchase of Shamrock Island and a subsequent grant of a conservation easement on the island from the NCT to the GLO, no later than 30 days after the acquisition of Shamrock Island. The conservation easement shall ensure the protection and preservation of Shamrock Island in its natural state as a significant habitat for migratory birds, fish, wildlife and plants. A short provision clarifying this point shall be inserted into the restoration plan. Public notice of this point of clarification in the restoration plan is unnecessary because it only designates which Trustee shall receive the conservation easement. There shall be further public notice on the details of this transaction when the agreement between the Trustees and the NCT is published in the *Texas Register*.

The following groups, associations and businesses commented in support of the proposed restoration plan: Coastal Bend Bay Foundation, Inc.; Gulf of Mexico Foundation; National Audubon Society, Western Sanctuaries; Coastal Bend Sierra Club; The University of Texas, Marine Science Institute; Audubon Council of Texas/Prairie & Timbers Audubon; and Shiner, Moseley and Associates, Inc., Engineers and Consultants.

The following individuals commented in support of the proposed restoration plan: Frank C. Smith; H. Irving Schweppe, Jr., M.D.; Katherine W. Pyne; William Ty Cobb; Jim Crusenberry; S. Lee Stone; and G. Pierce Avery.

The following groups, associations and businesses commented in opposition to the proposed plan: Exxon Pipeline Company.

Issued in Austin, Texas, on July 25, 1995.

TRD-9509304 Garry Mauro
Commissioner
General Land Office

Filed: July 25, 1995

Texas Department of Health

Annual Update to the Women, Infants, and Children (WIC) State Plan of Operations for Fiscal Year 1996

The Texas Department of Health (department) Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is required by federal regulations to submit an annual update to the WIC State Plan of Operations for fiscal year 1996 to the United States Department of Agriculture for approval. The plan covers the outline of the department's goals and objectives for improving program operations, the affirmative action plan, local agency identification and an operational summary. The WIC Program is soliciting written comments on the proposed fiscal year 1996 program plan. A copy of the proposed plan is on file at the offices of the WIC Program, Bureau of

Nutrition Services, Room M-260, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours. Written comments will be accepted through October 1, 1995.

Issued in Austin, Texas on July 25, 1995.

TRD-9509293 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 25, 1995

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Designation of Sites Serving a Medically Underserved Population

The Texas Department of Health (department) is required under Texas Civil Statutes, Article 4495b, §3.06, to designate sites serving medically underserved populations. In addition, the department is required to publish notice of its designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has designated the following as sites serving a medically underserved population: Hutchins State Detention Unit, located at 1500 East Langdon Road, Dallas (Dallas County), Texas; Gist State Detention Unit, located at Route 4, Box 3020, Beaumont (Jefferson County), Texas; and Le Blanc State Detention Unit, located at Route 4, Box 4000, Beaumont (Jefferson County), Texas. These units are offender detainee facilities of the Texas Department of Criminal Justice. Designations are based on proven eligibility as sites serving a disproportionate number of clients eligible for federal, state or locally funded health care programs.

Oral and written comments on these designations may be directed to Demetria Montgomery, M.D., Chief, Bureau of Community Oriented Primary Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7771. Comments will be accepted for 30 days from the date of this notice.

Issued in Austin, Texas, on July 25, 1995.

TRD-9509294 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 25, 1995

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Texas Department of Housing and Community Affairs

HOME Investment Partnerships Program

ACTION ITEM

FY 1995 HOME Program Funding Plan

I. Introduction

The State of Texas' FY 1995 HOME allocation is \$33,303,000. Ten percent of the allocation will be utilized for administrative costs. TDHCA receives six percent; HOME grantees receive four percent. The deduction of administrative funds from the initial HOME allocation results in Project Funds available for HOME-eligible housing activities.

FY 1995 HOME allocation-\$33,303,000

less TDHCA administrative costs (6.0%)-\$1,998,180

less HOME grantee administrative costs (4.0%)-\$1,332,120

FY 1995 HOME Project Funds-\$29,972,700

II. Recommendation

TDHCA has obtained approval from the Board to utilize \$9,260,802 of FY 1995 HOME Program Project Funds for the following purposes, and to publish the FY 1995 HOME Program Funding Plan in the *Texas Register*:

A. Reservation of FY 1995 HOME Project Funds:

Weatherization Assistance Program-\$1,000,000

Low-Income Housing Tax Credit Program-\$3,000,000

Single Family Bond Program-\$5,000,000

Travis County Housing Authority (#532274)-\$260,802

Total-\$9,260,802

B. FY 1995 HOME Project Funds (competitive funds)

Beginning Balance FY 1995 HOME Project Funds-\$29,972,700

Less HOME Program recommendation (Part A)-\$9,260,802

Remaining Balance FY 1995 HOME Project Funds-\$20,711,898

It is anticipated that the remaining balance of FY 1995 HOME Project Funds (\$20,711,898) will be available for competition for the following HOME activities subject to the amending of the HOME Rules:

Owner-Occupied Housing Assistance (48%)-\$10,000,000

Rental Project Assistance (27%)-\$5,640,709

First-Time Homebuyer Assistance (15%)-\$3,000,000

Special Needs Set-Aside (10%)-\$2,071,189

Total-\$20,711,898

Issued in Austin, Texas, on July 25, 1995.

TRD-9509292 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: July 25, 1995

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**Texas Department of Insurance
Notice of Public Hearings**

The Commissioner of Insurance will hold a public hearing under Docket Number 2158, on August 29, 1995, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider two proposed appointments to the Board of Directors of the Texas Catastrophe Property Insurance Association (TCPA). One of the proposed appointments is a re-appointment of a general public member and the other is a re-appointment of a local recording agent member.

The Commissioner is considering, upon the recommendation of the Office of Public Insurance Counsel, the re-appointment of Manuel Davila, Jr., Portland, Texas, as a general public member on the TCPA Board of Directors and; upon the recommendation of Department staff, the re-appointment of Lee Otis Zapp, Jr., Zapp Insurance, Gal-

veston, as a local recording agent member on the TCPIA Board of Directors. Both nominees have served on the TCPIA Board of Directors since 1992 and continue to serve until appointment of a successor or re-appointment pursuant to the TCPIA plan of operation (28 TAC §5.4001 subsection (b)(2)(D)).

The Insurance Code, Article 21.49, §5(g) provides that the TCPIA Board of Directors shall be composed of nine members. Article 21.49, §5(g)(2) provides that two of these members shall be representatives of the general public, nominated by the Office of Public Insurance Counsel, who, as of the date of the appointment, reside in a catastrophe area and are TCPIA policyholders. Article 21.49, §5(g)(3) provides that two of the TCPIA board members shall be local recording agents licensed under the Insurance Code with demonstrated experience in the TCPIA and who, as of the date of the appointment, have principal offices located in the catastrophe area.

The hearing is held pursuant to the Insurance Code, Article 21.49, §5A which provides that the Commissioner, after notice and hearing, may issue any orders considered necessary to carry out the purposes of Article 21.49 (Catastrophe Property Insurance Pool Act), including, but not limited to, maximum rates, competitive rates, and policy forms. Any person may appear and testify for or against the proposed appointments.

Issued in Austin, Texas, on July 25, 1995.

TRD-9509278

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: July 25, 1995

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The Commissioner of Insurance of the Texas Department of Insurance will consider the adoption of proposed §26.201 and Plan of Operation of the Texas Health Reinsurance System (The Texas Insurance Code, Chapter 26) in a public hearing under Docket Number 2159, scheduled for 9:00 a.m. on August 29, 1995, in Room 100, of the Commissioner's Hearing Room of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

The proposed regulation and the statutory authority for the proposed amendment is published in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5601).

Issued in Austin, Texas, on July 25, 1995.

TRD-9509279

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: July 25, 1995

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The Texas Department of Insurance will hold a public hearing under Docket Number 2161, on August 9, 1995, at 6:30 p.m. at the Port Lavaca City Hall, 202 North Virginia Street, Port Lavaca, Texas, to hear public testimony from residents of Calhoun, Refugio, and Matagorda Counties on the proposed Building Code for Windstorm Resistant Construction. All interested parties, including members of the general public, are invited to attend and provide comments and recommendations.

The hearing is the second of six such hearings to be held by the Department in the month of August for residents of the 14 first tier Texas coastal counties which are eligible for windstorm and hail insurance coverage by the Texas

Catastrophe Property Insurance Association (TCPIA). The other five hearings are scheduled for August 8 in Harlingen for residents of Cameron, Willacy, and Kenedy Counties; August 10 in Corpus Christi for residents of Aransas, Kleberg, Nueces, and San Patricio Counties; August 22 in Beaumont for residents of Chambers and Jefferson Counties; August 23 in Galveston for residents of Galveston County; and August 24 in Lake Jackson for residents of Brazoria County. Separate hearing notices will be published for each of these hearings.

Pursuant to the Catastrophe Property Insurance Pool Act (The Insurance Code, Article 21.49), the TCPIA was created by the Texas legislature in 1971 to provide windstorm and hail insurance coverage to coastal residents who are unable to obtain such coverage in the voluntary market. Currently, the TCPIA provides this coverage to residents of 14 coastal counties: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy Counties. The Insurance Code, Article 21.49 §6A, which addresses inspections of structures for determining insurability by the TCPIA, provides that all new construction, repairs, or additions which commenced on or after January 1, 1988, must be inspected or approved by the Department for compliance with the building specifications in the TCPIA plan of operation to be insurable by the TCPIA.

The proposed building code that is the subject of this hearing is a draft proposal by the Building Code Advisory Committee to revise and update the current building specifications in the TCPIA plan of operation. Such revision and updating is proposed to ensure the building of safer and stronger structures along the Texas coast to better withstand significant natural disasters, such as Hurricane Andrew which struck Florida in 1992. The Building Code Advisory Committee is appointed by the Commissioner of Insurance pursuant to Article 21.49, §6A(f) to advise and make recommendations to the Commissioner on building specifications in the TCPIA plan of operation. The proposed code, which specifies separate building requirements for structures located seaward and inland of the intra-coastal canal to qualify for windstorm and hail insurance coverage by the TCPIA, includes foundation, framing, roofing, and exterior covering specifications. Following the six public hearings, the Building Code Advisory Committee will finalize the proposed code for submission to the Commissioner for consideration of adoption.

Persons interested in additional information or in obtaining copies of the proposed code may contact the Texas Department of Insurance Windstorm Inspection Field Offices located at 225 North Virginia Street, Suite A, in Port Lavaca, Texas 77979, (512) 552-2501 and at 3322 Sixth Street, #3, in Bay City, Texas 77414, (409) 244-9451).

The hearing is held pursuant to the Insurance Code, Article 21.49, §5 and §6A, which authorize the Commissioner to adopt building specifications in the TCPIA plan of operation for determining the insurability of structures in the 14 first tier coastal counties of Texas for windstorm and hail insurance coverage by the TCPIA. Article 21.49, §6A, also authorizes the Commissioner to appoint an advisory committee to advise and make recommendations on building specifications in the TCPIA plan of operation. Any person may appear and testify for or against the proposed code.

Issued in Austin, Texas, on July 25, 1995.

TRD-9509280

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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The Texas Department of Insurance will hold a public hearing under Docket Number 2162, on August 10, 1995, at 6:30 p.m. in the First Floor Council Chambers of the Corpus Christi City Hall, 1201 Leopard Street, Corpus Christi, Texas, to hear public testimony from residents of Aransas, Kleberg, Nueces, and San Patricio Counties on the proposed Building Code for Windstorm Resistant Construction. All interested parties, including members of the general public, are invited to attend and provide comments and recommendations.

The hearing is the third of six such hearings to be held by the Department in the month of August for residents of the 14 first tier Texas coastal counties which are eligible for windstorm and hail insurance coverage by the Texas Catastrophe Property Insurance Association (TCPIA). The other five hearings are scheduled for August 8 in Harlingen for residents of Cameron, Willacy, and Kenedy Counties; August 9 in Port Lavaca for residents of Calhoun, Refugio, and Matagorda Counties; August 22 in Beaumont for residents of Chambers and Jefferson Counties; August 23 in Galveston for residents of Galveston County; and August 24 in Lake Jackson for residents of Brazoria County. Separate hearing notices will be published for each of these hearings.

Pursuant to the Catastrophe Property Insurance Pool Act (The Insurance Code, Article 21.49), the TCPIA was created by the Texas legislature in 1971 to provide windstorm and hail insurance coverage to coastal residents who are unable to obtain such coverage in the voluntary market. Currently, the TCPIA provides this coverage to residents of 14 coastal counties: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy Counties. The Insurance Code, Article 21.49 §6A, which addresses inspections of structures for determining insurability by the TCPIA, provides that all new construction, repairs, or additions which commenced on or after January 1, 1988, must be inspected or approved by the Department for compliance with the building specifications in the TCPIA plan of operation to be insurable by the TCPIA.

The proposed building code that is the subject of this hearing is a draft proposal by the Building Code Advisory Committee to revise and update the current building specifications in the TCPIA plan of operation. Such revision and updating is proposed to ensure the building of safer and stronger structures along the Texas coast to better withstand significant natural disasters, such as Hurricane Andrew which struck Florida in 1992. The Building Code Advisory Committee is appointed by the Commissioner of Insurance pursuant to Article 21.49, §6A(f), to advise and make recommendations to the Commissioner on building specifications in the TCPIA plan of operation. The proposed code, which specifies separate building requirements for structures located seaward and inland of the intra-coastal canal to qualify for windstorm and hail insurance coverage by the TCPIA, includes foundation, framing, roofing, and exterior covering specifications. Following the six public hearings, the Building Code Advisory Committee will finalize the proposed code for

submission to the Commissioner for consideration of adoption.

Persons interested in additional information or in obtaining copies of the proposed code may contact the Texas Department of Insurance Windstorm Inspection Field Office located at 615 Leopard Street #418, in Corpus Christi, Texas 78476, (512) 881-9463.

The hearing is held pursuant to the Insurance Code, Article 21.49, §5 and §6A, which authorize the Commissioner to adopt building specifications in the TCPIA plan of operation for determining the insurability of structures in the 14 first tier coastal counties of Texas for windstorm and hail insurance coverage by the TCPIA. Article 21.49, §6A also authorizes the Commissioner to appoint an advisory committee to advise and make recommendations on building specifications in the TCPIA plan of operation. Any person may appear and testify for or against the proposed code.

Issued in Austin, Texas, on July 25, 1995

TRD-9509281

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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The Texas Department of Insurance will hold a public hearing under Docket Number 2160, on August 8, 1995, at 6:30 p.m. in the Short Course Building of Texas State Technical College, located at the corner of Oak Drive and Loop 499 in Harlingen, Texas, to hear public testimony from residents of Cameron, Willacy, and Kenedy Counties on the proposed Building Code for Windstorm Resistant Construction. All interested parties, including members of the general public, are invited to attend and provide comments and recommendations.

The hearing is the first of six such hearings to be held by the Department in the month of August for residents of the 14 first tier Texas coastal counties which are eligible for windstorm and hail insurance coverage by the Texas Catastrophe Property Insurance Association (TCPIA). The other five hearings will be held August 9 in Port Lavaca for residents of Calhoun, Refugio, and Matagorda Counties; August 10 in Corpus Christi for residents of Aransas, Kleberg, Nueces, and San Patricio Counties; August 22 in Beaumont for residents of Chambers and Jefferson Counties; August 23 in Galveston for residents of Galveston County; and August 24 in Lake Jackson for residents of Brazoria County. Separate hearing notices will be published for each of these hearings.

Pursuant to the Catastrophe Property Insurance Pool Act (The Insurance Code, Article 21.49), the TCPIA was created by the Texas legislature in 1971 to provide windstorm and hail insurance coverage to coastal residents who are unable to obtain such coverage in the voluntary market. Currently, the TCPIA provides this coverage to residents of 14 coastal counties: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy Counties. The Insurance Code, Article 21.49, §6A, which addresses inspections of structures for determining insurability by the TCPIA, provides that all new construction, repairs, or additions which commenced on or after January 1, 1988, must be inspected or approved by the Department for compliance with the building specifications in the TCPIA plan of operation to be insurable by the TCPIA.

The proposed building code that is the subject of this hearing is a draft proposal by the Building Code Advisory Committee to revise and update the current building specifications in the TCPIA plan of operation. Such revision and updating is proposed to ensure the building of safer and stronger structures along the Texas coast to better withstand significant natural disasters, such as Hurricane Andrew which struck Florida in 1992. The Building Code Advisory Committee is appointed by the Commissioner of Insurance pursuant to Article 21.49, §6A(f) to advise and make recommendations to the Commissioner on building specifications in the TCPIA plan of operation. The proposed code, which specifies separate building requirements for structures located seaward and inland of the intra-coastal canal to qualify for windstorm and hail insurance coverage by the TCPIA, includes foundation, framing, roofing, and exterior covering specifications. Following the six public hearings, the Building Code Advisory Committee will finalize the proposed code for submission to the Commissioner for consideration of adoption.

Persons interested in additional information or in obtaining copies of the proposed code may contact the Texas Department of Insurance Windstorm Inspection Field Office located at 630 Ed Carey Drive, #200, in Harlingen, Texas 78550. Persons in Harlingen may call (210) 421-4675; persons in Bayview, Laguna Vista, Port Isabel, and South Padre Island may call (210) 233-4549.

The hearing is held pursuant to the Insurance Code, Article 21.49, §5 and §6A, which authorize the Commissioner to adopt building specifications in the TCPIA plan of operation for determining the insurability of structures in the 14 first tier coastal counties of Texas for windstorm and hail insurance coverage by the TCPIA Article 21.49, §6A also authorizes the Commissioner to appoint an advisory committee to advise and make recommendations on building specifications in the TCPIA plan of operation. Any person may appear and testify for or against the proposed code.

Issued in Austin, Texas, on July 25, 1995.

TRD-9509282

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Middle Rio Grande Development Council

Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of Senate Bill 642 and under the authority of the Texas Local Government Code, Chapter 391, the Middle Rio Grande Development Council (MRGDC) will conduct a public hearing to receive testimony regarding the establishment of a Local Workforce Development Board.

A public hearing will be held on Tuesday, August 15, 1995, at 9:00 a.m. at the Country Store, I-35, Farm Road 468, Cotulla, Texas.

Agenda: I. Open Public Hearing, II. Staff Presentation on Establishment of Workforce Development Board for the Middle Rio Grande Region, III. Public comments, and IV. Adjournment of Public Hearing.

For further information contact Ricky McNiel, Deputy Director of Employment and Training at (210) 876-3533.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the public hearing should be made as far in advance as possible

Issued in Carrizo Springs, Texas, on July 21, 1995.

TRD-9509229

Leodoro Martinez, Jr
Executive Director
Middle Rio Grande Development Council

Filed: July 24, 1995

Texas Natural Resource Conservation Commission

Notices of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §341, Subchapter C, and Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 290.

The TNRCC proposes the repeal of §§290.47-290.50, amendments to §§290.38, 290.39, 290.41-290.46, and new §290.47 and §290.121, relating to the regulation of public water supply systems. The purpose of the proposed rules is to conform to new state and federal legislation, to clarify the language, and to streamline the organization of the sections. This is to be accomplished by referencing new State Plumbing Codes; establishing new exception criteria; strengthening the cross connection control, plumbing inspection, and lead ban provisions; incorporating definitions to define new terms; clarifying separation distances between water supply mains and other utilities; providing greater protection to well sites from potential sources of contamination; and incorporating various policies and rule interpretations which have been established since the last revision.

A public hearing on the proposal was requested during the original comment period which ended July 14, 1995. The public hearing will be held August 8, 1995 at 2:00 p.m. in Room 254S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing should mention Rule Log Number 95049-290-WT and must be submitted to Lutrecia Oshoko, TNRCC, Office of Policy and Regulatory Development, MC-205, Post Office Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Written comments not presented at the hearing must be received no later than 5:00 p.m. on August 8, 1995. Written and oral comments presented at the hearing will be considered by the commission prior to any final action on the proposal. For further information, contact James Pope at (512) 239-6020.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend

the hearing should contact the agency at (512) 239-1459. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 26, 1995.

TRD-9509331 Lydia Gonzalez-Gromatzky
Acting Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: July 26, 1995

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Notice is hereby given that pursuant to the requirements of the Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (TNRCC or commission) will conduct a public hearing to receive testimony concerning the general provisions of the design criteria for sewerage systems.

The TNRCC proposes amendments to 30 TAC Chapter 317 (Design Criteria for Sewerage Systems). Pursuant to House Bill 1826 (1995) the purpose of the amendments is to clarify the requirements for plans and specifications to be submitted to the TNRCC for approval for domestic wastewater collection, treatment, and disposal systems. The amendments also allow a municipality which has its own engineering review staff to approve collection system plans in its own area of jurisdiction.

A public hearing on the proposal will be held on August 7, 1995, at 2:00 p. m. in Room 254S of TNRCC Building E, located at 12118 North IH-35, Park 35 Technology Center, Austin. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments on the proposal should mention Log Number 95099317-WT and may be submitted to Lutecia Oshoko, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC-201, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Written comments must be received by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. For further information or questions concerning this proposal, please contact Louis C. Herrin, III, P.E., Permitting Section, Watershed Management Division at (512) 239-4552.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-1459. Requests should be made as far in advance as possible.

issued in Austin, Texas, on July 26, 1995.

TRD-9509332 Lydia Gonzalez-Gromatzky
Acting Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: July 26, 1995

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Sul Ross State University
Consultant Proposal Request

Pursuant to Texas Government Code, Article 2254, Sul Ross State University, a Member of the Texas State University System, announces the solicitation for consultant

services to advise and assist with the management and administration of a Title III Hispanic Serving Institutions (HSI) Grant awarded to Sul Ross by the United States Department of Education.

Project Summary: Although contract negotiations have not yet been completed with the U.S. Department of Education, the application budget includes approximately \$350,000 per year for five years. Funding for subsequent years will be requested on a non-competitive basis, will be limited to \$350,000 per year and will be dependent on continued funding of the HSI Title III Development program by the U.S. Congress. Over the five years of the grant, funds will be used to support Sul Ross State University's mission to provide excellence in educational opportunities for a diverse and under-prepared population from the University's vast service region along the Texas-Mexico border in west Texas. Two activities have been proposed to facilitate this mission.

Activity One: proposes to improve student services for Hispanic and other underserved populations by developing and testing new intervention strategies to increase and support student retention and success. The three components of these strategies to be developed are: (1) a student information/computer tracking system; (2) student retention strategies; and (3) student learning support.

Activity Two: is planned to develop components for the improving of academic programs for Hispanic and other under-served populations. This activity is organized into two major components: (1) faculty development for student retention; and (2) development and testing of new instructional methodologies.

Responses should be sent to Dr. Felipe Ortego, Director, HSI Title III Grant Project, Sul Ross State University, Highway 90 East, Alpine, Texas 79832, (915) 837-8375, along with a client list for any past consulting services in higher education. An information packet containing more specific details on the request for proposal is available on request. Proposals should be delivered in a sealed envelope plainly marked: "Attention; HSI Title III Project Director". Three copies of the responses are required and are to be postmarked no later than September 1, 1995. They should address in detail the various activities set forth.

The Sul Ross State University HSI Title III Development Team and the University Executive Committee will review the Consultants and their proposals. The University reserves the right to reject any and all proposals received in response to this request for proposals if it is determined to be in the best interest of the University to do so. All material submitted in response to this request becomes the property of the University and may be reviewed by other Consultants on the request for proposals after the official review of the proposals.

Issued in Alpine, Texas, on July 24, 1995.

TRD-9509277 David C. Wilson
Purchasing Director
Sul Ross State University

Filed: July 25, 1995

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Veterans Land Board
Notice of Contract Awards

Pursuant to the Texas Government Code, §§2254.001, et seq, the Veterans Land Board (board) is filing notice of a

contract award to Akin, Gump, Strauss, Hauer & Feld, L.L.P., 300 Convent Street, San Antonio, Texas 78205, and to Wickliff & Hall, 1000 Louisiana, Suite 5400, Houston, Texas 77002, as co-counsel for the Texas Veterans Land Program. Rauscher Pierce Refsnes, Inc., 2400 RPR Tower, Dallas, Texas 75201, was reappointed financial advisor to the Board. The contracts are for services through August 31, 1997. Requests for proposals were published in the April 25, 1995, issue of the *Texas Register* (20 TexReg 3110).

For services related to assignments made by the board associated with maintenance of bond funds and programs, bond counsels' fees shall be based on an hourly rate for services provided, not to exceed the lowest customary hourly rates charged to established clients, based upon the level of experience of the individual providing the requested service. For services related to the issuance of bonds, bond counsels' fees shall also be based on the same hourly rate; provided, however, that the sum shall not

exceed an amount determined by the size of the bond issue.

For services related to assignments made by the board associated with maintenance of bond funds and programs, financial advisor's fee shall be based on an hourly rate for services provided, not to exceed the lowest customary hourly rates charged to established clients, based upon the level of experience of the staff providing the requested service, with no charge to exceed \$100 per hour. For services related to the issuance of bonds, financial advisor's fee shall also be based on the same hourly rate; provided, however, that the sum shall not exceed an amount determined by the size of the bond issue.

Issued in Austin, Texas, on July 25, 1995.

TRD-9509305

Garry Mauro
Chairman
Veterans Land Board

Filed: July 25, 1995

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