Texas Community Development Fund

2015 Texas Capital Fund Real Estate and Infrastructure Programs

Application Guide

June 2015

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TxCDBG Goals and Requirements

The goal of the Texas Community Development Block Grant (TxCDBG) Program is to develop viable communities by providing decent housing and a suitable living environment, as well as by expanding economic opportunities, principally for persons of low-to-moderate income. In awarding funding pursuant to Government Code Section 487.351(c), the Texas Department of Agriculture (TDA) shall give priority to eligible activities in the areas of economic development, community development, rural health and rural housing to support workforce development.

The objectives of the TxCDBG Program are:

1. To improve public facilities to meet basic human needs, principally for low-to-moderate income persons;
2. To improve housing conditions, principally for persons of low-to-moderate income;
3. To expand economic opportunities by creating or retaining jobs, principally for low-to-moderate income persons; and
4. To provide assistance and public facilities to eliminate conditions hazardous to the public health and of an emergency nature.

Application Submittal and Deadline Requirements

The application procedures for the 2015 Texas Capital Fund (TCF) Real Estate and Infrastructure (RE/Infra) Programs are included in this Application Guide. The application for the 2015 TCF Fund is available at www.TexasAgriculture.gov. The procedures in this application guide supersede those published in all previous TCF application guides.

The Texas Capital Fund RE/Infra Program will be available monthly, on a competitive basis, to eligible applicants statewide. Applications for the 2015 program year are due by 5:00 p.m. C.T. on the 20th of each month (or next business day if it falls on a weekend or holiday). Applications will not be accepted after 5:00 p.m. on the date due.

For Program Year 2015, the TCF will be accepting a single full application, instead of two applications.

1. Each applicant must submit a complete application to the TDA Office of Rural Affairs. No changes to the application will be allowed after the application deadline date, unless they are a result of TDA recommendations.
2. Applications will be reviewed, competitively scored and then considered for possible funding on a monthly basis. Applications will be ranked by score, from high to low and tie-breakers may be used.
3. Applications within the funding range are reviewed for eligibility and completeness in descending order based on their score.
4. Applications not within the funding range may be resubmitted for the following month's competition as described on page 40. An application resubmitted for a future funding cycle will compete with those applications submitted for that cycle and no preference will be given to rollover applications.

You may contact TDA to verify the availability of funds before preparing and submitting an application.

Contact Information

Mailing Address (for U.S. Postal Service):	Physical Address (for Overnight Carriers):
Texas Department of Agriculture Texas Community Development Block Grant Program Post Office Box 12847, Capitol Station Austin, Texas 78711	1700 N. Congress Avenue, 11th Floor Mailroom Austin, Texas 78701

Physical Address (for Hand Delivery): 1700 N. Congress Avenue, 11th Floor Reception Desk Austin, Texas 78701	Telephone (for Technical Assistance): 512-936-8163 or 512-936-0232 – Telephone

Any application that is incomplete, noncompliant with program requirements, or received late will be disqualified. Applications lacking information necessary to make a determination concerning the eligibility of the activity (e.g., data on low-to-moderate income benefit) or compliance with TxCDBG and Federal program requirements (e.g., citizen participation requirements) will be disqualified. A substantially complete TCF application must include all of the following information:

- A completed 424 Form with original signature;
- All application forms, fully completed;
- A passed/adopted Local Government Resolution authorizing submission of the application;
- Evidence of compliance with the TxCDBG Citizen Participation Plan including the Public Hearing Notice;
- Legible, quality maps;
- Benefitting Business's most recent payroll(s) (As applicable, described on page 19);
- Applicant's Annual Audit (See Attachments Section).

Applications lacking any of the items listed above will be disqualified. An Application Review Checklist is located at the end of the Application Guide. Applicants must verify that the application is complete using the checklist.

Completed applications received by the deadline may be subject to disqualification including but not limited to any of the following reasons:

- The applicant is not a unit of general local government;
- The project is located in an entitlement area;
- The application contains ineligible activities;
- The applicant does not comply with the TxCDBG Citizen Participation Plan requirements;
- The applicant does not meet the Applicant Performance Threshold Requirements;
- The application contains false information;
- The applicant did not comply with the TxCDBG Family Income requirements;
- The application does not contain adequate or acceptable information to show that each proposed application activity meets the applicable National Program Objective;
- The application does not comply with the requirement concerning the preparation of an assessment of the applicant's housing and community development needs prior to submission of a TxCDBG application;
- The applicant does not provide necessary financial interest report(s) (Form A503);
- The applicant does not respond, refuses to respond, or does not provide an adequate response to requests for revisions or additional information within the prescribed timeline;

The requirements and procedures specified in the Annual Action Plan and the Texas Administrative Code will govern the 2015 TCF RE/Infra Programs application process. The Action Plan is included in the 2015-2019 Consolidated Plan on the TDHCA website at http://www.tdhca.state.tx.us.

Eligible Applicants

Eligible applicants are non-entitlement units of general local government, incorporated cities and counties not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program. Non-entitlement cities that are not participating in urban county programs through existing participation agreements are eligible applicants unless the city's population counts toward the urban county CDBG allocation.

Non-entitlement cities are located predominately in rural areas and are generally:

- cities with populations of less than 50,000 persons;
- cities that are not designated as a central city of a metropolitan statistical area; or
- cities that are not participating in urban county programs.

Non-entitlement counties are also predominately rural in nature and generally have fewer than 200,000 persons in the non-entitlement cities and unincorporated areas located in the county.

Eligible cities or counties must submit applications that provide assistance in support of specific business(es) that propose to create and/or retain jobs and make capital expenditures in the jurisdiction of the applicant. The applicant remains responsible for the administration and success of the project throughout the term of the contract.

TDA will not consider any application for funding which would result in the provision of assistance for an economic development project where the applicant and one or more other cities or counties are competing to provide economic development project funds to that project.

Applicants may not receive more than two (2) infrastructure awards per program year. TDA does not limit the number of real estate awards an applicant may receive.

Applicant Performance Threshold Requirements

An applicant must meet all of the following requirements in order for its application to be considered:

1. Commit to create and/or retain jobs where at least fifty-one percent (51%) of the jobs benefit low and moderate income (LMI) individuals.
2. Demonstrate the ability to manage and administer the proposed project, including delivery of all the proposed benefits outlined in the application, property management for real estate projects and lease/loan servicing.
3. Demonstrate the financial management capacity to operate and maintain improvements made in conjunction with the proposed project.
4. Levy and collect a local property tax or local sales tax option.
5. Demonstrate satisfactory performance on prior and existing TxCDBG contracts and resolve all outstanding compliance and audit findings related to previous TxCDBG awards.
6. Applicants may not have an open TCF RE/Infra contract with an award date in excess of forty-eight (48) months prior to the application deadline date, regardless of extensions granted. All open TxCDBG contracts must be in compliance with all performance and reporting requirements as defined in the contract and the most recent version of the TxCDBG Implementation Manual.

National Program Objective (NPO)

Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et seq.) requires all Community Development Block Grant (CDBG) funds to be expended in such a way to satisfy one of three national objectives specified in the statute. Texas CDBG funds provided under the TCF RE/Infra program are required to comply with the national objective of principally benefiting persons of low and moderate income. The objective of the program is

to expand economic opportunities that create or retain jobs, principally for low and moderate income persons. The TCF program provides resources for an eligible applicant to support a specific business(es) (either a for-profit entity or a non-profit entity) to create or retain jobs for Texans.

Identifying Activity Beneficiaries

For an activity that creates/retains jobs, the applicant and business must document that at least 51% of the jobs are or will be held by low-and moderate-income persons. For purposes of determining whether a job is or will be held by a low-or moderate-income person, the applicant must use one of the following methods of documentation.

1. The business may survey all persons filling a created/retained job. Persons filling a created job should be surveyed at the time of employment. Persons holding a retained job should be surveyed prior to application submission. This determination is based on the family's size and previous 12-month income and is normally documented on the Family Income/Size Certification form, which is filled out, dated and signed by employees; or
2. The person(s) employed by the business for created/retained jobs may be presumed to be a low-or moderate-income person if the person resides within a census tract that meets the following criteria:
    a. The census tract has a poverty rate of at least 20% as determined by the most recently available decennial census information;
    b. The census tract does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30% as determined by the most recently available decennial census information; and
    c. The census tract shows evidence of pervasive poverty and general distress by meeting at least one of the following standards:
        i. the census tract has a poverty rate of at least 20%; or
        ii. Has at least 70% of its residents who are low-and moderate-income persons; or
        iii. The assisted business is located within a census tract that meets the requirements of this subparagraph, and the job under consideration is to be located within that census tract.

Applicants and businesses choosing option two (2) above must provide adequate supporting documentation in the application (i.e., Census tract map, poverty rate, etc.). To obtain a Census map of a specific area, visit the U.S. Census Bureau web site (http://www.census.gov/geo/maps-data/maps/block/2010/).

Eligible Activities

TCF funds are available for infrastructure and real estate improvements. For all proposed uses, requested funds may not exceed the minimum necessary to meet the needs of the business(es). Excess/speculative improvements, extra connections or excessive looping will not be funded.

Match funds and other monies may be required to be expended prior to drawing TCF funds. If a community experiences cost overruns or elects to do oversizing, the community's funds will be required to be used prior to drawing TCF monies. Also, if project costs come in under budget or the community elects to reduce the project scope, the committed leveraged funds must still be expended. Any cost savings will reduce the TCF funding and match funding proportionally.

TCF funds are to reimburse communities for eligible expenditures they have incurred, rather than advance payments. Communities are responsible to pay construction contractors according to the terms of their agreements. TCF funds are available to reimburse communities when they are in compliance with the terms of their TCF contract, and only for work actually completed. Failure to comply with the terms of the TCF contract does not relieve the community of its liability to pay contractors.

A. INFRASTRUCTURE improvements may be either private or public in nature.

1. Private Infrastructure is infrastructure that will be located on the business site or on adjacent and/or contiguous property to the site that is owned or leased by the business(es), principals, or related entities. A lien may be placed on this property, if required.

2. Public Infrastructure is infrastructure located on public property or right-of-ways and easements granted by entities unrelated to the business(es) or owners. Strip or spot deeding of real estate or granting of easements by the benefiting business, owners or related parties is perceived as a way to avoid repayment, which would normally be required per the private infrastructure explanation above. The only exception to this policy is if the deed transfer or granting of the easement occurs prior to submission of the application and is not directly related to the project. Uses include:
   - Water lines, storage and pumping facilities, treatment plants and related items;
   - Sewer lines, lift stations, treatment plants and related items;
   - Road construction/renovation, to include curb and gutter and related drainage;
   - Natural gas lines and related items;
   - Electric power lines and transformers;
   - Harbor/channel dredging;
   - Railroad improvements including but not limited to spurs, extensions, switches and turnouts;
   - Drainage channels and ponds
   - Pre-treatment facilities; or
   - Purchase of land, easements, right-of-ways and basic/special engineering services related to eligible infrastructure items.

B. REAL ESTATE improvements are intended to be owned by the applicant community and leased to the business. Real estate improvements require full repayment. Real Estate assistance is provided to purchase, construct, or rehabilitate real estate that is wholly or partially owned by the applicant (applicant must maintain a minimum pro-rata ownership position based on the TCF contribution, but no less than 10 percent). Uses include:

- Purchase of land and/or building(s);
- Construction of buildings and/or site improvements;
- Rehabilitation of existing building(s); or
- Construction of infrastructure improvements on the project site. Note: Buildings must be fully enclosed by permanent walls and a roof.

With TDA approval, the applicant may share ownership with a non-profit economic development entity (based on the pro-rata contribution of the non-profit economic development entity) as long as the non-profit economic development entity is not the assisted business committing to create/retain jobs for the TCF contract, and the shared ownership is necessary to complete the real estate financing portion of the project. Under this shared arrangement the non-profit may pledge the real estate as collateral to secure the additional needed mortgage funds. TDA may allow an applicant to pledge the real estate as collateral for additional financing obtained by the business(es) or related entities, when required to complete the acquisition, construction and/or rehabilitation. Shared ownership would require the business(es) to make two separate lease payments: one for TCF repayment and one for the additional financing. Applicant ownership may not be diluted or transferred for a minimum period of five years after contract closeout. If TCF funds are awarded, applicant will agree not to occupy or utilize the property for the general conduct of government as long as it retains an ownership interest. The TCF funded real estate may be sold to the benefiting business(es) for the remaining balance of unrecovered lease payments after the minimum five year ownership period. See Texas Local Government Code Chapter 272 Section 272.001 for the text that exempts communities from having to sell the TCF acquired real estate through a public bid process. Note: Special rules apply to a change in use of real property. If a community should dispose of the project real estate prior to five years after the close of the contract, contact TDA for details.

Ineligible Activities

In general, any type of activity not described or referred to in Section 105(a) of the Housing and Community Development Act of 1974, as amended, is ineligible for TxCDBG funding. Specific ineligible activities under the TxCDBG Program include:

- The applicant may not grant or otherwise transfer TCF monies to a business.

- TCF monies may not be used for speculation, investment or excess improvements over the minimum improvements needed for the business.
- Real estate improvements designed and/or built for a single, special or limited use or purpose, are an ineligible use of funds.
- TCF funds may not be utilized for refinancing or to repay the applicant, a local related economic development entity, the benefiting business(es) or its owners and related parties for expenditures, prior to TDA approval.
- Ineligible infrastructure activities/improvements include, but are not limited to: landfills, incinerators, recycling facilities, machinery and equipment.
- Ineligible real estate improvements include, but are not limited to:
    - When the benefiting business(es) is a private non-profit.
    - machinery and equipment used in the production and/or services marketed by the business(es).
- If the community does not own the entire project site, the TCF funded real estate improvements must be fully enclosed, with permanent walls and roofs. Any project site only partially owned by the community must provide, by deed, full street/road access and parking for each committed job and transportation access to the owned site. Further, a minimum of 20 feet outside the structure's exterior perimeter must be deeded to the community. If the project site is fully owned by the community, additional out buildings and/or open shelter areas are eligible. The TCF program will not accept applications in support of racetracks, prisons/detention centers, public medical businesses/facilities (i.e. hospital districts, hospitals, clinics, nursing homes, etc.), public non-profits or projects that address job creation/retention through government supported facilities.
- Government entities may not be the business creating/retaining the jobs.

Federal guidance and definitions concerning eligible and ineligible activities are included in Section 105(a) of the Housing and Community Development Action of 1974 (HCDA).

Citizen Participation Plan Requirements

Each applicant must complete a citizen participation process that complies with the TxCDBG Citizen Participation Plan requirements as described in this guide prior to submitting an application.

A locality can only receive a TxCDBG grant if the locality certifies that it follows a detailed citizen participation plan that provides for and encourages citizen participation at all stages of the program.

TxCDBG applicants and funded localities are required to carry out citizen participation in accordance with the Citizen Participation Plan adopted for the TxCDBG Program. Each applicant certifies by signing a 424 Form that it has and will comply with the requirements of this Citizen Participation Plan.

Each applicant must maintain a citizen participation file that includes a copy of this Plan, the applicant's complaint procedures, any technical assistance provided by the applicant, and public notices, minutes, and attendance lists for public hearings.

Complaint Procedures:
The applicant must have written citizen complaint procedures that provide a timely written response to complaints and grievances. Citizens must be made aware of the location, days, and hours when copies of the plan are available.

Technical Assistance:
When requested, the applicant shall provide technical assistance to groups representative of persons of low-to-moderate income in developing proposals for the use of TxCDBG funds. The level and type of assistance shall be determined by the applicant based upon the specific needs of the community's residents.

Public Hearing Provisions:
For public hearings scheduled and conducted by a TxCDBG applicant, the following public hearing provisions must be observed:

1. Public notice of the hearings must be published in a local newspaper at least seventy-two (72) hours prior to the scheduled hearing. The public notice must include the date, time, location and topics to be considered at the public hearing. A published newspaper article may also be used to meet this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
2. The public hearing must be held at a time and location convenient to potential or actual beneficiaries and include accommodations for persons with disabilities. Furthermore, the applicant must make arrangements for individuals who require auxiliary aids or services if contacted at least two days prior to each hearing. The public hearing must be held after 5:00 p.m. on a weekday or at a convenient time on a Saturday or Sunday.
3. When a significant number of non-English speaking residents are expected to participate in a public hearing, an interpreter must be present to accommodate the needs of the non-English speaking residents.

Applicants must comply with the following citizen participation requirements for the preparation and submission of an application to the TxCDBG program:

1. The public hearing must occur prior to the adoption of the local government resolution authorizing the submission of the application.
2. The locality must retain documentation of the hearing notice(s), attendance lists, minutes of the hearing(s), and any other records concerning the proposed use of funds for a period of three years after the application deadline, or as specified by other program requirements. Such records must be available to the public in accordance with Chapter 552, Government Code.
3. The public hearing must meet the following TxCDBG notification requirements and include a discussion with citizens covering the following topics:
    - The development of housing and community development needs.
    - The amount of funding available.
    - All eligible activities under the Texas Community Development Block Grant Program.
    - The applicant’s use of past TxCDBG contract funds, if applicable.
    - The estimated amount of funds proposed for activities that will meet the national objective of benefit to low-to-moderate income persons.
    - The plans of the locality to minimize displacement of persons and to assist persons actually displaced as a result of activities assisted with TxCDBG funds, if applicable.

Citizens must be encouraged to submit their views and proposals regarding community development and housing needs, with particular emphasis on persons of low-to-moderate income who are residents of slum or blighted areas. Local organizations that provide services or housing for low-to-moderate income persons, including the local Public Housing Authority, the local Health and Human Services office, the local Mental Health and Mental Retardation office, and other local service providers such as Faith-Based organizations, must receive written notification concerning the date, time, location and topics to be covered at the public hearing. Citizens must be made aware of the location where they may submit their views and proposals in case they are unable to attend the public hearing. While more than one application may be discussed at the public hearing, a hearing held for the previous program year's submission of the same application does not satisfy the requirements for any subsequent competition.

At least five (5) days prior to the submission of an application for TxCDBG funds, the applicant must publish a public notice in a local newspaper that includes the following information:

- The TxCDBG fund categories for which applications will be submitted.
- The amount of TxCDBG funds requested in each application.
- A short description of the proposed project activities in each application.

- The locations of the project activities included in each application.
- The location and hours when the application will be available for public review.

Applicants must comply with the following citizen participation requirements in the event that the application is successful:

- The locality must hold a public hearing concerning any proposed substantial change, as determined by TDA, in the use of TxCDBG funds from one eligible activity to another.
- Upon completion of the activities, the locality shall hold a public hearing and review its program performance, including the actual use of TxCDBG funds.
- The locality must retain documentation of the hearing notice(s), attendance lists, minutes of the hearing(s), and any other records concerning the actual use of funds for the greater of:
    1. Three years after close-out of the U.S. Department of Housing and Urban Development's (HUD) grant to the State of Texas (please see TDA website)
    2. If notified by TDA in writing, the date that the final audit is accepted with all audit issues resolved to TDA's satisfaction (Please see date of TDA audit acceptance letter if applicable); or
    3. A date consistent with the period required by other applicable laws and regulations as described in 24 CFR 570.490 and 570.502.

The applicant certifies compliance with the TxCDBG Citizen Participation Plan requirements by signing the 424 form. Failure to comply with these requirements may result in disqualification of the application.

Local Certifications

Each applicant for TxCDBG funding must certify by signing the 424 Form that it has adhered to the Local Certifications included in this application guide in the preparation of any TxCDBG application. Adherence to these certifications must be ongoing in the event that the application is successful.

With respect to the expenditure of funds provided under a Texas Community Development Block Grant contract, each TxCDBG contractor is required to certify that:

1. It will minimize displacement of persons as a result of activities assisted with such funds.
2. The program will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 USC 2000d *et seq*.) and the Fair Housing Act (42 USC 3601 *et seq*.), and that it will affirmatively further fair housing, as specified by TDA.
3. It will provide opportunities for citizen participation, hearings and access to information with respect to its community development programs, and that it is following the TxCDBG Program Citizen Participation Plan.
4. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with such funds by assessing any amount against properties owned and occupied by persons of low-to-moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (A) such funds are used to pay the proportion of such fee or assessment related to the capital costs of such public improvements that are financed from revenue sources other than such funds; or (B) for purposes of assessing any amount against properties owned and occupied by persons of low-to-moderate income who are not persons of very low income, the contractor certifies that it lacks sufficient funds under this contract to comply with the requirements of clause (A).
5. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Federal implementing regulations at 49 CFR Part 24, and the requirements of section 570.606 including the following of a residential anti-displacement and relocation assistance plan, as specified by TDA,

in the event that displacement of residential dwellings will occur in connection with a project assisted with TxCDBG funds.

6. It has adopted or will adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and enforce applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
7. To the best of the TxCDBG contractors' knowledge and belief, no Federal appropriated funds have been paid or will be paid, by or on behalf of the TxCDBG Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
8. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the TxCDBG Contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
9. The TxCDBG contractor must require that the language of this certification be included in the award documents for all sub-awards at all levels (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

Minority Participation/Local Opportunity

The TxCDBG Program will maintain the goal of encouraging minority participation and will assist communities in identifying potential minority contractors and subcontractors. Also in accordance with Section 3 of the Housing and Urban Development Act of 1968, successful applicants using CDBG funding for housing or other public construction are required, to the greatest extent feasible, to provide training and employment opportunities to lower-income residents and contract opportunities to businesses in the project area.

Fair Housing Activities

Any locality receiving funds under the TxCDBG Program must certify that it will affirmatively further fair housing choice. Each funded locality must conduct at least one fair housing activity during the contract period, even if the locality is currently undertaking fair housing activities. Activities that qualify as affirmatively furthering fair housing include, but are not limited to, the following:

- Cities may pass a fair housing ordinance and publicize the existence of such an ordinance.
- Counties may adopt written fair housing policies and procedures that are equivalent to a fair housing ordinance and publicize the existence of such policies.
- The development of a strategy to pass a fair housing ordinance to be evidenced by public hearings and input from interested parties.
- The establishment of a written local complaint and monitoring process and notification to the public of its existence.
- The initiation of a fair housing counseling referral service that provides housing choices outside historically minority and/or low-to-moderate income neighborhoods to be evidenced by adoption of written procedures and publication of the availability of such service.
- The completion of a community-wide housing analysis to determine impediments to fair housing and actions to eliminate these impediments.

- The designation of April, or some other month, as Fair Housing Month through resolution or proclamation along with other activities to support fair housing.

In addition, communities that receive CDBG funds, chief elected officials, and third party consultants may be required to have Fair Housing training. Training will be offered at both on-site workshops and state-wide webinars.

Environmental Review Requirements

- Any locality receiving funds under the TxCDBG Program must complete an environmental review for all project activities, including:
- All activities being funded through TxCDBG funds;
- All activities conducted at the location where jobs will be created/retained, including any acquisition, construction, or rehabilitation of buildings required to provide the jobs;
- All sites included in the TCF project, whether public or private; and
- All other activities conducted as part of the same overall project.

No project activities may occur until TDA's Environmental Regulatory Officer has cleared the activity and issued an Authority to Use Grant Funds. The ***Exemption Determination for Activities Listed at 24 §58.34*** form documents clearance for administration, engineering, and similar activities, but does not address construction or other activities for the proposed project. (See Appendix III: Form and Document Samples)

If project activities were begun prior to the locality's knowledge that CDBG funding was available (for compliance purposes, the date of the local resolution authorizing an application to the TCF program), all such activities must be suspended until the activity is cleared. In this case, the Environmental Review Record (ERR) must include:

- A description of any project activities conducted or funds committed prior to the local resolution authorizing the application; and
- Evidence of any reviews conducted prior to the local resolution authorizing the application, including Phase 1 evaluations, Texas Historical Commission clearances, and other efforts to mitigate environmental impacts that demonstrate due diligence prior to triggering HUD environmental review requirements.

Conflict of Interest

Under the conflict of interest provisions at 24 CFR 570.489(h) included in the regulations governing state administration of CDBG non-entitlement funds (24 CFR 570, Subpart I), no persons who exercise or have exercised any function or responsibilities with respect to TxCDBG activities, or who are in a position to participate in a decision-making process, or gain inside information regarding TxCDBG activities, may obtain a financial interest or benefit from the activity, or have interest in any contract, subcontract, or agreement, or the proceeds thereof, either for themselves or those with whom they have family or business ties, during their tenure, or for one year thereafter.

These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official of the state, or of a unit of general local government, or of any designated public agencies, or sub-recipients receiving CDBG funds.

Under these provisions, a conflict of interest would exist if an employee or elected official of the applicant, or their family members, receive benefit from an activity. In addition, an apparent conflict of interest would exist if a principal of the benefitting business or their family members receive a benefit from an activity other than the real estate and/or infrastructure improvements outlined in the application. For example, if a member of a mayor's family was selected to receive TCF assistance or would benefit from or receive an award, abstention from voting does not clear the conflict of interest. Another example where a conflict of interest would exist (business ties) is a situation where a

consultant, who is employed by an engineering firm, has been selected by a city to provide administration services for the TCF contract and the city is considering the selection of an engineer from that same firm to provide engineering services for the TCF contract.

TDA may grant an exception to the conflict of interest provisions on a case-by-case basis if it determines that such exception will serve to further the purpose of the TxCDBG program and the effective and efficient administration of the project. An exception may be considered only upon written request from the city or county that includes the following documentation:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made.
- An opinion of the attorney for the city or county that the interest for which the exception is sought would not violate state or local law.
- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project that would not be available otherwise.
- Whether an opportunity was provided for open competitive bidding or negotiation.
- Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class.
- Whether the person affected has withdrawn from his/her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question.
- Whether the interest or benefit was present before the affected person was in the position as an employee, agent, consultant, officer, or elected official of the city or county, or of any designated public agencies, or sub-recipients that are receiving CDBG funds.
- Whether undue hardship will result to the city or county or the persons affected when weighed against the public interest served by avoiding the prohibited conflict.
- Any other relevant considerations.

Types of Applications

TDA will not accept applications from more than one community proposing project activities if the benefiting business and location are the same. An award will not be made to both a county and a city located within the county for the same project.

Counties may not sponsor an application for a business located in a city, if that business is currently participating in a TCF project with that city. Cities may not sponsor an application for a business located in their county, if that business is currently participating in a TCF project with that county. TDA may consider providing funding for an economic development project proposed by a city that is outside the city's corporate limits or extraterritorial jurisdiction, but within the county or contiguous counties (not to exceed five (5) miles beyond the city’s extra-territorial jurisdiction) that the city is located in and may consider a project proposed by a county when the project is within an incorporated city. A community that submits an application benefiting a business outside its jurisdiction must demonstrate all of the following:

- The project is appropriate to meet its needs;
- The applicant has the legal authority to engage in such a project and;
- At least fifty-one percent (51%) of the proposed beneficiaries reside within the applicant's jurisdiction.

Note: The project activities and benefiting business may not be located in an entitlement area.

Single Jurisdiction Applications

A single eligible applicant (city or county) may submit one application for funding if the project beneficiaries are limited to persons located within the applicant's jurisdiction.

For an incorporated city, the beneficiaries would generally be limited to persons located within the city limits. An incorporated city may submit a single jurisdiction application that includes activities benefitting persons located within the extra-territorial jurisdiction (ETJ) of the city. The applicant must describe how the activity benefitting persons located in the ETJ is meeting the applicant's community development and housing needs, including the needs of low-to-moderate income persons.

For a county, the beneficiaries would generally be limited to persons located in unincorporated areas within the county (for target area projects) or countywide, or for a business located outside the ETJ of a city.

Multi-Jurisdiction Applications

Two or more eligible applicants may submit a joint application for funding when the project beneficiaries are persons located within more than one unit of general local government. The requirements for multi-jurisdiction applications are:

- The locations of the beneficiaries and the locations of the proposed activities must be within the applicants' jurisdictions; and
- A proposed project that includes an activity located in more than one jurisdiction or that includes beneficiaries from more than one jurisdiction must be submitted as a multi-jurisdiction application. Exceptions to this requirement are the ETJ provision allowed by the TxCDBG for incorporated municipalities under single jurisdiction applications and the county exceptions described under single jurisdiction applications.

In order for a multi-jurisdiction application to be eligible for consideration for TxCDBG funding, a multi-jurisdiction application must mutually benefit residents of the applicant localities and cannot be submitted solely on the basis of administrative convenience, i.e., there must be a physical need for such a project (location, area to be served, etc.).
Additional criteria that must be met by multi-jurisdiction applicants are:

- The multi-jurisdiction applicants shall determine which one of the participating units of general local government will be authorized (the authorized applicant) to act in a representative capacity for all of the participating units.
- Each participating jurisdiction shall submit a signed 424 Form and be responsible for compliance with the Local Certifications therein.
- Each participating jurisdiction shall submit a Community Needs Assessment that identifies the housing and community development needs and activities designed to meet those needs for each of the participating jurisdictions.
- The authorized applicant jurisdiction and each of the other participating jurisdictions must meet the citizen participation requirements.
- The authorized applicant assumes overall responsibility for ensuring that the application activities will be carried out in accordance with statutory requirements. In order to accomplish this, the authorized applicant must enter into a legally binding cooperation agreement with each participant that includes the above criteria.
- All jurisdictions participating within the multi-jurisdiction application must be TxCDBG eligible. For example, if a city and county are submitting a multi-jurisdiction application and the city is currently ineligible due to past performance issues, the application is ineligible.

Funding Request Amounts

A maximum of $1.5 million will be made available for each monthly round of TCF RE/Infra applications. TDA will allocate 50% of TCF RE/Infra funds for awards during the February-July period of the calendar year; the remaining 50% will be allocated for awards August-January. TCF's February 2015 allocation will be $1.5 million. Only the highest scoring application(s) will be awarded for the full amount requested. If there are insufficient funds available to fully fund an applicant's request, the award will not be made. Instead, unencumbered funds will roll forward to the next month and added to the next month's allocation.

Award amounts are directly related to the number of jobs to be created/retained and the level of leveraged funds in a project, regardless of whether the application is submitted by a single applicant or jointly by two or more eligible jurisdictions. Projects that will result in a significantly increased level of jobs created/retained and a significant increase in the local capital expenditures may be eligible for a higher award amount. The maximum award amount is $1,500,000 and the minimum award amount is $100,000.

The Program can fund only the actual, allowable, and reasonable costs of the proposed project, and may not exceed these amounts. All projects awarded under the TCF program are subject to final agreement between TDA and the applicant regarding the final award amount, but at no time will the award exceed the amount originally requested in the application.

Repayment Requirements

All real estate and private infrastructure awards require repayment. Public infrastructure improvements and general administration costs may not require repayment. Infrastructure payments and real estate lease payments are intended to be paid by the benefiting business(es) to the applicant, who will forward the payments to TDA.

1. Real Estate (RE) Improvements
   These improvements are intended to be owned by the applicant and leased to the business(es). Real estate improvements require full repayment. At a minimum, the lease agreement with the business(es) must be for a minimum three year period or until the TCF contract between the applicant and TDA has been satisfactorily closed (whichever is longer). A minimum monthly lease payment will be required to be collected from the original business(es) and any subsequent business(es) which occupy the real estate funded by the TCF, which equates to the principal funded by the TCF divided over a maximum 20 year period (240 months), or until the entire principal has been recaptured. The repayment term is determined by TDA and may not be for the maximum of 20 years for smaller award amounts. The minimum monthly payment should not be less than $500. For awards that have a repayment of less than $300,000, repayment must be made to TDA within 120 months. There is no interest expense associated with an award. Payments begin the first day of the third month following the construction completion date or acquisition date. Payments received 15 calendar days or later may be assessed a late charge/fee of five percent (5%) of the payment amount. After the contract between the applicant and TDA is satisfactorily closed, the applicant will be responsible for continuing to collect the minimum lease payments if a business (any business) occupies the real estate. The lease agreement may contain a purchase option, if the option is effective after the minimum five year ownership/dilution requirement (see ownership requirement in the program requirements in this section), and if the purchase price equals (at a minimum) the remaining principal amount originally funded by the TCF which has not been recaptured.

2. Private Infrastructure Improvements
   This is infrastructure that will be located on the business site or on adjacent and/or contiguous property, to the site, that is owned or leased by the business(es), principals, or related entities. All funds for private infrastructure improvements require full repayment. Terms for repayment will be no interest, with repayment not to exceed twenty (20) years and are intended to be repaid by the business through a repayment agreement. The minimum monthly payment shall not be less than $500. For awards that have a repayment of less than $300,000, repayment must be made to TDA within 120 months. Payments begin the first day of the third

month following the construction completion date. Payments received 15 calendar days or more late may be assessed a late charge/fee of five percent (5%) of the payment amount.

Leveraged Funds

At a minimum, all TCF RE/Infra funds, including general administration funds, must be matched dollar for dollar by other funds in a project. Other funds are defined as all other sources of funds for the project as reflected on the Table 1, with the exception of any other HUD monies, such as program income.

The following are the minimum required leverage for TCF awards:

Award Amounts	Minimum Amount of Leveraged Funds (Match and Fixed Assets)
$750,000 or less	100%
$750,100-$1,000,000	400%
$1,000,100-$1,500,000	500%

The following guidelines serve to clarify the type of leverage acceptable under the TCF RE/Infra Program. Acceptable types of leverage can be any of the following:

1. Matching Funds
   - Cash contribution to the project
   - In-kind services/equipment use
2. Fixed Assets
   - Land
   - Buildings
   - Fixtures, machinery, and equipment
   - Does not include inventory or raw materials.
3. Any combination of the above.

Ineligible Leveraged Funds include:

- Future payment streams from any source
- Refinancing of existing funding
- Working capital

Matching Funds

A firm financial commitment and a Verification of Deposit, if applicable, for all matching funds will be required upon submission of the application. If funds from the Economic Development Administration (EDA) or USDA Rural Development (RD) are proposed to be used for the project, a letter inviting a formal application must be included in the application in lieu of a formal commitment. TCF funds and matching funds outlined on the Table 1 may not be spent or incurred prior to award date (unless a pre-agreement letter has been signed by applicant and business).

Matching funds must comply with all TxCDBG requirements in order to be considered eligible.

Cash Match

Local government resource commitments must be made in the form of a Resolution from the City Council or County Commissioner's Court. This resolution should indicate, at a minimum, the type of resource (e.g., land, labor, materials, money, etc.) and the source, a minimum dollar value to be provided, and for what purpose(s) this resource will be used. Please note here that local match can only be counted for expenditures that would not occur if the proposed application is not funded, with the exception of local funds expended for consultant engineering and administrative services.

Resource commitments provided by other local entities (e.g., the benefitting business, the local Economic Development Corporation, special utility districts, private financial institutions or other similar sources) must be documented in a letter signed by a person authorized by that entity to make such a commitment. This letter should identify the type of resource, a minimum dollar value, and for what purpose this resource will be used. Applicants who are unsure about the eligibility of a commitment from other local entities should contact TDA staff.

Financing/loan commitments for match funds will only be accepted from:

1. State or federal chartered financial institutions (i.e., banks, credit unions, etc.);
2. Insurance companies with an A.M. Best rating of A or higher;
3. Commercial lenders with a Standard and Poor's rating of A or higher (or Moody's equivalent); or
4. Other third party lenders (i.e., economic development corporations) with a verified/documented financial capacity (i.e., a Verification of Deposit)

Additionally, financial commitment letters should meet the following requirements (see sample letters in Application):

1. If a business is using other private financing, a commitment letter (from all other private financing entities) must be included in the application indicating the commitment amount, the proposed use of the funds, the estimated date of availability, the rate and term, the expiration date of the commitment and the security of the loan.
2. If a business is using corporate or personal funds, a commitment letter from that business's chief executive officer or the principals of the firm (or the individual) must be included in the application indicating the commitment amount, the stated proposed use of the funds, the estimated date of availability, the rate and term, the expiration date of the commitment, and the security of the loan. NOTE: Applicant must ensure that appropriate documentation has been provided in the application verifying the signature capacity/authorization on such commitment letters.
3. If a business is using public financing, a commitment letter from the financing entity must be included in the application indicating the commitment amount, the stated proposed use of the funds, the estimated date of availability, the rate and term, the expiration date of the commitment and the security of the loan.
4. If a business is using local governmental financing, a resolution from the local governing body (city or county funds) must be submitted. The resolution must be included in the application indicating the commitment amount, the proposed use of the funds, the estimated date of availability, the rate and term, the expiration date of the commitment, and the security of the loan.
5. If a business is using industrial revenue bonds, a separate local bond inducement resolution stating the dollar amount and conditions of sale/issuance must be included in the application. A commitment letter from the purchaser of the bonds must also be included in order for the funds to be utilized for project feasibility.

Force Account Labor (in-kind service)

The value of force account labor match must be based on the estimated TxCDBG contract-related construction hours to be worked by force account workers and the hourly wages to be paid and cannot be based on labor costs estimated through the bid/contract method.

The applicant must provide an attachment/schedule that shows how the value of the match was determined (number of estimated contract-related construction hours multiplied by the hourly wage rates paid for each worker). Documentation regarding this information should be included.

Force Account Administration/Engineering (in-kind service)

The value of in-kind administration and engineering match must be based on the estimated TxCDBG contract-related hours to be worked by administrative/engineering staff and the hourly wages or salary to be paid and cannot be based on a percentage of the project cost method or on an estimated cost of the service(s) if an administrative/engineering consultant(s) is hired.

The applicant must provide an attachment/schedule that shows how the value of the match was determined. The schedule should include the estimated contract-related staff work hours multiplied by the hourly wages or salary to be

paid and the estimated value of other TxCDBG-eligible administration/engineering costs (e.g., materials, supplies, bonding, postage, audits, plans/specifications, construction mapping, etc.). If you are unsure about the eligibility of any administrative or engineering costs, please contact TDA staff for a determination.

Force Account Equipment Use (in-kind service)
The value of in-kind equipment use match for equipment owned by the locality must be based on a use allowance or depreciation (both cannot be used for the same piece of equipment) and cannot be based on the estimated rental cost of such equipment if already owned by the locality.

To document the value of estimated in-kind equipment use match based on a use allowance, the applicant may use equipment hourly rates and mileage rates established by the Federal Emergency Management Agency (available from TDA upon request).

Depreciation value may be used only if the equipment is not already fully depreciated and the schedule is based on acquisition cost. The applicant must provide an attachment/schedule that shows how the value of the match was determined.

If determining value by use allowance, the schedule must include a list of the equipment (including the capacity or size of the equipment), the hourly use rate or mileage rate, and the number of estimated hours or miles that each piece of equipment will be used on project related activities.

If determining value based on depreciation, the schedule must include a list of the equipment, the depreciation schedule, and the acquisition cost of each piece of equipment.

Fixed Assets

Non-cash equity from fixed assets may be considered as leveraged funds if used in the project. For the purposes of this program, **fixed assets** are defined as land, buildings, fixtures and/or machinery and equipment, **but does not include inventory or raw materials**. Investments in fixed assets made during the TCF application and contract periods are separate from cash investment in the project and may not be subject to certain federal requirements.

If net equity value in fixed assets is utilized for leveraged funds in a TCF application, then a lien search must be completed and included in the application. If the fixed assets have been owned by the principals/business for more than a year, then the net equity value will be determined by using the appraised market value (which should take into account depreciation) less any outstanding debt against the assets. If the fixed assets have been owned by the principals/business for less than or equal to a year, then the net equity value will be determined by using cost less any outstanding debt against the assets. Invoices, canceled checks, and/or closing statements will be required (in the application) to support the cost of the assets.

For land, buildings, fixtures, machinery and equipment, a current county tax appraisal is acceptable in the application to establish market value. All other real estate appraisals must be dated within one (1) year of the application and prepared by a State Certified General Appraiser. For machinery and equipment, the appraisal must not be more than 6 months old, prepared by an appraiser whose business regularly makes such appraisals, and includes the appraiser's qualifications. This report must be included in the application.

Land and/or Building(s)
If the project includes TCF or match funds for land and/or building acquisition, or if real estate equity is being contributed, the following documentation is required:

- Appropriate cost/value documentation,
- Lien search,
- Complete legal description for subject property, and
- Canceled checks and/or invoices and receipts

Acquisition of any real property associated with a TCF funded project must follow the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and the HUD implementing regulations, regardless of whether the acquisition is funded by private funds or funds from another state or federal agency. In addition, an environmental review must be completed on any applicable property prior to completing acquisition for any real property associated with a TCF funded project. Contact TDA for additional information on the Uniform Act or environmental review requirements.

Machinery & Equipment

If the project includes match equity for machinery & equipment the following documentation is required:

- Type and description of equipment;
- Itemized price/value list per piece of equipment (qualified 3rd party market value appraisal or tax appraisal, canceled checks and/or invoices and receipts); and
- Lien search, for equity documentation.
- Note: TCF monies may not be used for machinery and equipment; however, matching funds may be used for this purpose.

Contracts

An applicant approved for funding must enter various contracts to complete the project. The TCF contract is intended to ensure a complete understanding of the planned development, the expected number of jobs to be created or retained, the sources and uses of all funds committed to the project, the reporting requirements of the business and the applicant to TDA, and all other obligations of the business, applicant and TDA.

Some of these contracts are identified below.

- Contract with TDA - This details the duties and responsibilities of both the applicant and TDA. Currently, these contracts are for a standard term of three (3) years for infrastructure and real estate. Applicants may contact TDA for a sample "boilerplate" contract, which will include most contract conditions.
- Contractor/Company Contract Agreement - This details duties and responsibilities of both the applicant and the business. The terms and many of the requirements in this contract will mirror the contract with TDA.
- Infrastructure Repayment Agreement - This details the repayment requirements for infrastructure improvements from the business to the applicant.
- Real Estate Lease Agreement - This details the repayment requirements, tenant responsibilities and rights, and owner/landlord responsibilities and rights between the business and the applicant.
- Other contracts - These will include contracts for engineering and administration services, construction activities and others as necessary to carry out the project.

Assurances

In executing the contract with TDA, the applicant assures and certifies that it will comply with the federal and state regulations, policies, guidelines and requirements, including those related to financial management, recordkeeping, conflict of interest, civil rights, environmental review, real property acquisition, labor standards, and review requirements of other agencies.

A copy of the standard assurances included in the contract is available upon request.

Jobs

TCF RE/Infra will only provide financial assistance to an applicant and business(es) that commit to create and/or retain jobs where at least 51 percent of the jobs benefit LMI individuals. LMI levels are provided annually by HUD and are the same income levels used for Section 8 housing. A list of the most recent LMI levels may be downloaded from TDA's web page at www.texasagriculture.gov.

Only full-time permanent and part-time permanent created/retained jobs, as defined below, are eligible for consideration. A job is defined as a permanent full-time position held by one employee or two part-time employees.

- A full-time job is defined as permanent employment for 1,820 hours or more per year or 35 hours or more per week per person on an annualized basis.
- A part-time job is defined as permanent employment for at least 1,040 hours per year or 20 hours or more per week per person on an annualized basis. Employees working less than 20 hours per week may not be counted individually or in combination/aggregate towards meeting the job goal of the business.
- Seasonal jobs are not eligible for consideration in the program. The position must be required year-round.
- Contract jobs are not eligible for consideration. Only permanent employees may be counted toward job creation requirements.
- Leased employees must meet the same requirements as described above, as long as the business has control over the leased employee(s).
- LMI classification of created jobs is determined based on the employees' household income at the date of hire, not on the pay rate of the job being created.
- Unfilled or vacant jobs/positions are not eligible for consideration.
- Any request to train new employees at an alternate location prior to beginning work at the project site location, as identified in the application and contract, must have prior written approval from TDA. Generally, requests for off-site training exceeding 60 days are not approved.
- Jobs created prior to the date of occupancy for the project will not be counted toward job creation requirements. In no case will jobs created prior to the award (or pre-agreement date, if applicable) be counted toward job creation requirements.
- Credit will only be given for jobs created/retained at the project site described in the application.
- No credit will be given for jobs transferred from other locations of the same business.
- No credit will be given for jobs held by principals of the business(es), or a spouse or dependent of the principal. Principals are defined as an individual or other legal entity that owns 20 percent or more of the business.

The applicant must provide the most recent payroll report for the business(es) identifying all existing employees. The applicant will compare this starting payroll to a similar payroll at the completion of the project to determine the number of jobs created/retained. Any ineligible jobs (such as seasonal or contract jobs) should not be included on starting or ending payroll documentation, or should be clearly identified as ineligible for job creation/retention requirements. Additionally, sufficient documentation must be provided with the ending payroll to show that employees have been on the job for no less than one (1) month.

Job Commitment Letter

A letter is required from each business named in the application that would be creating/retaining jobs as a direct result of TxCDBG funding. This letter must specify the full or part-time status of all such jobs, type of job and salary, as well as methods for ensuring primary benefit to low and moderate income persons. If the business has made arrangements with another entity to provide employment screening or job training (e.g., Workforce Investment Act (WIA) services), a letter reflecting this agreement must be included.

Job Category/Group Definitions

HUD requires that jobs created/retained be described or defined by specific categories/groups. Here is the list of major categories/groups: Officials and Managers, Professionals, Technicians, Sales, Office and Clerical, Craft Worker (skilled), Operatives (semi-skilled), Laborers (unskilled) and Service Workers. These categories/groups must be used and businesses may not add to or substitute other categories/groups. A more detailed description or definition of the types of jobs that fall into these categories is contained in the Appendix of the Guidelines.

Jobs Retained

In order to consider jobs retained as a result of TCF assistance, a business must submit documentation showing clear and objective evidence that permanent jobs will be lost without TCF assistance. For these purposes, clear and objective evidence that jobs will be lost must include all of the following:

1. Evidence that the business has issued a notice to affected employees or made a public announcement to that effect;
2. Analysis of relevant financial records which clearly and convincingly shows that the business is likely to have to cut back employment in the near future without the planned intervention;
3. Documentation verifying that they will meet at least one of the following requirements:
    a. That some or all of the employees will be permanently laid off,
    b. That the business will close down its existing operation/facility, or
    c. That the business will relocate out of state. Requires 3rd party documentation from out of state locations; and
4. Income certifications for all affected employees showing that a minimum of 51% of the retained jobs are held by LMI individuals.

No application claiming retained jobs will be considered if a previously completed contract benefitting the same business in the same community has been awarded in the past 10 years.

Cost Per Job

The level of TCF financial assistance available for the project is directly related to the number of jobs to be created/retained by the business(es). Cost per job is determined by dividing the total number of full-time permanent jobs to be created/retained into the total amount of TCF funds, including administration. At no time will this program consider an application for assistance where the cost per job exceeds $25,000 for created jobs and $10,000 for retained jobs. The maximum allowable cost per job is determined by the amount of the TCF awards, as follows:

Requested Award Amounts	Maximum Cost-Per-Created-Job	Maximum Cost-Per-Retained-Job
$750,000 or less	$25,000	$10,000
$750,100-$1,000,000	$10,000	$7,500
$1,000,100-$1,500,000	$5,000	$5,000

Examples:

- For a project where a business proposes to create ten (10) jobs, the maximum award available would be $250,000. (10 x $25,000 = $250,000)
- For an award of $600,000 the minimum number of jobs to create would be 24. ($600,000 ÷ $25,000 = 24)
- For a project proposing to create five (5) jobs and retain twenty-five (25) jobs, the maximum award available would be $375,000 ((5 x $25,000) + (25x$10,000) = $375,000)

Responsibility for Jobs not Created/Retained

Texas CDBG funds provided under the TCF RE/Infra program are required to comply with the national objective of principally benefiting persons of low and moderate income. This requirement is fulfilled by funding projects which create or retain jobs, principally for persons of low and moderate income (51%). The State has certified to HUD that expenditure of economic development funds will satisfy this national objective and has also executed a grant agreement with HUD containing this requirement. Title I of the Housing and Community Development Act of 1974 (42 USC 5.301 et seq.) also provides that the state may only contract with units of general local government. TDA, therefore, must hold the local government recipient of TCF funds accountable for completion of the TCF project.

In the event of a failure to create or retain all the jobs specified in a TCF contract, TDA's standard policy requires a recipient city or county to repay TDA and deobligate funds for the number of jobs not created or retained, based on the original cost per job. For example, if TDA awarded and expended $500,000 in TCF funds to a city for an economic development project in which 100 permanent jobs were to be created and only 50 jobs were actually created, TDA would require repayment of $250,000. Other penalties may apply as well.

In the event of a failure to create the LMI jobs specified in a TCF contract, such that the project does not meet a National Program Objective, the project is no longer eligible for the TCF RE/Infra program and all TxCDBG funds must be repaid.

If repayment of funds is required under this policy, the community is responsible for immediate repayment to TDA. The responsibility of the business(es) to reimburse the community should be outlined in the terms of the Contractor/Company agreement executed between the community and the business. In lieu of the security document previously required by TDA, the contract executed between TDA and the local government will include a provision prohibiting the release of any payments of TxCDBG funds to the community under any open contract, including contracts funded under programs other than the TCF RE/Infra program, as well as prohibiting the award of new TxCDBG funds to the community, until all repayment required under this policy are paid in full.

Relocating Businesses

A relocating business is defined as the movement or transfer of any portion of business operations from an existing location in a unit of local government to another unit of local government, or the transfer of employees from an existing location in a unit of local government to another unit of local government, with no intent to replace those transferred employees.

HUD prohibits state and local governments from using CDBG funds for ‘‘job-pirating’’ activities that are likely to result in significant job loss to the losing community. Significant job loss is defined as follows:

1. If the business relocation will result in a loss of 25 or less jobs, it is not considered significant;
2. If the business relocation will result in a loss of 500 or more jobs, it is SIGNIFICANT and not eligible for TCF assistance; or
3. If the business relocation will result in a loss of 26-500 jobs, the job loss must be less than 0.1% of the losing area's labor force to avoid being counted as significant.

TDA defines the term ‘‘area’’ as synonymous with the term ‘‘Labor Market Area (LMA),’’ as defined by the U.S. Bureau of Labor Statistics (BLS) (http://www.bls.gov/lau/laugeo.htm). The BLS defines an LMA as: [a]n economically integrated area within which individuals can reside and find employment within a reasonable distance or can readily change jobs without changing their place of residence. In addition, LMAs are non-overlapping and geographically exhaustive. Any alternate definition of “area” that meets HUD guidance must receive approval from TDA prior to submittal of the application.

TCF RE/Infra funds may not be used to assist business relocations from one LMA to another. Business relocations within an LMA may be eligible for TCF RE/Infra funding. For instance, moving a business from the City of Denver (located in the Denver-Aurora, CO, MSA) to Adams County, CO (also located in the Denver-Aurora, CO, MSA) would not be subject to the anti-pirating provisions of this interim rule since both Denver and Adams County are located in the same LMA.

In addition to HUD prohibitions, TDA further restricts assistance for relocating a business within the state of Texas. The TCF Program will not be used to financially assist/facilitate the relocation of a business unless a minimum 10% net gain of jobs will occur. A business relocating within the state must also qualify under one or more of the following guidelines, prior to submitting an application for consideration under TCF:

1. The relocating business has received written approval from the current locality (the unit of local government the business is leaving). The applicant must provide a letter verifying that the chief elected official (mayor or county judge) of the unit of local government from which the business is relocating supports and approves the relocation proposal.
2. The current locality (the unit of local government the business is leaving) has been notified but has not responded. The applicant must provide written documentation that a letter has been mailed (by registered mail) to the current locality from which the business is relocating, notifying them of the potential relocation. The current unit of local government, upon receipt of the notification, has thirty (30) days to object to the relocation in writing before the application can be considered.

It is not the intent of the TCF program to use these monies to assist/facilitate the relocation of businesses within the state, but occasionally relocations may be considered, unless a formal written objection is made by the unit of local government that would lose jobs.

Business Performance

All TCF RE/Infra applications must support proposed activities of one or more businesses. The benefiting business(es), the business that is proposing to create and/or retain jobs and make capital expenditures in the jurisdiction of the applicant, may be a for-profit or a private non-profit business. Governmental entities/units and public non-profits are not eligible and may not qualify as the benefiting business.

TDA will consider applications that provide assistance for up to three (3) specific businesses. Divisions, branch offices, units of a business with the same ownership or businesses with a common bond of ownership, where some entity owns at least 50% of the business(es), are not considered separate businesses. In these scenarios a parent entity/organization may be considered the benefiting business. Businesses that have a common bond of ownership which have an award and subsequently submit a new application are not eligible when submitted by the same applicant.

Bankruptcy Filings

TDA will not consider any application for funding in which any/the business to be assisted thereunder, its principals, or a business that shares common principals has filed under the Federal Bankruptcy Code, and the matter is in the process of being adjudicated or in which such business has been adjudicated bankrupt.

Business Equity Requirement

All businesses are required to make financial contributions to the proposed project. Financial contribution may consist of all cash or a combination of cash and equity in fixed assets, and may be included in the required leveraged funds. New loans are not considered equity. Projects are expected to show sufficient equity from the business(es) to show that the project has a reasonable probability of success. The amount of equity is contingent on the length of time in business as follows:

Length of Time in Business	Real Estate Application	Infrastructure Application
3 years or more	10% total equity participation – including 2.5% cash	10% total equity participation – including 2.5% cash
Less than 3 years	33% total equity participation– including 2.5% cash	10% total equity participation – including 2.5% cash

For projects that propose to benefit multiple businesses, the usual equity requirement for each business is determined by taking the total number of jobs for all businesses, then calculating a pro-rata share for each business, then multiplying this ratio by the equity requirements as shown above. However, each business must contribute a minimum of 5% to the project, and start-up businesses that are the benefiting business in a real estate project must contribute a minimum of 12% equity. Each business must make a minimum cash injection of 1.5% of the total project cost.

<u>Example with three (3) businesses for a total of 30 jobs:</u>
#-1 in business for 5 yrs with 15 jobs;
#-2 in business for 4 yrs with 10 jobs and
#-3 in business for 1 yr with 5 jobs.

<u>Equity calculations using rounded job ratios:</u>
#1 – 15 jobs/30 jobs = 50% (job ratio) x 10% equity requirement above= 5% actual equity requirement for this business.
#2 – 10 jobs/30jobs = 33% (job ratio) x 10%equity requirement above = 3%* equity requirement for this business.

#3 – 5 jobs/30jobs = 17% (job ratio) x 33% equity requirement above = 6%* equity requirement for this business.
*Since there is a minimum requirement of 5% (if in business for 3 yrs) and 12% (if in business less than 3yrs), business #2 and #3 will have to make the required minimums.

TDA will consider a business to have been operating for at least three years if:

1. The business or principals have been operating for at least three years with comparable product lines or services;
2. The parent company (100% ownership of the business) has been operating for at least three years with comparable product lines or services; or
3. An individual or partnership (100% ownership of the business) has been in existence/operation for at least three years with comparable product lines or services.

Note: If the project is a combination of real estate and infrastructure, the real estate figures apply.

See above for leveraged funds specific information.

Underwriting Expectations

HUD requires all CDBG-assisted Economic Development projects to be reviewed for financial underwriting and feasibility characteristics. By submitting a TCF RE/Infra program application, the applicant certifies that it has reviewed the project and determined that it is an appropriate project to be supported by TCF RE/Infra funding. The review must be completed by a person with the appropriate knowledge and skills to assist with the underwriting review, and may not be completed by the application preparer.

The descriptions of underwriting elements below are based on guidance provided by HUD in Appendix A to 24 CFR Part 570:

1. Determination of reasonable project costs.

Reviewing costs for reasonableness is important. It will help the applicant avoid providing either too much or too little TCF assistance for the proposed project. Therefore, it is suggested that the applicant obtain a breakdown of all project costs and that each cost element making up the project be reviewed for reasonableness. The amount of time and resources the applicant expends evaluating the reasonableness of a cost element should be commensurate with its cost. For example, it would be appropriate for an experienced reviewer looking at a cost element of less than $10,000 to judge the reasonableness of that cost based upon his or her knowledge and common sense. For a cost element in excess of $10,000, it would be more appropriate for the reviewer to compare the cost element with a third-party, fair-market price quotation for that cost element. Third-party price quotations may also be used by a reviewer to help determine the reasonableness of cost elements below $10,000 when the reviewer evaluates projects infrequently or if the reviewer is less experienced in cost estimations. If an applicant does not use third-party price quotations to verify cost elements, then the applicant would need to conduct its own cost analysis using appropriate cost estimating manuals or services.

2. Commitment of all project sources of financing.

The applicant should review all projected sources of financing necessary to carry out the economic development project. This is to ensure that time and effort is not wasted on assessing a proposal that is not able to proceed. To the extent practicable, prior to the application for TCF funds, the applicant should verify that: sufficient sources of funds have been identified to finance the project; all participating parties providing those funds have affirmed their intention to make the funds available; and the participating parties have the financial capacity to provide the funds.

3. ***Determination that, to the extent practicable, CDBG funds are not substituting for non-Federal funds.***

a. The applicant should review the economic development project to ensure that, to the extent practicable, CDBG funds will not be used to substantially reduce the amount of non-Federal financial support for the activity. To reach this determination, the reviewer would conduct a financial underwriting analysis of the

project, including reviews of appropriate projections of revenues, expenses, debt service and returns on equity investments in the project. The extent of this review should be appropriate for the size and complexity of the project and should use industry standards for similar projects, taking into account the unique factors of the project such as risk and location.

b. An applicant should familiarize itself with the lending practices of the financial institutions in its community. If the project's total cost is one that would normally fall within the range that financial institutions participate, then the applicant should normally determine the following:
   i. Private debt financing—whether or not the participating private, for-profit business (or other entity having an equity interest) has applied for private debt financing from a commercial lending institution and whether that institution has completed all of its financial underwriting and loan approval actions resulting in either a firm commitment of its funds or a decision not to participate in the project; and
   ii. Equity participation—whether or not the degree of equity participation is reasonable given general industry standards for rates of return on equity for similar projects with similar risks and given the financial capacity of the entrepreneur(s) to make additional financial investments.

4. Determination of the project's financial feasibility.

a. The public benefit an applicant expects to derive from the CDBG assisted project (the subject of separate regulatory standards) will not materialize if the project is not financially feasible. To determine if there is a reasonable chance for the project's success, the applicant should evaluate the financial viability of the project. A project would be considered financially viable if all of the assumptions about the project's market share, sales levels, growth potential, projections of revenue, project expenses and debt service (including repayment of the CDBG assistance if appropriate) were determined to be realistic and met the project's break-even point (which is generally the point at which all revenues are equal to all expenses). Generally speaking, an economic development project that does not reach this break-even point over time is not financially feasible. The following should be noted in this regard:
   i. Some projects make provisions for a negative cash flow in the early years of the project while space is being leased up or sales volume built up, but the project's projections should take these factors into account and provide sources of financing for such negative cash flow; and
   ii. It is expected that a financially viable project will also project sufficient revenues to provide a reasonable return on equity investment. The applicant should carefully examine any project that is not economically able to provide a reasonable return on equity investment. Under such circumstances, a business may be overstating its real equity investment (actual costs of the project may be overstated as well), or it may be overstating some of the project's operating expenses in the expectation that the difference will be taken out as profits, or the business may be overly pessimistic in its market share and revenue projections and has downplayed its profits.

b. In addition to the financial underwriting reviews carried out earlier, the applicant should evaluate the experience and capacity of the assisted business owners to manage the business to achieve the projections. Based upon its analysis of these factors, the applicant should identify those elements, if any, that pose the greatest risks contributing to the project's lack of financial feasibility.

5. Determination of return on equity investment.

To the extent practicable, the CDBG assisted activity should provide not more than a reasonable return on investment to the owner of the assisted activity. However, care should also be taken to avoid the situation where the owner is likely to receive too small a return on his/her investment, so that his/her motivation remains high to pursue the business with vigor. The amount, type and terms of the CDBG assistance should be reviewed given industry rates of return for that investment, local conditions and the risk of the project.

As part of the underwriting review, applicants are also encouraged to obtain a complete Business Plan for each benefitting business, including:

- Business History, including information on business strengths and business weaknesses, legal structure, owners, etc.
- Product/Services

- Market, including information on product demand, total market, target market, competition, the niche of the business, etc.
- Operations, including information on location, physical facility, area labor market, suppliers, employee training requirements, regulatory requirements, etc.
- Marketing, including information on how the business intends to market product, promotions, advertising, distribution channels, customer conveniences, etc.
- Management history and Organization Chart
- Business References
- List of other businesses in which the benefitting business, its owners or majority stockholders own a 20 percent interest
- Identification of potential conflicts of interest where the benefitting business buys from, sells to, or uses the services of a business concern in which someone in the benefitting business has a significant financial interest

Pre-agreement Option

TxCDBG may reimburse funded applicants for administrative and engineering costs (except for application preparation costs) incurred prior to the TxCDBG contract start date based on the Pre-Agreement Stratagem. For TCF RE/Infra projects, a request for the pre-agreement option may be submitted with the application. All federal, state, and program requirements apply to costs incurred during the pre-agreement period, however, funds will not be available to reimburse the applicant for these costs until a grant contract has been executed and applicable requirements for payment have been met.

Federal Funding Accountability and Transparency Act (FFATA)

In September 2006 the President signed the Federal Funding Accountability and Transparency Act (FFATA) requiring the Office of Management and Budget (OMB) to develop a publicly available, free-of-charge, searchable website on federal funding. Federal funding includes grants, sub-grants, loans, awards, cooperative agreements, and other forms of financial assistance. On April 6, 2010, the OMB issued a memorandum outlining responsibilities for State agencies making sub-awards with Federal funds.

Beginning October 1, 2010, TDA is responsible for reporting data on each TxCDBG award, which will be entered into the usaspending.gov database. This data includes:

- The name of the entity receiving the award;
- The amount of the award;
- Information on the award, including transaction type, funding agency, Catalog of Federal Domestic Assistance (CFDA) number, program source, and a descriptive award title;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, state, congressional district, and county; and
- The Data Universal Numbering System (DUNS) number for the entity receiving the award.

Additional information deemed relevant by the OMB must also be provided, and all information is due no more than thirty days after a grant is awarded.

In addition, applicants must register on the System for Award Management (SAM) and entities must have an active registration to receive funding from HUD. Information on SAM registration is available at https://www.sam.gov.

False Information on Applications

The following actions may be taken, on a case-by-case basis, where TDA finds that an applicant, its agent, or the benefiting business(es) provided false information in its application for TxCDBG funding. False information may include:

1. Knowingly making a false entry in, or false alteration of, a government record;
2. Making, presenting, or using any item, record or document with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroying, concealing, removing, or otherwise impairing the verity, legibility, or availability of a governmental record. A governmental record is defined as anything belonging to, received by, or kept by government for information or that government is required by law to be kept by others for information of government. An offense under this paragraph is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the third degree; or
4. Over-estimates of the number of jobs to be created when compared to actual number created.

If the applicant knowingly makes false statements or provides false or incorrect information in an application that has the effect of increasing the applicant's competitive advantage, or false beneficiary information that increases the number or percentage of potential beneficiaries, TDA staff shall make a recommendation for action to the Director of the State TxCDBG Program.

Actions that the Director may make include, but are not limited to:

1. Disqualification of the application and holding the locality ineligible to apply for TxCDBG funding for a period of at least one year not to exceed two program years.
2. Withdrawal of the award and/or termination of the contract - the locality may be liable for funds expended.
3. Holding the locality ineligible to apply for TxCDBG funding for a period of two program years or until any issue of restitution is resolved, whichever is longer.

An applicant may appeal a decision of the State TxCDBG Director by filing an appeal with the Administrator of the Office of Rural Affairs.

Appeals Process

Refer to Title 4, Part 1, Chapter 30, Subchapter A of the Texas Administrative Code (TAC).

Application Instructions

Cover Sheet

Enter the applicant's name in the space provided. The applicant's name will then appear in the footer of every page in the application. Using the drop-down box, select the monthly round being applied for and check the box indicating whether this is an original or resubmission from a previously unfunded round. If the application is a resubmission, indicate the original application's monthly round and date of submission to TDA. For resubmitted applications see page 40 regarding instructions on resubmissions.

NOTE: the application must contain an original signature on the 424 form by the applicant's authorized signatory and the business'(es') authorized representative. Using the drop-down box, select the applicant's county. Region-specific information such as COG region and County Code will automatically appear where appropriate throughout the application once the county has been selected.

Application Checklist

Carefully read the list of required attachments and application forms located on page 41 of this guide, checking off each completed item. This minimizes the likelihood of serious deficiencies or disqualification.

424 Form

The numbered sections below coincide with the numbered fields on the 424 Form. All information is required unless otherwise noted. The applicant must provide an email address, as indicated, in box 18.

1. ***Type of Submission***- Under the Application column, select either Construction or Non-Construction. The majority of TxCDBG applications, except for Planning-only applications, include some construction activities.
2. ***Date Submitted***– To use the calendar provided, click on the drop-down arrow on the right side of the box.
3. ***Date Received by State*** – Leave this field blank.
4. ***Date Received by Federal Agency*** – Leave this field blank.
5. ***Applicant Information***- Provide the applicant's Legal Name (e.g., City of ABC, ABC County) and the Organizational Unit (can be the same as the Legal Name).**Mailing address, telephone number, fax number, and email address are required for both the applicant and the application preparer.** The applicant's physical address and county are also required.
6. ***Employer Identification Number***– Also known as the Federal Tax ID, this 14-digit number is required to facilitate disbursement of funds.

6a. ***DUNS Number*** – All applicants must have a Data Universal Numbering System number to apply for Federal funds. The DUNS number is a nine-character identification number provided by Dun and Bradstreet. There is no charge to obtain a DUNS number. For additional information, visit the Dun and Bradstreet website at www.dnb.com. Failure to provide the applicant's DUNS number at the application stage may result in delayed award disbursement. The DUNS number is also required to be registered with the System for Award Management.

7. ***Type of Applicant***– Select County or City.
8. ***Type of Application***– Check the appropriate box.
9. ***Name of Federal/State Agency*** – Provided by TDA
10. ***Catalog of Federal Domestic Assistance Number*** – Provided by TDA
11. ***Project Type*** – Use the drop-down menu to select the project type that best describes the proposed project. For a project with a benefiting business, use Economic Development Direct Financial Assistance - For Profit.11a.***Type of Application*** – Provided by TDA
12. ***Target Area(s) Affected by the Project***– Briefly identify the target areas of the city or county affected by the project. Acceptable descriptions would be: "The ABC Community in southeast XYZ County", "The ABC Community and LMN Community in XYZ County", "The ABC Water Supply Corporation Service Area", "The A, B, C, and D Colonias of XYZ County", and "Jollyville neighborhood in the northwest portion of ABC Town".
13. ***Applicant's Fiscal Year*** – Indicate the beginning and end dates of the applicant's fiscal year.
14. ***Congressional Districts***– Provide the congressional districts of the entity applying for funding, as well as for the proposed project site(s).This information is available through the "Who Represents Me" feature at the Texas State Legislature's web site: www.fyi.legis.state.tx.us.
15. ***Estimated Funding***– Complete each field as follows:
    A. TxCDBG Request: Amount requested from TDA through this application;
    B. Federal: Amount committed from federal resources such as RUS or USDA-RD;
    C. State: Amount committed from state resources such as TWDB;
    D. Applicant: Amount of match committed by the applicant;

E. Local: Amount committed from local resources such as a WSC, WCID, MUD, or any other local entity other than the applicant;

F. Other: Amount committed from resources other than those listed above, including cash or equity from the business; and

G. Total: This will calculate automatically.

If the applicant intends to use TCF RE/Infra funds to leverage funds from another source (or vice versa), indicate the full scope of the project including portions funded by other sources in the Project Summary.

16. ***Is application subject to review by State Executive Order 12372 Process?*** – For TxCDBG applications, the answer to this question is "No." ***Is the Applicant delinquent on any Federal debt?***- If the answer is "Yes," include an explanation concerning the nature, amount, and date when payment of the debt became delinquent.
17. ***Certification***– Before signing the 424 Form, the authorized signatory should read the text in this field carefully and review the Local Certifications and Citizen Participation Plan sections of this guide. Complete all sub-fields prior to signature.

Business(es) Information

Provide the requested information for each business to benefit from the award of TCF funds (use the clearly marked buttons at the top of the page to add or delete additional businesses).

See Jobs section of the Application Guide for detailed information on job creation/retention requirements. Job category information can be found in Appendix IV.

Application Score Sheet

The following is an outline of the selection criteria used by TDA for the selection of projects under the TCF program. Applications will be reviewed for feasibility in descending order based on the applicants' score. Applicants must provide supporting documentation for each scoring factor in order to receive the points. There are a total of 95 points possible.

- **Unemployment Rate** (Maximum 15 points) – Awarded by comparing applicant's quarterly county unemployment rate (the most recently available 3 months, as of the 1st of the month in which the application is submitted) to the state unemployment rate for the same period. This information may be obtained by contacting the Texas Workforce Commission, Labor Market Information at 1-866-938-4444 or e-mail at lmi@twc.state.tx.us, or website: http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Labforce. A copy of this documentation must be included with the score sheet in the application.
    - Score 5 points if the applicant's county rate meets or exceeds 85% of the state unemployment rate;
    - Score 10 points if the applicant's county rate meets or exceeds 100% of the state unemployment rate; or
    - Score 15 points if the applicant's county rate meets or exceeds 115% of the state unemployment rate.

- **Job Impact** (Maximum 15 points) - Awarded by taking the business's total job commitment, created and retained, and dividing by applicant's most recent decennial census population. This equals the job impact ratio.
    - Score 5 points if this figure exceeds 0.00485;
    - Score 10 points if this figure exceeds 0.00969; or
    - Score 15 points if this figure exceeds 0.01455.
    - County applicants may deduct the most recent decennial population amounts for all incorporated cities, except in the case where the county is sponsoring an application for a business that is or will be located in an incorporated city. In this case the city's population would be used, rather than the

county's. Community population figures are net of the population held in adult or juvenile correctional institutions, as shown by the most recent decennial census data.

- **Jobs Created/Total Job Activity** (Maximum 15 points) – Awarded by dividing the proposed number of Jobs Created by the sum of all proposed Job Activity (Jobs Created + Jobs Retained). This information is supported by a copy of the Company's Job Commitment letter. Points are awarded as follows:
  - Score 5 points if 50% of job activity is Job Creation;
  - Score 10 points if 75% of job activity is Job Creation; or
  - Score 15 points if 100% of job activity is Job Creation

- **Wage Impact** (Maximum 15 points) - Awarded by taking the business's median weekly wage commitment, for all jobs proposed to be created and retained, and dividing by applicant's most recent county, quarterly, private sector average weekly wage.
  - Score 5 points if the median wage meets or exceeds 50% of the county average;
  - Score 10 points if the median wage meets or exceeds 75% of the county average; or
  - Score 15 points if the median wage meets or exceeds 100% of the county average.

  Instruction for locating this information:
  The private sector County Average Weekly Wage is calculated by TWC quarterly. Go to the following website: http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Industry.
    - Section 1: Select COUNTY
    - Section 2: Select the County you are researching, i.e. "ANDERSON"
    - Click CONTINUE
    - Section 3: Select year–select the most recent year available
    - Section 4: Select Time Period–select most recent quarter available
    - Click CONTINUE
    - Section 5: Select Industry Code–NAICS
    - Section 6: Select Ownerships–select PRIVATE
    - Section 7: Select Division–select ALL
    - Click CONTINUE
    - Section 8: Select Industries–select TOTAL, ALL INDUSTRIES
    - Section 9: Select Data Series–select AVG WEEKLY WAGES
    - Order by: select AREA
    - VIEW DATA

- **Preferred/Primary Jobs** (Maximum 10 points) - Awarded if the jobs to be created and/or retained are or will be employed by a benefiting business whose primary North American Industrial Classification System (NAICS) code number falls into the following categories. This is based on the NAICS number reported on the business' Texas Workforce Commission (TWC) Quarterly Contribution Report Form C-3, its IRS business tax return, documentation from the Texas Comptroller of Public Accounts containing the business's tax identification number, or other documentation from the Texas Workforce Commission. Foreign or new businesses that have not had an NAICS code number assigned to them by either the TWC or IRS may submit alternative documentation to support their primary business activity to be eligible for these points. In a multi-business application, NAICS code from the business committing to the largest number of created/retained jobs will be used to assign points. Points may be earned under only one of the following three groups:
  - Score 10 points for the following NAICS category: 31-33 Manufacturing
  - Score 5 points for the following NAICS categories:

111 – Crop Production	42 – Wholesale Trade
112 – Animal, Poultry and Egg Production	48-49 – Transportation/Warehousing
113 – Forestry/Logging	51 – Information
114 – Commercial Fishing	5182 – Data Processing, Hosting Related Svs.
115 – Support Activities for Agriculture	62 – Health Care

211-213 – Mining	

- Score 5 points for projects involving non-primary jobs (i.e., retail), when the business offers a choice of medical and prescription drug benefits to 51% or more of the employees, including coverage for the family. Applicants may **not** receive points for both the NAICS code and health coverage.

- **Cost-per-Job** (Maximum 10 points) - Awarded by calculating the maximum allowable cost-per-job for job creation and retention activity ($25,000 for created jobs and $10,000 for retained jobs) compared to the actual amount of TCF funds requested.
  - Score 5 points if the request for TCF funds is equal to or less than 85% of the maximum allowable funding; or
  - Score 10 points if the request for TCF funds is equal to or less than 75% of the maximum allowable funding.

- **Return on Investment** (Maximum 15 points) - Awarded by dividing the total amount of non-TxCDBG funds identified on the Table 1 by the amount of TCF funds requested. The source and use of all funds must be identified on the Project Summary section of the application.
  - Score 5 points for ratios greater than or equal to 1 but less than or equal to 5;
  - Score 10 points for a ratio greater than 5 but less than or equal to 10; or
  - Score 15 points for ratios greater than 10.

In the event of a tie, tying applications are ranked from highest to lowest based on the greatest proposed job impact.

Project Approval Information

This form asks for a variety of information about a proposed project (including the "***Additional Business Information***" section. Please be sure to verify your responses, as TDA staff may rely on this information to make important decisions regarding the project's eligibility and approval status. Some items on this form include follow-up questions that will only appear if necessary. If a question does not apply to the proposed project, select "N/A". Failure to respond to any item on the Project Approval Information form will result in a deficiency notice.

Underwriting Review

For each of the elements listed in the Underwriting Review Information of the application, provide a brief statement regarding the information reviewed and findings made.

Community Needs Information

List of All Identified Community Needs

Provide a list of all the applicant's identified community development and housing needs, not just those addressed in the application. List the needs in order of importance, using the boxes marked "+" and "x" to add or delete space for additional items.

Community Needs Assessment Questionnaire

Provide the information requested for each item, including information concerning the applicant's past and future efforts to provide affordable housing opportunities in the applicant's jurisdiction and the applicant's past efforts to provide infrastructure improvements through the issuance of general obligation or revenue bonds. A response is required for each item; "None" and "N/A" are acceptable.

Fair Housing Activities

Any locality receiving TxCDBG monies must certify that it will affirmatively further fair housing. Using the table, in the application, identify the activities presently undertaken to affirmatively further fair housing and which new activities will be undertaken if an award is made by TDA. Applicants should be aware that, in the event of funding, these fair housing efforts will be monitored. Other activities may be eligible, and the applicant should contact TDA to determine eligibility.

The Needs Addressed In This Application Were Determined By
Indicate the method(s) used to determine the needs addressed in this application, including the date(s) of each method/assessment. If the exact date is not known, choose the first day of the appropriate month and year. If a city's application includes activities benefiting persons located within the city's ETJ, the applicant must describe how the activity benefiting persons located in the ETJ is meeting the applicant's community development and housing needs, including the needs of low to moderate income persons.

Description of the Need(s) Addressed in This Application
Provide a description of the problem the proposed project will address, including how the proposed improvements will assist the business. TDA will use the information from this section to draft a contract in the event that the application is successful. Please double-check for accuracy and do not use all capital letters.

Example: The Culberson County Candy Company is currently operating a production facility in Kent, Texas. The company would like to expand operations, but must acquire additional property to do so.

Project Summary

This section is to be answered for each target area identified within the application and it consists of four questions intended to summarize the most basic aspects of the proposed project(s) (use the clearly marked buttons at the top of the page to add or delete additional forms for multiple target areas). Responses will be used to draft a contract if the application is awarded. Ensure the information provided in this section is accurate and in agreement with all other parts of the application. To answer the questions on this form, follow the instructions below:

1. **"Provide a brief narrative of the proposed project."**
2. Guidance: expand on the "Description of Needs" from the previous section, include a description of the business's operations, the existing the business facilities as well as the new proposed improvements. **"Identify the activities to be undertaken."**

   Guidance: first, enter the name of the project area or business name and then identify from the dropdown menu the activity that is to occur in that target area. Lastly, identify the location of the activity/project using cross streets, **or** provide a brief description/narrative of the location of the activity/target area. Use the "+" box on the right side of the page for additional lines to provide street locations, if necessary (or the "x" box to delete unnecessary ones). **NOTE**: when entering the name of the project area, ensure exact consistency in the naming of the project area **throughout** the application (spelling and capitalization, etc.). For example, "Green Acres" should not appear as "green acres subdivision" elsewhere.
3. **"Identify the action(s) and their anticipated outcomes. Include specific materials and quantities and number of jobs to be created/retained, as well as any anticipated Acquisition activities. Provide the proposed description based on the example below and examples in the Application Guide."**

   Guidance: describe what action is required to be addressed for the business to create/retain jobs in the target area, including the type and amount of material required for construction activities. The response should resemble a standard TxCDBG Performance Statement (see Appendix III: Form and Document Samples for an example).
4. **"Disclose the source(s) and use(s) of non-TxCDBG funds."**

   Guidance: Disclose the source, use and amount of any non-TxCDBG funds committed to the proposed project. This includes all cash, material, land, and in-kind match.

Provisions at Subpart A of 24 CFR Part 4 require TxCDBG applicants to disclose the information requested in each part of this section:

- Assistance from other government sources in connection with the TxCDBG project;
- The sources of funds contributed to the project; and
- The uses for which the funds are to be utilized.

Each reportable source of funds must indicate:

- The name and address, city, state, and zip code of the individual or entity providing the assistance. If applicable, include at least one organizational level below the agency name. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol;
- The program name, and any relevant identifying numbers or other means of identification for the assistance; and
- The type of assistance (e.g., applicant contribution, loan, grant, loan insurance).

TDA will make all applicant disclosure reports available to the public for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be available along with the disclosure reports, but in no case for a period less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Texas Public Information Act (Chapter 552, Texas Government Code). Failure to provide any required information may delay the processing of the application and may result in sanctions and penalties, including imposition of the administrative and civil penalties specified under 24 CFR Section 4.38.

Additional Project Information

Answer the four questions on this page to identify: 1) any persons with a reportable financial interest to disclose; 2) the type of acquisition (if applicable) needed for the proposed project; 3) any construction activities to be completed by Force Account; and 4) drought-related needs, if applicable.

Applicants must provide information on anyone with financial interest in the proposed project exceeding $50,000 or 10 percent of the requested amount (whichever is lower). This includes developers, contractors, or consultants involved in the application for TCF RE/Infra assistance or in the planning, development, or implementation of the project or activity. A “financial interest" is any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity.

The applicant disclosure report must specify all expected sources of funds from TxCDBG and from any other source that is or will be available for the proposed project or activity. Non-TxCDBG sources typically include the applicant's local contribution, other government assistance referred, equity, and contributions from foundations and private individuals. The report must also specify all expected use(s) of the funds. All sources and uses of funds must be included if they can be reasonably expected to be available for the proposed project.

Additional disclosures apply to update reports. During the period in which a TCF RE/Infra application is pending, the applicant must make the following additional disclosures:

1. Any information that should have been disclosed in connection with the application but was inadvertently omitted.
2. Any information that would have been subject to disclosure in connection with the application but that arose at a later time, including information concerning an interested party that now meets the applicable disclosure threshold.
3. Any changes in previously disclosed Other Government Assistance that exceeds the previously disclosed amount.
4. For changes in previously disclosed financial interests, any change in the amount of the financial interest of a person that exceeds the amount of the previously disclosed interests by $50,000 or by 10 percent of such interests (whichever is lower).
5. For changes to previously disclosed sources of funds, any change in a source of funds that exceeds the lower of:
    a. The amount previously disclosed for that source of funds by $250,000 or by 10 percent of the amount previously disclosed for that source, whichever is lower; or

b. The amount previously disclosed for all sources of funds by $250,000 or by 10 percent of the amount previously disclosed for all sources of funds, whichever is lower.

6. For changes to previously disclosed uses of funds, any change in a use of funds that exceeds the lower of:
   a. The amount previously disclosed for that use of funds by $250,000 or by 10 percent of the amount previously disclosed for that use, whichever is lower; or
   b. The amount previously disclosed for all uses of funds by $250,000 or by 10 percent of the amount previously disclosed for all uses of funds, whichever is lower.

For Questions 2 and 3, click on the appropriate response and provide a response if prompted.

Acquisition of any real property associated with a TCF funded project must follow the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and the HUD implementing regulations (regardless of whether the acquisition is funded by private funds or funds from another state or federal agency). Contact TDA for additional information on the Uniform Act.

Table 1 – Beneficiary and Funding Data

Provide the following information for each proposed activity. For activities that share the same location, beneficiaries, and National Program Objective, use the "+" box on the right side of the page to add activity line items (or the "x" box to delete an unnecessary line item). Data for activities in a different location, serving different beneficiaries, or addressing a different NPO must appear on a separate Table 1 form. To add a new Table 1 form, click the "Add Another Table 1" button at the top of the page, or click "Remove this Table 1" to remove an unnecessary page. Refer to Appendix II: Sample Table 1 & Table 2 for an example of a properly completed Table 1 form.

Enter the following information for each target area:

- Target Area Name – enter the name of the applicable target area/benefitting business. **NOTE**: when entering the name of the project area, ensure exact consistency in the naming of the project area **throughout** the application (spelling and capitalization, etc.). For example, "Green Acres" should not appear as "green acres subdivision" elsewhere.
- Construction Completion Method(s) – identify how each proposed activity will be accomplished:
  - select "contract" for activities that will be accomplished by the bid/contract process.
  - select "force account" for force account labor (performed by the applicant's own employees); or
  - select "combination" for a combination of both (Contract) and (Force Account);
- Activity Description – choose the appropriate activity from the dropdown menu. After selecting an activity, the appropriate HUD activity number will appear in the next field. Most projects involve at least three activities, and at least one construction item. For most public works/facilities projects, engineering/architectural services should be included.
- TxCDBG Construction – indicate the amount of TxCDBG funds requested for each construction activity. Be sure to correlate this figure for all construction activities on Table 2 – Budget Justification.
  - Applicants may request that a portion of an approved award be allocated for administration. Award amounts are inclusive of administration funds. Maximum administration amounts are listed below:

Gross Award Amounts	Maximum Administration Amount
$500,000 or less	$35,000
$500,100-$750,000	$50,000
$750,000-$1,500,000	$60,000

The locality is responsible for any cost incurred for General Administration (Program Administration, Compliance, Audit, etc.) that exceeds the TxCDBG-funded amount. TxCDBG funds budgeted for Administration cannot exceed 16% of Construction and Acquisition funds.

- TxCDBG Engineering – indicate the amount of TxCDBG funds requested to pay engineering costs associated with the activity. This amount should also appear on Table 2 – Budget Justification. When TxCDBG Engineering costs exceed 25% of the TxCDBG Construction/Acquisition budget, the cost is considered unreasonable and an explanation of high costs will be required. See Underwriting Review section for reasonable project costs.
- TxCDBG Acquisition – indicate the amount of TxCDBG funds requested to pay acquisition costs associated with the activity. This amount should also appear on Table 2 – Budget Justification.
- The source(s) of all other funds must be disclosed in the Project Summary section of the application when the "other" amount is greater than zero. TDA requires a commitment documenting each outside source of funding. Refer to page 15 for additional details.
- Activity Total – this is the total cost of completing each activity, including funds from TCF RE/Infra and all other sources, and will automatically calculate. The total for all activities should match the total project cost on the 424 form.
- Census Geographic Area Data – for reporting purposes, HUD requires that TDA collect information regarding the location of each project activity. The county code/FIPS (Federal Information Processing Standard) code will automatically populate when you choose the applicant's county from the drop down menu on the cover page. Next, enter all of the applicable census tracts (6-digit) and block group where the activity's beneficiaries reside.

Table 2 – Budget Justification of Retail Costs

For all proposed uses, requested funds may not exceed the minimum necessary to meet the needs of the business(es). Excess/speculative improvements, extra connections or excessive looping will not be funded. For projects involving more than one activity, this form should reflect each separate activity and its applicable costs. Do not include cost categories such as contingency funds, profit, overhead, and bonding as separate costs. They should be built into the estimated construction costs.

Force account labor costs, whether to be paid with TCF RE/Infra funds or included as local match, must be based on the estimated TCF RE/Infra contract-related construction hours to be worked by force account workers and the hourly wages to be paid, not on labor costs estimated through the bid/contract method. These costs must be described in the Project Summary section of the application.

Equipment costs for equipment owned by the locality, whether to be paid with TCF RE/Infra funds or included as local match, must be based on a use allowance (such as those used by FEMA) or depreciation (based on acquisition cost, and only if the equipment is not already fully depreciated). Calculate all costs based on hours the equipment is in use on the project.

Please enter the following:

- Activity Description – refer to the listed activities on Table 1. Activities shown on this form must correspond to those shown on Table 1. Use the dropdown menu for a full list of activity descriptions and their corresponding activity(ies). Use the "+" box on the right side of the page for additional line items (or the "x" to remove unnecessary ones).
- Materials/Facilities/Services – in this column, list the materials/facilities/services associated with each activity.
- $/Unit, Unit, and Quantity – for projects that will be completed using force account labor, use the materials/facilities/services column to calculate the value of the force account, such as the estimated contract-related construction hours multiplied by hourly wage rates with the total amount indicated in the Construction

column, or attach a separate Force Account Schedule. See Appendix II: Form/Document Samples for an example of a properly completed Table 2 – Budget Justification for Retail Costs involving Force Account labor. There are two acceptable methods for determining actual construction costs:

1. Break down the construction costs into labor and materials components for each activity (use this method for activities involving force account labor); or
2. Use unit price ($/Unit) and the number of units (Quantity) for each activity. The units used (e.g., linear feet (lf), square feet (sf), etc.) must be priced to include all proposed improvements related to and necessary for the major construction activity.

- Construction – enter the price of a material associated with a construction activity. This is the quantity in the "$/Unit" column multiplied by the number in the "Qty" column.
- Engineering – engineering/architectural costs are required to be broken out and entered by **each construction activity** and by the following engineering services (survey, design, and construction/inspection). Special engineering services and their costs must be itemized on Table 2.
- Acquisition – enter any cost involved with a proposed activity involving acquisition of real property (easements, rights-of-way, etc.). The projected acquisition costs must be broken out by the activity for which the acquisition is needed. Acquisition costs associated with construction activities, such as easements for a water system improvement project, should be shown in the "Acquisition" column. Please keep in mind that TDA requires compliance with the Uniform Real Property Acquisition and Relocation Policies Act of 1970. **Do not add a separate Acquisition activity line item unless the project involves acquisition of real estate, in which case the "Construction" and "Engineering" columns should be blank for the Acquisition activity.**
- Total – the totals for each line item and column will calculate automatically. Each activity cost and the associated total activity costs must be consistent with those shown on Table 1. General Administration costs are not shown on Table 2.
- Signature of Registered Engineer/Architect Responsible For Budget Justification (and Seal) – for public facilities projects, a professional engineer or architect licensed to practice in the State of Texas must complete this form. The engineer or architect's signature and registration seal must be on the form. Please also provide the date the form is completed and the engineer or architect's telephone number. If the professional seal is a pressure (non-ink) seal, please ensure that a penciled-over image of the seal is visible on the duplicate copy.

National Program Objectives

Provide a Justification of Beneficiary Identification Method that was used to identify the beneficiaries of the proposed projects.

Anticipated Objectives and Outcomes

Indicate the anticipated objectives and outcomes from the proposed activities by completing the following for each activity:

- Activity – using the dropdown menu, select the appropriate activity. If the options in the drop-down menu do not accurately describe the proposed activity, you may type the appropriate project type in this field rather than selecting from those provided from the drop-down list. Also, use the boxes marked "+" and "x" on the right side of the page to add or delete space for additional activities.

- Anticipated Objective – select one anticipated objective for each activity:
  - Create a suitable living environment.
  - Provide decent affordable housing
  - Create economic opportunities.

- Anticipated Outcome – select one outcome for each activity in the application (excluding engineering and administration):

- Availability / Accessibility
- Affordability
- Sustainability

NOTE: Only one set of objectives and outcomes is required for each activity. If multiple objectives and outcomes are provided for each activity, the responses listed first for each activity will be used for reporting purposes by TxCDBG staff.

Anticipated Outcome Units

Of the following, select the box next to the most appropriate description of the proposed activities:

- Infrastructure/Public Facilities Improvement Project
- Services
- Planning Activity

Once the additional questions appear, select the Activity from the dropdown menu. Use the "+" box on the right side of the page to add additional activities, if applicable (or the "x" box to delete unnecessary ones). For each activity, provide the following:

- Identify the number of persons for each of the following:
  - Anticipated to have new access to this type of public facility or infrastructure improvement;
  - Anticipated to have improved access to this type of public facility or infrastructure improvement; or
  - Anticipated to be served by public facility or infrastructure that is no longer substandard.

NOTE: The total for each activity and outcome must not exceed the total number of beneficiaries identified in the application.

Additional Activity Information

Select only those that apply.

- *One-for-One Replacement* – requires that a grantee replace occupied and vacant units that are demolished or converted.
- *Revolving Loan Fund* – established to make loans whereby principal repayments of loans are re-paid into the fund and re-lent to other borrowers.
- *Brownfield Activity* – any activity designed to treat a piece of industrial or commercial property that is abandoned or underused and often environmentally contaminated, especially one considered as a potential site for redevelopment.
- *Special Assessment* – means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or one-time charge made as a condition of access to public improvement.
- *Favored Activity* – certain activities specifically related to economic development.
- *Colonia* – Any identifiable unincorporated community that is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and was in existence as a colonia prior to the date of enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990).
- *Presidentially Declared Disaster Area* – any area that is listed as an active disaster area on the Federal Emergency Management Agency website (www.fema.gov).
- *Historic Preservation Area* – any area that has been identified in accordance with the standards for the treatment of historic properties as set by the Secretary of the Interior.

- *Displacement* – a displaced person is any lower income family or individual that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of the conversion of an occupied or vacant occupiable low/moderate income dwelling unit, or the demolition of any dwelling unit, in connection with an assisted activity.
- *Float Funded* – process by which a state's CDBG funds are already under contract to grant recipient, yet the state awards the same funds to another grant recipient providing that the state is repaid before the initial grant recipient needs the funds to meet their obligation(s) for their CDBG funded activities.

Attachments

The application must be submitted with the following attachments, if applicable, in the order specified.

Scoring Sheet Supporting Documentation
All scoring criteria must be supported by supporting documentation. Failure to submit all back-up documentation to support scoring may result in a loss of points. All score documentation must be placed immediately behind the score sheet.

Project Maps and/or Census Maps
A minimum of 2 project maps must be included with the application. Please identify the location of the business(es), buildings, private and public infrastructure, that are part of this project with sufficient detail to properly prepare a project description for the contract documents. All maps must be color coded and drawn to scale. Failure to comply will delay the processing of the application.

1. Area Map: The area map must show the general location of the project in relation to major landmarks such as freeways, rivers, and major streets. If the city is the applicant, the city's corporate limits and extraterritorial jurisdiction must be delineated. If a county is the applicant, the unincorporated area of the county must be delineated.
2. Site Plan Map: The project site plan map must be a magnification of the project site delineating:
   - dimension of the lot;
   - dimensions of nearest existing and proposed structures;
   - location and size of nearest existing and proposed private infrastructure (road, water, sewer, etc.) improvements;
   - name of adjacent street(s) and identification of the nearest intersection and designate the service area of such activity;
   - location and names of any property owners from which easements, right-of-ways, or land may be acquired that are contiguous to the proposed infrastructure improvements; and
   - location and size of proposed improvements (legend or key is required) to clearly identify the proposed project.
3. Public Infrastructure Map: projects: Applications for public infrastructure projects must include an infrastructure map must be submitted identifying: location and size of nearest existing and proposed public infrastructure (road, water, sewer, etc.) improvements;
   - name of adjacent street(s) and identification of the nearest intersection and designate the service area of such activity;
   - location and size of proposed improvements (legend or key is required) to clearly identify the proposed project; and
   - any other businesses located contiguous to the proposed infrastructure improvements;

4. Census Map: A census map will be required for applicants documenting the low/moderate income requirement through a qualified census tract. The location of the business must be identified on the census map.

Resolutions
The application *must* be submitted with a resolution from the local governing body (i.e. County Commissioners Court of City Council) authorizing the submission of that application. The governing body must adopt/pass the resolution before the application submission and after the application public hearing. Failure to comply with these resolution requirements may result in disqualification of the application.

The language of the resolution must, at a minimum:

1. Authorize the submission of an application for funding under the Texas Community Development Block Grant Program.
2. Designate the Texas Capital Fund as the fund category under which the application is to be considered.
3. Designate the activities addressed in the application.
4. Designate the dollar amount being requested.
5. Designate a person (e.g., County Judge, County Commissioner, or Mayor) who will be authorized to execute documents in conjunction with the application, and any resulting grant contract.
6. Commit to the provision of resources by source and use (if applicable) in support of the proposed project activities, including the specific source (e.g., General Fund, Water/Sewer Fund, General Obligation Bonds) and use of those resources.
7. Commit to compliance with all federal, state, and program requirements, including environmental review, labor standards, procurement, acquisition of property, civil rights, and administrative requirements.

In a multi-jurisdiction application, a cooperative agreement must also be included and signed by all participating local governments, and must state which participant will serve as the lead administrative entity if the project is funded. Additionally, each locality participating in a multi-jurisdiction application must submit a resolution adhering to the guidelines above.

For a sample resolution, see Appendix III: Form and Document Samples.

Documentation of Leverage
The following guidelines serve to clarify the type of leverage acceptable under the Texas Capital Fund Program. See page 15 for acceptable documentation.

All resources committed in an application and considered in the scoring of that application must be provided in the event that the project is selected for funding. If these resources are not made available, the locality may be subject to the sanctions described in the "False Information on Application" section of this guide.

Published Notices of Public Hearing and Application Activities
Prior to the preparation and submission of an application for TCF RE/Infra funds, each applicant must hold at least one public hearing and publish a notice that describes the application activities and the availability of the application(s) for public review.

The public hearing gives citizens information about the Texas Community Development Block Grant Program and eligible program activities, as well as opportunities to participate in the development of the applicant's community and economic development needs and the development of TxCDBG applications.

The public notice gives citizens information on proposed uses for the funds and an opportunity to review and comment on the application(s) prior to submission.

Other requirements include:

- Public notices should be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community service providers.

- Ensure nondiscrimination by taking reasonable steps to ensure meaningful access for persons with Limited English Proficiency (LEP) by providing language assistance as appropriate. Contact TDA for additional information on this requirement based on the community's needs and characteristics.
- Persons with disabilities must be able to attend the hearing and an applicant must make arrangements for individuals who require auxiliary aids or services, if contacted at least two days prior to the hearing.
- Local organizations that provide services or housing for low-to-moderate income persons, including the local Public Housing Authority, Health and Human Services office, Faith-based organizations, and Mental Health and Mental Retardation office, must receive written notification concerning the date, time, location and topics to be covered at the public hearing.

The written notification sent to local service providers for the public hearing must include the date, time, location and topics of discussion at the public hearing (a copy of the notice will suffice if it includes all required information). Send this notification to service providers serving the jurisdiction's residents – if a local office is located in the community, then that office should receive the notification. If a local office is not located in the community, send the notification to the local or regional office location that serves the jurisdiction's residents.

The following items are required as evidence of adherence with public hearing and public notice requirements:

1. A copy of the actual published public hearing notice (full page of the newspaper with publication title and date or publisher's affidavit and a copy of the notice) for the required public hearing. The notice must conform to the requirements of the Citizen Participation Plan, including specifics such as the date, time, location of the hearing and the topics to be discussed.
2. A copy of the actual published notice of the application(s) activities and availability of the application(s) for public review. This may be either a full newspaper page with the publication title and date or publisher's affidavit and a copy of the notice. The notice must conform to the requirements of the Citizen Participation Plan including the timing of the published notice and the information included in the notice.
3. A listing of the local service providers that received written notification of the public hearing. Copies of the written notifications must be kept by the applicant and will be reviewed by TDA staff during site visits. Again, the written notification must conform to the requirements of the Citizen Participation Plan including specifying the date, time, and location of the hearing and the topics of discussion.

TDA recommends verifying that the public notices are published on the correct days, as well as allowing sufficient time for publication and public hearing issues to be resolved rather than completing these steps just prior to submitting the application.

For sample public notices, see Appendix III: Form and Document Samples.

Documentation of Beneficiaries

Clear documentation of an applicant's beneficiary identification method **must** be received with the application. Jobs to be created must be documented by a letter of commitment from the hiring business(es) and described in the Proposed Business Information section of the TCF application. Job retention activity must include the most recent payroll of the business(es) and the corresponding income survey documentation; for previously completed surveys the TxCDBG Approval Letter and the Survey Tabulation Form or supporting documentation of the HUD based Census Low-to-Moderate-Income Summary Data (LMISD) spreadsheet for the census geographic area.

Evidence of Active SAM Registration

The applicant shall include a screen-shot from the System for Award Management (SAM) website at https://sam.gov verifying the entity's registration is active. The screen shot must include the registration expiration date.

Annual Audit

Applicants must comply with the audit requirements in the Texas Local Government Code for the fiscal year ending 2013. The applicant is required to submit their most recent annual audit with their application to demonstrate financial

capacity. Annual audits for fiscal years ending more than nine months prior to the application submission date will not be accepted. Failure to submit an audit for FY2013 by the application deadline will result in automatic disqualification.

Exemption Determination for Activities Listed at 24 §58.34
The applicant must include a completed Exemption Determination for Activities Listed at 24 CFR §58.34 form for the proposed project.
(See Appendix III: Form and Document Samples)

Pre-Agreement Cost Request Letter
(See Appendix III: Form and Document Samples)

Business(es) Documentation(as applicable)
See application review checklist for specific items.

Application Review Checklist
See the following page for the Application checklist and instructions.

Application Resubmission Instructions

In the event that an applicant's score is ineligible for funding during the monthly round of original submission, the application may be resubmitted for consideration in later monthly rounds for the same calendar year.

At a minimum, resubmission of the application must include:

- A completed TCF application cover sheet indicating the current monthly round, the resubmission check-box selected, the original monthly round submitted and the date of original submission.
- A completed 424 form with an original signature and date by the authorized signatory. Facsimiles of previous 424 submissions will not be considered.
- An updated scoring sheet to reflect any changes affecting the applicant's original score.
- Supporting documentation and explanation for any changes/updates to the original submission.
- For projects including job retainage, the most recent payroll(s) for the business(es).

Applicant Name:_____

Application Review Checklist for Texas Capital Fund

The following items **must** be included in the application. If the application is found to be substantially incomplete it will be denied without further consideration. Applications that have deficiencies will be given 10 business days to satisfy those deficiencies. Applicant or Application Preparer must initial for each item included in the application or indicate that the item is not applicable. Print this page separately and insert directly behind the Application Coversheet.

TEXAS CAPTIAL FUND INFRA/RE Application Contents	**Initial if complete NA if not applicable**
Original Application – Part 1	
Completed 424 Form with original signature	
Completed Business Information	
Completed INFRA/RE Scoring Sheet	
Project Approval Information with all question answered	
Community Needs Assessment	
Project Summary	
Additional Project Information and Source and Use of non-TxCDBG funds Disclosure	
Table 1	
Table 2	
National Program Objectives	
Attachments – Part 2	
Attach supporting documentation for Score Sheet	
Area Map, drawn to scale, showing project site location in community	
Project Site Plan Map–With Key, color coded, drawn to scale, identifying improvements and location of all businesses and buildings benefiting from the improvements AND/OR site survey (if existing).	
Infrastructure Site Plan Map–With Key, color coded, drawn to scale, identifying public/private infrastructure improvements (if applicable)	
Census Map and data to support low/moderate income beneficiaries (As applicable)	
Resolution passed by the applicant	
Match documentation - Letter(s) of Commitment	
Public notices	
1. Copy of actual published public hearing notice or Publisher's Affidavit and copy of notice	
2. Copy of actual published notice of application activities and availability of the application for public review or Publisher's Affidavit and copy of notice	
3. Listing of the local service providers that were sent the written notification of the public hearing	
Evidence of active SAM Registration	
Applicant's Most recent Annual Audit	
Exemption Determination for Activities Listed at 24 CFR §58.34	
Pre-Agreement Cost Request Letter	
Business(es) Documentation– Part 3 Must be provided by each business in "multiple business" application	
Certificate of Good Standing from Comptroller's Office	
Assumed Name Certificate (dba form)	
Job commitment letter (creation and/or retention) from business(es)	
For projects claiming retained jobs: 1. Notice to affected employees;	

2. Analysis of relevant financial records; 3. Documentation verifying that they will meet at least all of the following requirements: a. That some or all of the employees will be permanently laid off, b. That the business will close down its existing operation/facility, and c. That the business will relocate out of state. Requires 3rd party documentation from out of state locations; and 4. a completed Family Income/Size Certification forms for all retained jobs–see TDA website.	
Cash Match from Business(es) – 1. letter(s) of commitment identifying the total amount and use of the business(es)' matching funds commitment 2. Verification of Deposit	
Fixed Assets Claimed as Leveraged Funds - All items listed below for the relevant item are required for the item to be eligible as Leveraged Funds	
A. Land or building acquisition, building construction and/or improvements, or real estate equity	
1. Appropriate value documentation of property (i.e. current county tax appraisal or 3rd party state certified appraisal)	
2. Lien Search (for equity value only)	
3. Required documentation on unimproved land purchased no more than 90 days prior to the application due date: i.e. canceled checks, settlement statements, receipts (equity value only)	
4. Complete legal description	
B. Machinery and Equipment (for equity value only)	
1. Type and description	
2. Itemized price/value listing for new purchases	
3. Appropriate market value for existing M/E (for equity value only)	
a. Itemized market value list for existing M/E	
b. Invoice if purchased less than 1 year previous to application	
c. 3rd party value appraisal with credentials (dated less than 1 year)	
4. Required documentation on existing machinery & equipment; i.e. canceled checks, invoices, and receipts.	
5. Lien search (for equity value only)	

Appendix I.

SAMPLE BUSINESS PLAN TOPIC OUTLINE

The following topics must be addressed to assist the/each company in providing a complete business plan for the TCF application. Topics which should be addressed in the Business Plan include the following:

(Please provide detailed information and explanation for each topic)

I. Description/Introduction of the Business and Business History
   a. Name and location of Business and its affiliates/subsidiaries.
   b. Legalities: Legal structure (proprietorship, partnership, corporation); Types of licenses or permits needed to operate.
   c. Principal owner(s) [full name(s)] and ownership percentage(s). A principal is defined as an individual or other legal entity that owns 20 percent or more of the business.
   d. Definition of business:
      i. Type of business–manufacturing, merchandising, service. Include the firm's standard industrial classification–(NAICS Code).
      ii. Is it a new business, takeover, expansion?
      iii. Is it seasonal?
   e. History of business from inception to present. (Include mergers, acquisitions, major/special events, etc., and respective dates)
   f. Major strengths of the business providing the basis for success.
   g. Major weaknesses which may cause the business to fail. (Objectivity is encouraged regarding this topic)

II. Description of Products/Services
   a. Describe the product(s) and/or services(s) the company will (is/are) market(ing).
   b. Summary of the product line. [Include brochures, photograph(s), catalogs, etc., of the product(s), if possible]
   c. Emphasize the difference between products or services that are presently on the market and the products or service the company will (is) market(ing).
   d. Benefits of the product/service to the customer.
   e. The niche filled by the company's product/service.

III. Description of Market
   a. Industry Analysis
      i. What is your industry? How big is it? How much market share do you expect to hold? Who are the key players and how much market share do they hold? What life cycle state is this industry in?
      ii. What is the environment for new entrants to the industry? If there are barriers to entry, what are they? Are there many suppliers for needed products/supplies? If not, do they have the power to dictate prices? Do buyers have the power to determine you prices and to what degree? Are there substitute products or similar services? Are there any natural rivalries within the industry? Are there any industry opportunities, niche markets, or vulnerabilities, and what is your competitive strategy in relation to them?
      iii. Are there any environmental issues within your industry? Are there any special government or regulatory issues impacting the industry? Are imports or foreign competition an issue? Is technology an important issue within the industry and how so?
   b. Customer Analysis
      i. Who is your customer or target market? What are their characteristics? Why will they buy your product?
      ii. Is your target market declining, steady, or growing? How do you plan to hold and/or increase your market share/customer base?
   c. Competition

i. Who are your direct local competitors? Who are your indirect local competitors? What are your company's strengths and weaknesses? What are your competitor's strengths and weaknesses? What opportunities and/or threats exist from your competitors?
ii. Note: In competition analysis it is tempting to overstate your strengths and understate your weaknesses while doing the opposite to your competitors. This can be self-defeating since you base your actions on the issues addressed in the business plan.

d. Marketing
   i. Sales and Pricing strategies and policies.
   ii. Product distribution strategies and policies.
   iii. Promotion/advertising strategies and policies.

e. Suppliers

IV. <u>Description of Manufacturing/Operations and proposed TCF project</u>
   a. Location and description of facilities (existing and proposed).
   b. Use of facilities (existing and proposed).
   c. Employment (include training, labor market, etc.).
   d. Specifics of the proposed TCF project.

V. <u>Business References</u>

VI. Management
   a. Organizational structure (organizational chart).
   b. Management team and owners resumes.
   c. Response to Ownership questions identified in TCF Application Checklist.

This Business Plan submitted to TDA should include but is not limited to the above information. This outline was developed to assist businesses in submitting a complete and informational business plan. Failure to address these topics adequately may cause a deficiency.

Appendix II: Sample Table 1 & Table 2

TABLE 1 Identify All Project Funds. Source and Use of Funds must be identified on Project Summary, question 4.

Target Area: City of XYZ Construction Completion Type: Contract

Activity Description	TCF Funds	Company Funds/Leverage	Private Lender's Funds/ Leverage	Other Funds/Leverage	Activity Total	+
Infra.-Water	100,000	100,000	0	0	200,000	X
Infra.-Sewer	200,000	200,000	0	0	400,000	X
ACTIVITY TOTALS:	300,000	300,000	0	0	600,000	

REQUIRED - Census Geographic Area Data Identify the census tract and block group(s) in which the project will take place										County Code	+
Census Tract (6-digit)	01	02	03	04	05	06	07	08	09	10	X

Beneficiary Identification				
Total FTE Created	Total FTE Retained	Total FTE	Total LMI	% LMI
0	0	0	0	0

TABLE 2 - BUDGET JUSTIFICATION OF RETAIL COSTS

Activity Description	Materials/Facilities/Services	$/Unit	Unit	Quantity	Construction	Engineering	Acquisition	Total	+
Infra.-Water	8" Water Main	$20.00	LF	10,000	$200,000	$0	$0	$200,000	X
Infra.-Sewer	8" Sewer Main	$20.00	LF	20,000	$400,000	$0	$0	$400,000	X
					$600,000	**$0**	**$0**	**$600,000**	

Seal

Signature of Registered Engineer/Architect Responsible For Budget Justification: **Date:** **Phone Number**

Appendix III: Form and Document Samples

Sample Public Hearing Notice and Application Activities Notice

SAMPLE PUBLIC HEARING NOTICE:

Published on (July 14, 2012):

PUBLIC HEARING NOTICE

(XYZ) COUNTY
TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

(XYZ) County will hold a public hearing at 7:00 p.m. on July 14, 2012, at (XYZ) County Courthouse regarding the submission of an application to the Texas Department of Agriculture for a Texas Community Development Block Grant Program (TxCDBG) grant. The purpose of this meeting is to allow citizens an opportunity to discuss the citizen participation plan, the development of local housing and community development needs, the amount of TxCDBG funding available, all eligible TxCDBG activities, and the use of past TxCDBG funds. The County encourages citizens to participate in the development of this TxCDBG application and to make their views known at this public hearing. Citizens unable to attend this meeting may submit their views and proposals to (John Doe), County Judge at the County Courthouse. Persons with disabilities that wish to attend this meeting should contact the County Courthouse to arrange for assistance. Individuals who require auxiliary aids or services for this meeting should contact the County Courthouse at least two days before the meeting so that appropriate arrangements can be made. Para más información en español, comuníquese con (add local contact name) al XXX-XXX-XXXX.

SAMPLE APPLICATION ACTIVITIES NOTICES:

Published on (September 26, 2012):

PUBLIC NOTICE

(XYZ) COUNTY
TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

(XYZ) County is giving notice of the county's intent to submit Texas Community Development Block Grant Program grant applications for a (Community Development Fund) grant request of ($275,000) for (the installation of a sewer system) in the (community of XX). The application is available for review at the (XYZ) County Courthouse during regular business hours. Para obtener una copia en espanol, comuníquese con (add local contact name) al XXX-XXX-XXXX.

SAMPLE

RESOLUTION NO._____

A RESOLUTION APPROVING AN APPLICATION FOR FUNDING THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE, TEXAS CAPITAL FUND

BE IT RESOLVED by the City Council/Commissioners Court of the City/County of _____as follows:

SECTION 1.
The City Council/Commissioners Court has reviewed and hereby approves an application for: (list activities, location and dollar amount)

Award for Max and Sons, Inc.; 321 N. Elm, Hutto, Texas; for Infrastructure-$200,000
Award for Max and Sons, Inc.; 321 N. Elm, Hutto, Texas; for Real Estate-$500,000
Administration Grant-$ 50,000

SECTION 2.
The City Council/Commissioners Court has reviewed and hereby agrees to comply with all assurances executed in connection with the application and, if funded the award.

SECTION 3.
All funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

SECTION 4.
The City Council/Commissioners Court directs and designates the Mayor/County Judge as the County's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the County's participation in the Texas Community Development Block Grant Program.

SECTION5.
That it further be stated that (XYZ) County is committing ($25,000.00) from its (General Fund) as a cash contribution toward the (administration) activities of this economic development project.

PASSED AND ADOPTED at a regular meeting of the City Council/Commissioners Court of the City/County of held on by the following vote:

ATTEST: _____ _____
(Title of Authorized Signer and Applicant Name) (Title of Attestor and Applicant Name)

	REQUEST FOR VERIFICATION OF DEPOSIT

APPLICANT: This information will be used by the Texas Department of Agriculture (TDA) to determine whether you qualify as a prospective beneficiary under the Texas Capital Fund (TCF) Program.

INSTRUCTIONS

APPLICANT BUSINESS: Complete Items 1, 3, 4, & 5. Forward directly to the Depository Institution named in Item 1. **DEPOSITORY:** Please complete Items 6 through 11.

PART 1 - REQUEST

1. TO (Depository Name and Address)	1. FROM Texas Capital Fund Texas Department of Agriculture P.O. Box 12847 Austin, Texas 78711 512-936-0273

3. INFORMATION TO BE VERIFIED

Type of Account and/or loan	Account/Loan in Name of	Account/Loan Number	Balance
			$
			$
			$
			$
			$
			$
			$

DEPOSITORY: I have applied for support under the TCF and stated that the balance on deposit and/or outstanding loans with you are as shown above. You are authorized to verify this information and to supply TDA, identified above, with the information requested in Items 6 through 11.

4. NAME AND ADDRESS OF APPLICANT(S)	5. SIGNATURE OF APPLICANT(S)

PART II– VERIFICATION

To Be Completed By Depository

6. DEPOSIT ACCOUNTS OF APPLICANT(S)

Type of Account	Account Number	Current Balance as of **(actual date)**	Average Balance for Previous Two Months	Date Opened
		$		
		$		
		$		
		$		

7. LOANS OUTSTANDING TO APPLICANT(S)

Loan Number	Date of Loan	Original Amount	Current Balance as of	Installments (Monthly)	Secured By	# of Late Payments within last 12 Months
		$	$	$ per		
		$	$	$ per		
		$	$	$ per		
		$	$	$ per		
		$	$	$ per		

8. ADDITIONAL INFORMATION, WHICH MAY BE OF ASSISTANCE IN DETERMINATION OF CREDIT WORTHINESS. (Please include information on loans paid-in-full as in Item 7 above).

9. Signature of Depository Official	10. Title	11. Date

SAMPLE DISCLOSURE FORM – CORPORATION/PARTNERSHIP

The undersigned hereby authorizes and consents to the disclosure and release of any and all financial information pertaining to _____, which are held by any governmental agency, consumer credit reporting agency or financial institution to the Texas Department of Agriculture (TDA) or its representatives.

This authorization for release of financial information to TDA further constitutes my consent for purposes of release of federal agency records pursuant to the Privacy Act, 5 U.S.C. 552(b); release of consumer credit report information from credit reporting agencies pursuant to the Fair Credit Reporting Act, 15 U.S.C. 1681b; and release of financial records and information held by financial institutions pursuant to the Right to Financial Privacy Act, 12 U.S.C. 3402. My consent to release of financial institution records pertaining to _____ includes, but is not limited to release of information from the following financial institutions holding accounts and other financial information in the company's name:

Please List All Financial Institutions, Addresses, Phone Numbers,
Account Names, Type and Numbers

Financial Institution Address & Phone No.	Account Name	Account Type	Account Number

_____ _____
(Signature) Date:

_____
(Corporation/Partnership)

_____ _____
(Name of Authorized Individual) (Title)

SAMPLE INDIVIDUAL
CREDIT AUTHORIZATION & DISCLOSURE FORM

The undersigned hereby authorizes and consents to the disclosure and release of any and all financial information pertaining to me held by any governmental agency, consumer credit reporting agency or financial institution to the Texas Department of Agriculture (TDA) or its representatives.

This authorization for release of financial information to TDA further constitutes my/our consent for purposes of release of federal agency records pursuant to the Privacy Act, 5 U.S.C. 552(b); release of consumer credit report information from credit reporting agencies pursuant to the Fair Credit Reporting Act, 15 U.S.C. 1681b; and release of financial records and information held by financial institutions pursuant to the Right to Financial Privacy Act, 12 U.S.C. 3402. My/our consent to release of personal financial institution records includes, but is not limited to release of information from the following financial institutions holding accounts and other financial information in my name:

Please List All Financial Institutions, Addresses, Phone Numbers,
Account Names, Type and Numbers

Financial Institution Address & Phone No.	Account Name	Account Type	Account Number

Print Name: _____ Date: _____

_____
(Signature)

Social Security # _____ Birth Date: _____

Spouse's Printed Name: _____ Date: _____

_____
(Signature)

Social Security # _____ Birth Date: _____

SAMPLE PERSONAL FINANCIAL STATEMENT

As of _____ 20 _____

Complete this form if 1) a sole proprietorship by the proprietor, 2) a partnership by each partner, 3) a corporation by each officer and each stockholder, or 4) any other person or entity providing funds or a guaranty.

Name | Residence Phone

Residence Address

City, State, Zip

Business Name of Applicant/Borrower | Business Phone

ASSETS	(Omit Cents)	LIABILITIES	(Omit Cents)
Cash on hand & in banks	$	Accounts Payable	$
Savings Accounts		Notes Payable (Describe in Sec 2)	
IRA		Installment Account (Auto)	
Accounts/Notes Receivable (Describe in Sec. 6)		Mo. Payments $	
Life Insurance-Cash Surrender Value Only		Installment Account (Other)	
Stocks & Bonds (Describe in Sec. 3)		Mo. Payments $	
Real Estate (Describe in Section 4)		Loans on Life Insurance	
Automobile-Present Value		Mortgages on Real Estate (Describe in Sec. 4)	
Other Personal Property (Describe in Sec. 5)		Unpaid Taxes (Describe in Sec. 7)	
Other Assets (Describe in Sec. 6)		Other Liabilities (Describe in Sec. 8)	
TOTAL ASSETS		TOTAL LIABILITIES	
		NET WORTH	

SECTION 1. SOURCE OF INCOME		CONTINGENT LIABILITIES	
Salary	$	As Endorser or Co-Maker	$
Net Investment Income		Legal Claims & Judgments	
Real Estate Income		Provision for Fed. Income Tax	
Other Income (Describe)		Other Special Debt	
TOTAL		TOTAL	

Description of Items Listed in Section 1

*(Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income)

SECTION 2. NOTES PAYABLE TO BANKS AND OTHERS

Name & Address of Note Holder	Original Balance	Current Balance	Payment Amount	Terms (Monthly, yr)	How Secured or Endorsed Type of Collateral

SECTION 3. STOCKS AND BONDS (Use separate sheet if necessary				
No. of Shares	Names of Securities	Cost	Market Value (Quotation/Exchange)	Date of Value

SECTION 4. REAL ESTATE OWNED (List each parcel separately. Use Supplemental Sheets if necessary. Each sheet must be identified as a supplement to this statement and signed)

	Property A	Property B	Property C
Address & Type of Property			
Title is in name of			
Date Purchases			
Original Cost			
Present Value			
Mortgage Balance			
Amount of Payment			
Status of Mortgage			

SECTION 5. OTHER PERSONAL PROPERTY. (Describe, and if any is mortgaged, provide name and address of mortgage holder and amount of mortgage, terms of payment, and if delinquent, describe delinquency)

SECTION 6. OTHER ASSETS, NOTES & ACCOUNTS RECEIVABLE (Describe)

SECTION 7. UNPAID TAXES (Describe in detail, type, to who payable, when due, amount, & what, if any, property the tax lien attaches).

SECTION 8. OTHER LIABILITIES (Describe in detail)

SECTION 9. LIFE INSURANCE HELD (Give face amount of policies, name of company & beneficiaries)

Lender is authorized to make all inquiries deemed necessary to verify the accuracy of the statements made herein and to determine my/our credit worthiness. (I) or (We) certify the above and the statements contained in the schedules therein are a true and accurate statement of (my) or (our) financial condition as of the date stated herein.

Signature	Social Security Number	Date
Signature	Social Security Number	Date

Pre-Agreement Cost Approval for Administration and Engineering Activities
Texas Capital Fund

<<Date>>

Ms. Suzanne Barnard
Office of Rural Affairs
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

Re: Pre-Agreement Cost Approval for Administration and Engineering Activities

Dear Ms. Barnard:

This is to notify the Texas Department of Agriculture (Department), Texas Community Development Block Grant (TxCDBG) Program that the <<Locality Name>> intends to proceed with its 2015 Texas Capital Fund project activities to benefit <<Business Name>>, as described in its pending application, per the pre-agreement costs stratagem.

As a condition of this pre-agreement, the <<Locality Name>> acknowledges and agrees to the following:

1. We will comply with all applicable state and federal laws, including procurement procedures for professional services and applicable vendors; all applicable TxCDBG policies and procedures, including a completed Environmental Review necessary for the Release of Funds (for applicable construction activities) by TxCDBG, acquisition requirements, approval of plans and specifications as regulated by the Texas Commission on Environmental Quality (TCEQ), Davis-Bacon wage requirements, and any applicable contract Special Conditions.

2. We understand that the Department will not reimburse any costs under this agreement until a 2015 Texas Capital Fund contract is fully executed with the <<Locality Name>>. The Department shall not be liable for costs incurred prior to TDA's receipt and acceptance of the application or for any activities not included in Exhibit A (Performance Statement) and Exhibit B (Budget) of the executed contract associated with the 2015 Texas Capital Fund grant. We also understand that approval of this pre-agreement costs stratagem is not a guarantee of funding; should funds not become available or should the agency not issue an award for any reason, any costs incurred under this agreement are the responsibility of the City and/or the business.

Sincerely,

_____

<<Locality Name>> Title

_____

<<Business Name>> Title

Acknowledged:

_____

TDA Director for CDBG Programs Pre-Agreement Start Date

Sample TxCDBG Performance Statement

EXHIBIT A

PERFORMANCE STATEMENT

All activities funded with TxCDBG funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income (LMI) persons, aid in the prevention or elimination of slums or blight, or meet community development needs having a particular urgency.

Contractor shall carry out the following activities in the target area identified in the Application. The Contractor shall ensure that the amount of funds expended for each activity described does not exceed the amount specified for such activity in the Budget.

CURRENT NEED

The city's sewer lines located in the eastern section of the city are deteriorated and excessive inflow and infiltration overwhelm the system during severe storms.

The Contractor certifies that the activity (ies) carried out under this contract will meet the National Objective of benefitting LMI persons with at least 51% of the beneficiaries qualifying as LMI.

Sewer Improvements

Contractor shall replace approximately three thousand eight hundred eight linear feet (3,808 l.f.) of eight-inch (8"), ten-inch (10"), and twelve-inch (12") PVC sanitary sewer pipe, thirteen (13) manholes, demolition of existing manholes, boring, service connections, street repair and all necessary appurtenances. Construction shall take place in the following locations:

STREET	FROM	TO
Trent Street	Erica Road	Mark Ave
Diana Blvd	Tom Lane	Tammie Circle

These activities shall benefit six hundred thirty-seven (637) persons, of which four hundred sixty-eight (468) or seventy-three percent (73%) are of low-to-moderate income.

Engineering

Contractor shall ensure that the amount of Department funds expended for all eligible project-related engineering services, including preliminary and final design plans and specifications, all interim and final inspections, and all special services does not exceed the amount specified for engineering in the Budget.

General Administration

Contractor shall ensure that the amount of Department funds expended for all eligible project-related administration activities, including the required annual program compliance and fiscal audit does not exceed the amount specified for administration in the Budget.

Exemption Determination for Activities Listed at 24 CFR §58.34

Grant Recipient: _____Project Name: _____
Project Description (Include all actions which are either geographically or functionally related):
_____
Location:_____
Funding Source: CDBG HOME ESG HOPWA EDI Capital Fund Operating Subsidy Hope VI Other
Estimated Funding Amount:_____Grant Number:_____
I have reviewed and determined that the abovementioned project is Exempt per 24 CFR §58.34 as follows:

☐	58.34(1). Environmental & other studies, resource identification & the development of plans & strategies;
☐	58.34(2) Information and financial services;
☐	58.34 (3) Administrative and management activities;
☐	58.34(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
☐	58.34(5) Inspections and testing of properties for hazards or defects;
☐	58.34(6) Purchase of insurance;
☐	58.34(7) Purchase of tools;
☐	58.34 (8) Engineering or design costs;
☐	58.34(9) Technical assistance and training;
☐	58.34(10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
☐	58.34(11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
☐	58.34(12) Any of the categorical exclusions listed in §58.35(a) provided that there are no circumstances that require compliance with any other Federal laws and authorities cited in §58.5.

The responsible entity must also complete and attach the **58.6 Compliance Checklist**. By signing below the Responsible Entity officially determines in writing that all activities covered by this determination are Exempt and meets the conditions specified for such exemption under section 24 CFR §58.34. This document must be maintained in the ERR.

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

_____ _____
Authorized Responsible Entity Signature Date

_____ _____
Authorized Responsible Entity Name (printed) Title (printed)

Appendix IV: Job Category/Group Definitions

Officials and Managers - Occupants requiring administrative personnel who set broad policies, exercise overall responsibility of execution of these policies, and individual departments or special phases of a firm's operations. This includes: Officials, Executives, middle management, plant managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, and kindred workers.
Professional - Occupants requiring either college graduation or experience of such kind and amount as to provide a comparable background includes: accountants and auditors, airplane pilots and navigators, architects, artists chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, professional and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.
Technicians - Occupants requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education such as is offered in many technical institutions and junior colleges, or through equivalent on the job training. This includes: computer programmers and operators, drafters, engineering aides, junior engineers, mathematic aides, licensed practical or vocational nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical science) and kindred workers.
Sales - Occupants engaging wholly or primarily in direct selling. This includes: advertising agenda and sales workers; insurance agents and brokers; real estate agents and brokers; sales workers; demonstrators and retail sales workers; and sales clerks, grocery clerks and cashiers; and kindred workers.
Office and Clerical - Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. This includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists, and secretaries, telegraph and telephone operators, and kindred workers.
Craft Worker (skilled) - Manual workers of relatively high level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. This includes: the building trades, hourly paid supervisors and lead operators (who are not members of management), mechanic and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, and kindred workers.
Operatives (semi-skilled) - Workers who operate machines or other equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. This includes: apprentices (auto mechanics, plumbers, electricians, machinists, mechanics, building trades, metal working trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dress makers and sewers (except factory), dryer's furnaces workers, heaters (metal), laundry and dry cleaning, operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, boiler tenders, truck and tractor drivers, weavers (textile), welders and flame metals workers, and kindred workers.
Laborers (unskilled) - Workers in manual occupations which generally require no special training perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. This includes: garage laborers; car washers and greasers; gardeners (except farm) and ground keepers; stevedores; wood choppers; laborers performing lifting, digging, mixing, loading, and pulling operations; and kindred workers.
Service Workers - Workers in both protective and non-protective service occupations. This includes attendants (hospital and other institutions, professional and personal service, including nurses' aides and orderlies), barbers, chair workers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection guards, door keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, and kindred workers.