

# TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM 2012 ACTION PLAN

## I. PROGRAM YEAR 2012 GENERAL PROGRAM INFORMATION

### A. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ADMINISTRATION

The Texas Department of Agriculture (TDA) administers the State of Texas Community Development Block Grant Program (CDBG), called the Texas Community Development Block Grant Program (Texas CDBG). The Tx CDBG will continue to fund the Colonia Self-Help Centers Fund but administration of that program will remain with the Texas Department of Housing and Community Affairs (TDHCA) Office of Colonia Initiatives through a Memorandum of Understanding between TDA and TDHCA.

The mission statement of the Texas Department of Agriculture is to partner with all Texans to make Texas the nation's leader in agriculture, fortify our economy, empower rural communities, promote healthy lifestyles, and cultivate winning strategies for rural, suburban and urban Texas through exceptional service and the common threads of agriculture in our daily lives.

### B. ELIGIBLE APPLICANTS

Eligible applicants are nonentitlement general purpose units of local government including cities and counties that are not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program (CDBG). Nonentitlement cities that are not participating in urban county programs through existing participation agreements are eligible applicants (unless the city's population is counted towards the urban county CDBG allocation).

Nonentitlement cities are located predominately in rural areas and are cities with populations less than 50,000 persons; cities that are not designated as a central city of a metropolitan statistical area; and cities that are not participating in urban county programs. Nonentitlement counties are also predominately rural in nature and are counties that generally have fewer than 200,000 persons in the nonentitlement cities and unincorporated areas located in the county.

Hidalgo County, a designated CDBG urban county, is eligible to receive assistance under the Texas Community Development Block Grant (Tx CDBG) Program Colonia Fund (and each fund category included under the Colonia Fund).

Counties eligible under both the Tx CDBG Colonia Fund and the Texas Water Development Board's Economically Distressed Areas Program (EDAP) are eligible under the Tx CDBG Colonia Economically Distressed Areas Program Fund. Non-entitlement cities located within eligible counties that meet other eligibility criteria, including the geographic requirements of the Colonia Fund, are also eligible applicants for the Tx CDBG Colonia Economically Distressed Areas Program Fund.

With the enactment of §43.907 of the Texas Local Government Code, a colonia meeting specified requirements that is annexed by a municipality remains eligible for five years after the effective date of the annexation to receive any form of assistance for which the colonia would be eligible if the annexation had not occurred. This only applies to a colonia annexed by a municipality on or after September 1, 1999.

### **C. ELIGIBLE ACTIVITIES**

Eligible activities under the Texas Community Development Block Grant Program are listed in 42 U.S.C Section 5305. The Tx CDBG staff reviews all proposed project activities included in applications for all fund categories to determine their eligibility.

**All proposed activities must meet one of the following three National Program Objectives:**

1. principally benefit low- and moderate-income persons; or
2. aid in the elimination of slums or blight; or
3. meet other community development needs of particular urgency which represent an immediate threat to the health and safety of residents of the community

Area benefit can be used to qualify street paving projects. However, for street paving projects that include multiple and non-contiguous target areas, each target area must separately meet the principally benefit low and moderate income national program objective. At least fifty-one percent (51%) of the residents located in each non-contiguous target area must be low and moderate income persons. A target area that does not meet this requirement cannot be included in an application for Tx CDBG funds. The only exception to this requirement is street paving eligible under the Disaster Relief/Urgent Need Fund.

### **D. INELIGIBLE ACTIVITIES**

In general, any type of activity not described or referred to in 42 U.S.C Section 5305 is ineligible. Specific activities ineligible under the Texas Community Development Block Grant Program are:

1. construction of buildings and facilities used for the general conduct of government (e.g. city halls, courthouses, etc.);
2. new housing construction, except as last resort housing under 49 CFR Part 24 or affordable housing through eligible subrecipients in accordance with 24 CFR 570.204;
3. the financing of political activities;
4. purchases of construction equipment (except in limited circumstances under the STEP Program);
5. income payments, such as housing allowances; and
6. most operation and maintenance expenses (including smoke testing, televising / videotaping line work, or any other investigative method to determine the overall scope and location of the project work activities)

The Texas Capital Fund (TCF) will not accept applications in support of public or private prisons, racetracks and projects that address job creation/retention through a government supported facility. The Texas Capital Fund Program may be used to financially assist/facilitate the relocation of a business when certain requirements, as defined in the application guidelines, are met.

### **E. PRIMARY BENEFICIARIES**

The primary beneficiaries of the Texas Community Development Block Grant Program are low to moderate income persons as defined under the U.S. Department of Housing and Urban Development (HUD) Section 8 Assisted Housing Program (Section 102(c)). Low income families are defined as those earning less than 50 percent of the area median family income. Moderate income families are defined as those earning less than 80 percent of the area median family income. The area median family can be based on a metropolitan statistical area, a non-metropolitan county, or the statewide non-metropolitan median family income figure.

### **F. DISPLACEMENT OF PERSONS ASSISTED**

Applicant localities must certify that they will minimize the displacement of persons as a result of activities assisted with Texas Community Development Block Grant Program grant funds.

## **II. ALLOCATION OF CDBG FUNDS**

### **A. AVAILABLE FUND CATEGORIES**

Assistance is available in six funding categories and two pilot programs under the Texas Community Development Block Grant Program as indicated below:

Funds:

1. Community Development Fund
2. Texas Capital Fund
3. Colonia Fund
  - 3a. Colonia Planning and Construction Fund
  - 3b. Colonia Economically Distressed Areas Program Legislative Set-Aside
  - 3c. Colonia Self-Help Centers Legislative Set-Aside
  - 3d. Colonias to Cities Initiative Program
4. Planning and Capacity Building Fund
5. Disaster Relief/Urgent Need Fund
6. Tx CDBG STEP Fund

Pilot Programs:

Renewable Energy Demonstration Pilot Program

Community Facilities Fund

### **B. DESCRIPTION OF FUNDS**

#### **1. Community Development Fund**

This fund is available on a biennial basis for funding from program years 2011 and 2012 through a 2011 annual competition in each of the 24 State planning regions. Applications received by the 2011 program year application deadline are selected to receive grant awards from the 2011 and 2012 program year allocations. The scoring of the applications is shared between TDA and the 24 Regional Review Committees (RRC), with the RRC having the predominate percentage of the total possible score.

Regional Priority Set-asides: Housing and Non-Border Colonia projects - Each Regional Review Committee (RRC) is encouraged to allocate a percentage or amount of its Community Development Fund allocation to housing projects and, for RRCs in eligible areas, non-border colonia projects proposed in and for that region. Under a set-aside, the highest ranked applications for a housing or non-border colonia activity, regardless of the position in the overall ranking, would be selected to the extent permitted by the housing or non-border colonia set-aside level. If the region allocates a percentage of its funds to housing and/or non-border colonia activities and applications conforming to the maximum and minimum amounts are not received to use the entire set-asides, the remaining funds may be used for other eligible activities. (Under a housing and/or non-border colonia set-aside process, a community would not be able to receive an award for both a housing or non-border colonia activity and an award for another Community Development activity during the biennial process. Housing projects/activities must conform to eligibility requirements in 42 U.S.C Section 5305 and applicable HUD regulations.)

The Tx CDBG encourages the use of funds not only to improve existing locations but to provide facilities in other areas to accommodate residential opportunities that will benefit low and moderate income persons. Applicants are encouraged to provide for infrastructure and housing activities that will improve opportunities for low and moderate income persons. When considering projects and designing projects, applicants must continue to consider affirmatively furthering fair housing, which includes providing basic infrastructure, such as water, sewer, and roads, that benefit residential housing and other housing activities.

Funds for projects under the Community Development Fund are allocated among the 24 State planning regions based on the following:

**REGIONAL ALLOCATION METHOD:**

The original CD formula is used to allocate 40 percent of the annual State CDBG allocation; and the HUD formula is used to allocate 21.71 percent of the annual State CDBG allocation.

Original CD formula (40%) factors:

- |                                     |     |
|-------------------------------------|-----|
| a. Non-Entitlement Population       | 30% |
| b. Number of Persons in Poverty     | 25% |
| c. Percentage of Poverty Persons    | 25% |
| d. Number of Unemployed Persons     | 10% |
| e. Percentage of Unemployed Persons | 10% |

To the extent possible, the information used to calculate the regional allocations through these factors will be based on the eligible nonentitlement applicants within each region. The population and poverty information used is from the current available decennial census data. The unemployment information used is the current available annual average information.

HUD formula (21.71%) - the formula is the same methodology that HUD uses to allocate CDBG funds to the non-entitlement state programs. The HUD factors, percentages, and methodology are specified in 42 U.S.C. 5306(d). The Tx CDBG will use available data to calculate the allocations to each region.

Using the HUD methodology, the allocation for each region shall be the greater of an amount that bears the same ratio to the allocation for all 24 regions available as either:

(A) the average of the ratios between:

- the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time - 25% weight);
- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted two times - 50% weight); and
- the extent of housing overcrowding in the nonentitlement areas in that region and the extent of housing overcrowding in the nonentitlement areas of all 24 regions (counted one time - 25% weight);

OR

(B) the average of the ratios between:

- the age of housing in the nonentitlement areas in that region and the age of housing in the nonentitlement areas in all 24 regions (counted two and one half times - 50% weight);

- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted one and one half times - 30% weight); and
- the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time - 20% weight).

The Tx CDBG will continue to involve the non-entitlement communities and the public in a review of the regional allocation formula through public hearings, Task Forces, and input from the Texas Rural Health and Economic Development Advisory Council, Regional Councils of Governments, local and state government officials, and other interested parties.

Some regions in the State have a small number of eligible applicants and these regions may receive regional allocations large enough to allow each eligible applicant in that region to apply for an equal share of the regional allocations. The share available to each eligible applicant in the region may amount to an equal share based on the number of eligible applicants and the 2011 and 2012 regional allocations for that region. Or the share available to each eligible applicant in the region may be based on an allocation formula used by the region to allocate the funds available through the 2011 and 2012 regional allocations for the region. Each applicant in one of these regions must meet all state and federal eligibility requirements including but not limited to Tx CDBG applicant threshold requirements, federal requirements for eligible activities, and federal requirements that each activity in an application meet one of the three national program objectives. Applicants in these regions are scored by the Regional Review Committees and the Tx CDBG staff in accordance with the established Community Development Fund selection criteria. The total score received by each applicant in these regions determines if the applicant receives funding from the 2011 regional allocation or 2012 regional allocation. Depending on the State of Texas' CDBG allocations for the 2011 and 2012 program years, there could be a large variance between the 2011 and 2012 regional allocations. If the 2012 regional allocation for one of these regions decreases significantly from the 2011 regional allocation, then the total scores received by applicants in these regions could in fact prevent some of the applicants from receiving funds from the 2012 regional allocation.

A significant increase or decrease to the State's 2012 Program Year CDBG allocation would result in corresponding increases or decreases to the current Program Year Community Development Fund allocation and correspondingly higher or lower regional allocations.

Non-border colonia projects – available to eligible county applicants for projects in severely distressed unincorporated areas located farther than 150 miles from the Texas-Mexico border and non-entitlement counties, or portions of counties, within 150 miles of the Texas-Mexico border that are not eligible for the Colonia Fund because they are located in a standard metropolitan statistical area that has a population exceeding 1,000,000, as specified the Cranston-Gonzalez National Affordable Housing Act. Non-border colonia areas would be an identifiable unincorporated community that is determined to be colonia-like 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 before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990).

Applicants must demonstrate they are adequately addressing water supply and water conservation issues (in particular contingency plans to address drought-related water supply issues), as described in the application guidance.

Applications requesting funds for projects other than water and sewer must include a description of how the applicant's water and sewer needs would be met and the source of funding that would be used to meet these needs.

## **2. Texas Capital Fund**

This economic development funding is used for projects that will create or retain permanent employment opportunities, primarily for low to moderate income persons, and for county economic and management development activities. The funds may be used to provide financial assistance for eligible activities as cited in 42 U.S.C Section 5305, including the following activities.

- a. Infrastructure improvements to assist a for-profit entity or a non-profit entity.
- b. Acquisition of real property or to acquire, construct, reconstruct, or rehabilitate public facilities to assist a for-profit entity.
- c. Infrastructure improvements to assist Texas Main Street Program designated municipalities.
- d. Downtown Revitalization Program that is designed to foster and stimulate economic development in downtown areas by providing financial assistance for public improvements to non-entitlement cities. This program encourages the elimination of slum and blighted areas by targeting the renovation and/or construction of sidewalks, lighting, drainage and other infrastructure improvements in downtown areas. Communities eligible for the Texas Main Street Program are not eligible for the Downtown Revitalization Program.
- e. County economic and management development activities as approved by TDA.
- f. Assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that:
  - (1) creates or retains jobs for low- and moderate-income persons;
  - (2) prevents or eliminates slums or blight;
  - (3) meets urgent needs;
  - (4) creates or retains businesses owned by community residents;
  - (5) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or
  - (6) provides technical assistance to promote any of the activities under subparagraphs (1) through (5).

The Texas Capital Fund program will require repayment for Real Estate and Infrastructure projects, as follows:

- a. Real Estate Development (including improvements to the business site) projects require full repayment with no interest accruing; and
- b. Infrastructure Program (awards for infrastructure or railroad improvements on private property require full repayment with no interest accruing).

## **3. Colonia Fund**

This fund is available to eligible county applicants for projects in severely distressed unincorporated areas which meet the definition as a "colonia" under this fund. Scoring of all the selection criteria for Colonia Fund applications is completed by Tx CDBG staff. The term "colonia" means any identifiable unincorporated community that is within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000; and 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 before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act (November 28, 1990). Except for fund categories where additional restrictions apply, a county can only submit applications on behalf of eligible colonia areas located within 150 miles of the Texas-Mexico border region, except that any county that is part of a standard metropolitan statistical area with a population exceeding 1,000,000 is not eligible under this fund.

### **3a. Colonia Planning and Construction Fund**

The allocation is available on a biennial basis for funding from program years 2011 and 2012 through a 2011 annual competition. Applications received by the 2011 program year application deadline are eligible to receive grant awards from the 2011 and 2012 program year allocations. Funding priority shall be given to Tx CDBG applications from localities that have been funded through the Texas Water Development Board Economically Distressed Areas Program (TWDB EDAP) where the Tx CDBG project will provide assistance to colonia residents that cannot afford the cost of service lines, service connections, and plumbing improvements associated with access to the TWDB EDAP-funded water or sewer system.

An eligible county applicant may submit one (1) application for the following eligible construction activities:

- (1) Assessments for Public Improvements - The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low- and moderate-income to recover the capital cost for a public improvement.
- (2) Other Improvements - Other activities eligible under 42 U.S.C Section 5305 designed to meet the needs of colonia residents.

A colonia construction application must include an assessment of the effect of the Model Subdivision Rules established pursuant to §16.343 of the Water Code and enforcement actions throughout the county and provide the colonia identification number for the colonias that would receive the project benefit.

### **Colonia Planning Component**

A portion of the funds will be allocated to two separate biennial competitions for applications that include planning activities targeted to selected colonia areas - (Colonia Area Planning activities), and for applications that include countywide comprehensive planning activities (Colonia Comprehensive Planning activities). Applications received by the 2011 program year application deadline are eligible to receive a grant award from the 2011 and 2012 program year allocations.

In order to qualify for the Colonia Area Planning activities, the county applicant must have a Colonia Comprehensive Plan in place that prioritizes problems and colonias for future action. The targeted colonia must be included in the Colonia Comprehensive Plan.

A Colonia Planning activities application must receive a minimum score for the Project Design selection factor of at least 70 percent of the maximum number of points allowable under this factor to be considered for funding.

#### **(1) Colonia Area Planning Activities**

An eligible county may submit an application for eligible planning activities that are targeted to one or more colonia areas. Eligible activities include:

- Payment of the cost of planning community development (including water and sewage facilities) and housing activities;
- Costs for the provision of information and technical assistance to residents of the area in which the activities are located and to appropriate nonprofit organizations and public agencies acting on behalf of the residents;
- Costs for preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans; and
- For any colonia in close proximity to a city, a plan that if implemented could lead to annexation of the colonia by the city.

## **(2) Colonia Comprehensive Planning Activities**

To be eligible for these funds, a county must be located within 150 miles of the Texas-Mexico border. The applicant's countywide comprehensive plan will provide a general assessment of the colonias in the county, but will include enough detail for accurate profiles of the county's colonia areas. The prepared comprehensive plan must include the following information and general planning elements:

- Verification of the number of dwellings, number of lots, number of occupied lots, and the number of persons residing in each county colonia
- Mapping of the locations of each county colonia
- Demographic and economic information on colonia residents
- The physical environment in each colonia including land use and conditions, soil types, and flood prone areas
- An inventory of the existing infrastructure (water, sewer, streets, drainage) in each colonia and the infrastructure needs in each colonia including projected infrastructure costs
- The condition of the existing housing stock in each colonia and projected housing costs
- A ranking system for colonias that will enable counties to prioritize colonia improvements rationally and systematically plan and implement short-range and long-range strategies to address colonia needs
- Goals and Objectives
- Five-year capital improvement program
- An assessment of the effect of the Model Subdivision Rules established pursuant to §16.343 of the Water Code and enforcement actions throughout the county
- For any colonia in close proximity to a city, a plan that if implemented could lead to annexation of the colonia by the city

Colonia Planning Component funds may be used for planning purposes under the Colonias to Cities Initiative.

### **3b. Colonia Economically Distressed Areas Program (CEDAP) Legislative Set-aside**

The allocation is distributed on an as-needed basis. Eligible applicants are counties, and nonentitlement cities located in those counties, that are eligible under the Tx CDBG Colonia Fund, including meeting the geographic requirements, and Texas Water Development Board's Economically Distressed Areas Program (TWDB EDAP). Eligible projects shall be located in unincorporated colonias; in colonias located in eligible

nonentitlement cities that annexed the colonia and the application for improvements in the colonia is submitted within five (5) years from the effective date of the annexation; or in colonias located in eligible nonentitlement cities where the city is in the process of annexing the colonia where the improvements are to be made.

Eligible applicants may submit an application that will provide assistance to colonia residents that cannot afford the cost of service lines, service connections, and plumbing improvements associated with being connected to a TWDB EDAP-funded water and sewer system improvement project. An application cannot be submitted until the construction of the TWDB EDAP-funded water or sewer system begins.

Eligible program costs include water distribution lines and sewer collection lines providing connection to water and sewer lines installed through the Texas Water Development Board's Economically Distressed Areas Program (when approved by the Tx CDBG), taps and meters (when approved by the Tx CDBG), yard service lines, service connections, plumbing improvements, and connection fees, and other eligible approved costs associated with connecting an income-eligible family's housing unit to the TWDB improvements.

An applicant may not have an existing CEDAP contract open in excess of the original contract period and still be eligible for a new CEDAP award. One CEDAP award may be made to an eligible applicant within a CDBG program year and an eligible applicant may have no more than one existing open CEDAP contract.

If there are an insufficient number of TWDB EDAP projects ready for Colonia Economically Distressed Areas Program (CEDAP) funding, the CEDAP funds may be transferred as appropriate.

### **3c. Colonia Self-Help Centers Legislative Set-aside**

In accordance with Subchapter Z, Chapter 2306, Government Code, and Title 10, Texas Administrative Code, Part 1, Chapter 3, TDHCA has established self-help centers in Cameron County, El Paso County, Hidalgo County, Starr County, and Webb County. If deemed necessary and appropriate, TDHCA may establish self-help centers in other counties (self-help centers have been established in Maverick County and Val Verde County) as long as the site is located in a county that is designated as an economically distressed area under the Texas Water Development Board Economically Distressed Areas Program (EDAP), the county is eligible to receive EDAP funds, and the colonias served by the center are located within 150 miles of the Texas-Mexico border.

The geographic area served by each self-help center is determined by TDHCA. Five (5) colonias located in each self-help center service area are designated to receive concentrated attention from the center. Each self-help center sets a goal to improve the living conditions of the residents located in the colonias designated for concentrated attention within a two-year period set under the contract terms. TDHCA has the authority to make changes to the colonias designated for this concentrated attention.

The TDHCA grant contract for each self-help center must be executed with the county where the self-help center is located. TDHCA will enter into a Texas Community Development Block Grant Program contract with each affected county. Each county enters into a subcontract with a non-profit community action agency, a public housing authority, or a non-profit organization.

A Colonia Residents Advisory Committee was established and not fewer than five persons who are residents of colonias were selected from the candidates submitted by local nonprofit organizations and the commissioners' court of a county where a self-help center is located. One committee member shall be appointed to represent each of the counties in which a self-help center is located. Each committee member must be a resident of a colonia located in the county the member represents but may not be a

board member, contractor, or employee of or have any ownership interest in an entity that is awarded a contract through the Texas Community Development Block Grant Program. The Advisory Committee shall advise TDHCA regarding:

- (1) the needs of colonia residents;
- (2) appropriate and effective programs that are proposed or are operated through the centers; and
- (3) activities that may be undertaken through the centers to better serve the needs of colonia residents.

The purpose of each center is to assist low income and very low income individuals and families living in colonias located in the center's designated service area to finance, refinance, construct, improve or maintain a safe, suitable home in the designated service area or in another suitable area. Each self-help center may serve low income and very low income individuals and families by:

- (1) providing assistance in obtaining loans or grants to build a home;
- (2) teaching construction skills necessary to repair or build a home;
- (3) providing model home plans;
- (4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;
- (5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets and utilities;
- (6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;
- (7) providing credit and debt counseling related to home purchase and finance;
- (8) applying for grants and loans to provide housing and other needed community improvements;
- (9) providing other eligible services that the self-help center, with TDHCA approval, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;
- (10) providing assistance in obtaining loans or grants to enable an individual or family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract;
- (11) monthly programs to educate individuals and families on their rights and responsibilities as property owners; and
- (12) providing access to computers, the internet, and computer training.

A self-help center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.

For any award made on or after September 1, 2005, any political subdivision that receives community development block grant program money targeted toward street improvement projects in eligible colonia areas must allocate not less than five percent but not more than 15 percent of the total amount of street improvement money to providing financial assistance to colonias within the political subdivision to enable the installation of adequate street lighting in those colonias if street lighting is absent or needed.

### **3d. Colonias to Cities Initiative**

If there are an insufficient number of TWDB EDAP projects ready for Colonia Economically Distressed Areas Program (CEDAP) funding, the CEDAP funds may be transferred to the Colonias to Cities Initiative. This initiative will provide funding for basic infrastructure considered necessary for a colonia area to be annexed by an adjoining city. Priority would be for colonias that have received prior Tx CDBG funding. Both the county and city must submit a multi-jurisdictional pre-application for the project that includes a resolution from each jurisdiction. The city's resolution must include a firm commitment to annex the colonia upon completion of the project. Multi-jurisdictional applications from the county and city would be accepted by invitation only after a thorough review of the pre-applications. Failure to annex the colonia may result in a requirement to repay the CDBG funding to Tx CDBG. The maximum amount provided would be \$500,000. (The Colonia Construction component scoring would be used to prioritize funding if needed. The Tx CDBG may establish other criteria in the application guidelines.)

In addition, the initiative may involve a planning component that would use the Colonia Area Planning activities guidelines.

#### **4. Planning And Capacity Building Fund**

This fund is available on a biennial basis to assist eligible cities and counties in conducting planning activities that assess local needs, develop strategies to address local needs, build or improve local capacity, or that include other needed planning elements (including telecommunications and broadband needs). All planning projects awarded under this fund must include a section in the final planning document that addresses drought-related water supply contingency plans and water conservation plans. Applications received by the 2011 program year application deadline are eligible to receive grant awards through a Statewide competition for funding from the 2011 and 2012 program year allocations.

A significant increase or decrease to the State's 2012 CDBG allocation may result in corresponding increases or decreases to the 2012 Planning and Capacity Building Fund allocations.

#### **5. Disaster Relief/Urgent Need Fund**

Disaster Relief assistance is available through this fund as needed for eligible activities in relief of disaster situations where either the Governor has proclaimed a state disaster declaration or the President has issued a federal disaster declaration. Tx CDBG may prioritize throughout the program year the use of Disaster Relief assistance funds based on the type of assistance or activity under consideration and may allocate funding throughout the program year based on assistance categories. Priority for the use of these Tx CDBG funds is for repair and restoration activities to meet basic human needs, such as water and sewer facilities, housing, and roads.

Urgent Need assistance is contingent upon the availability of funds for activities that will restore water or sewer infrastructure whose sudden failure has resulted in death, illness, injury, or pose an imminent threat to life or health within the affected applicant's jurisdiction. The infrastructure failure must not be the result of a lack of maintenance and must be unforeseeable. As an initial step, Tx CDBG undertakes an assessment of whether the situation is reasonably considered unforeseeable. An application for Urgent Need assistance will not be accepted by the Tx CDBG until discussions between the potential applicant and representatives of the Tx CDBG, the Texas Commission on Environmental Quality (TCEQ), and the Texas Water Development Board (TWDB) have taken place. Through these discussions, a determination shall be made whether the situation meets Tx CDBG Urgent Need threshold criteria; whether shared financing is possible; whether financing for the necessary improvements is, or is not, available from the TWDB; or that the potential applicant does, or does not, qualify for TWDB assistance.

If Tx CDBG funds are still available, a potential applicant that meets these requirements will be invited to submit an application for Urgent Need funds.

**To qualify for Disaster Relief funds:**

- The situation addressed by the applicant must be both unanticipated and beyond the control of the local government.
- The problem being addressed must be of recent origin. For Disaster Relief assistance, this means that the application for assistance must be submitted no later than 12 months from the date of the Presidential or Governor's declaration.
- Under Disaster Relief, funds will not be provided under FEMA's Hazard Mitigation Grant Program for buyout projects unless Tx CDBG receives satisfactory evidence that the property to be purchased was not constructed or purchased by the current owner after the property site location was officially mapped and included in a designated flood plain area.
- Each applicant for these funds must demonstrate that adequate local funds are not available, i.e., the entity has less than six months of unencumbered general operations funds available in its balance as evidenced by the last available audit required by state statute, or funds from other state or federal sources are not available to completely address the problem.
- Tx CDBG will consider whether funds under an existing Tx CDBG contract are available to be reallocated to address the situation.
- The distribution of these funds will be coordinated with other state agencies.

**To qualify for Urgent Need funds:**

- The situation addressed by the applicant must not be related to a proclaimed state disaster declaration or a federal disaster declaration.
- The situation addressed by the applicant must be both unanticipated and beyond the control of the local government (e.g., not for facilities or equipment beyond their normal, useful life span).
- The problem being addressed must be of recent origin. For Urgent Need assistance, this means that the situation first occurred or was first discovered no more than 30 days prior to the date that the potential applicant provides a written request to the Tx CDBG for Urgent Need assistance. The Urgent Need Fund will not fund projects to address a situation that has been known for more than 30 days or should have been known would occur based on the applicant's existing system facilities.
- Each applicant for these funds must demonstrate that local funds or funds from other state or federal sources are not available to completely address the problem.
- The distribution of these funds will be coordinated with other state agencies.
- The infrastructure failure cannot have resulted from a lack of maintenance.
- Urgent Need funds cannot be used to restore infrastructure that has been cited previously for failure to meet minimum state standards.
- The infrastructure failure cannot have been caused by operator error.
- The infrastructure requested by the applicant cannot include back-up or redundant systems.
- Tx CDBG will consider whether funds under an existing Tx CDBG contract are available to be reallocated to address the situation.
- The Urgent Need Fund will not finance temporary solutions to the problem or circumstance.

Construction on an Urgent Need fund project must begin within ninety (90) days from the start date of the Tx CDBG contract. The Tx CDBG reserves the right to deobligate the funds under an Urgent Need Fund contract if the grantee fails to meet this requirement.

Each applicant for Urgent Need funds must provide matching funds. If the applicant's 2000 Census population is equal to or fewer than 1,500 persons, the applicant must provide matching funds equal to 10 percent of the Tx CDBG funds requested. If the applicant's 2000 Census population is over 1,500 persons, the applicant must provide matching funds equal to 20 percent of the Tx CDBG funds requested. For county applications where the beneficiaries of the water or sewer improvements are located in unincorporated areas, the population category for matching funds is based on the number of project beneficiaries.

## **6. Tx CDBG STEP Fund**

Funds will be available for grants on a competitive award basis to cities and counties to provide grant assistance to cities and communities recognizing the need and willingness to solve water and sewer problems through the Texas Small Towns Environment Program (STEP) self-help techniques. The program will accept applications two times a year and utilize a competitive process to evaluate, score and award these projects.

Cities and counties receiving 2011 and 2012 Community Development Fund grant awards for applications that did not include water, sewer, or housing activities are not eligible to receive a 2012 STEP Fund grant award. However, the Tx CDBG will give consideration to a city's or county's request to transfer funds (that are not financing basic human needs activities such as water, sewer, or housing activities) under a 2011 or 2012 Community Development Fund grant award to finance water and sewer activities that will be addressed through self-help.

The Texas STEP approach to solving water and sewer needs recognizes affordability factors related to the construction and operations/maintenance of the necessary water or sewer improvements and then initiates a local focus of control based on the capacity and readiness of the community's residents to solve the problem through self-help. By utilizing the community's own resources (human, material and financial), the necessary water or sewer construction costs, engineering costs, and related administration costs can be reduced significantly from the cost for the installation of the same improvements through conventional construction methods.

Tx CDBG staff will provide guidance, assistance, and support to community leaders and residents willing to use self-help to solve their water and sewer problems.

### **Eligible Activities**

For the Tx CDBG STEP Fund eligible activities are limited to:

- the installation of facilities to provide first-time water or sewer service
- the installation of water or sewer system improvements
- ancillary repairs related to the installation of water and sewer systems or improvements
- the acquisition of real property related to the installation of water and sewer systems or improvements (easements, rights of way, etc.)
- sewer or water taps and water meters
- water or sewer yard service lines (for low and moderate income persons)
- water or sewer house service connections (for low and moderate income persons)
- plumbing improvements associated with providing water or sewer service to a housing unit
- water or sewer connection fees (for low and moderate income persons)
- rental of equipment for installation of water or sewer
- reasonable associated administrative costs
- reasonable associated engineering services costs

### Ineligible Activities

- any activity not described in the preceding ELIGIBLE ACTIVITIES section is ineligible under the Tx CDBG STEP Fund unless the activity is approved by the Texas Community Development Block Grant Program
- temporary solutions, such as emergency inter-connects that are not used on an on-going basis for supply or treatment and back-ups not required by the regulations of the Texas Commission on Environmental Quality.

The Tx CDBG will not reimburse for force account work for construction activities on the STEP project.

### Funding Cycle

Applications are accepted two times a year for Texas STEP Funding as long as funds are available. Funds will be divided among the two application periods. After all projects are ranked, only those that can be fully funded will be awarded a grant. There will be no marginally funded grant awards.

The Tx CDBG will not accept an application for STEP Fund assistance until Tx CDBG staff and representatives of the potential applicant have evaluated the self-help process and Tx CDBG staff determine that self-help is a feasible method for completion of the water or sewer project, the community is committed to self-help as the means to address the problem, and the community is ready and has the capacity to begin and complete a self-help project. If it is determined that the community meets all of the STEP criteria then an invitation to apply for funds will be extended to the community and the application may be submitted.

### Threshold Criteria

The self-help response to water and sewer needs may not be appropriate in every community. In most cases, the decision by a community to utilize self-help to obtain needed water and sewer facilities is based on the community's realization that it cannot afford even a "no frills" water or sewer system based on the initial construction costs and the operations/maintenance costs (including debt service costs) for water or sewer facilities installed through conventional financing and construction methods.

The following are threshold requirements for the Texas STEP framework. Without all these elements the project will not be considered under the Texas STEP fund:

- 1) one or more sparkplugs (preferably three) - local leaders willing to both lead and sustain the effort;
- 2) readiness - local perception of the problem and the willingness to take action to solve it;
- 3) capacity - manpower including some skills required to solve the problem and operate applicable construction equipment;
- 4) 40% Savings off of retail price; and
- 5) must be performed predominately by community volunteer workers.

To be eligible for additional STEP awards, an applicant must have demonstrated to Tx CDBG management that its existing STEP contracts are currently being implemented on schedule in accordance with the applicable contracts and in accordance with any Tx CDBG-approved allowances.

Upon completion of the project, the award recipient will be required to certify that work was performed predominately by community volunteer workers and a minimum of 40 percent savings off of retail prices was maintained (or the savings percentage specified in the application if greater).

Some of the key points staff will review for these thresholds include but are not limited to the following:

- 1) one or more sparkplugs (preferably three)—local leaders willing to both lead and sustain the effort; Leaders that have been identified and agreed on by the community:
  - at least two of the three sparkplugs must be residents and not local officials (local officials may serve as sparkplugs)
  - one should be detailed enough to maintain the paperwork needed for the project
  - one should have some knowledge or skills to lead the self-help effort
  - And one can have a combination of these skills or just be the motivator and problem solver of the groupThese are not absolutes but the best scenario for any project.
- 2) readiness—local perception of the problem and the willingness to take action to solve it:
  - a strong local perception of the problem
  - community perception that local implementation is the best and maybe only solution
  - community has confidence that they can do it adequately
  - community has no strong competing priority
  - local government is supportive and understands the urgency
  - public and private willingness to pay additional costs if needed (fees, hook-ups for churches, other)
  - effort and attention have already been given to local assessment of the problem
  - enthusiastic, capable support by the community from the county or regional field staff of the regulatory agency
- 3) capacity— manpower including some skills required to solve the problem:
  - Skilled workers within the community (heavy equipment operation, pipe laying, electrician, plumber, engineer, water operator, construction skills)
  - List of Volunteers by task
  - Possible equipment in community (not a requirement)
  - Letters stating support from local businesses in form of donation of supplies or manpower
  - Letter from service provider supporting project and agreeing to provide service
  - CPA Letter documenting that the applying locality has financial and management capacity to compete project
- 4) 40% Savings off of retail price.

Documentation of the 40% savings off of the retail price:

- Two engineering break-outs of cost, one that shows the retail construction cost and another that shows the self-help cost and demonstrates the 40% savings
- Back-up documents of material quotes, pledges of equipment
- List of Volunteers by task
- Determination of appropriate technology and feasibility of project. (letter from engineer)

**Pilot Programs:**

**Renewable Energy Demonstration Pilot Program (Using Deobligated and/or Program Income)**

The Tx CDBG will develop a renewable energy pilot program funded solely through deobligated funds / program income for demonstration projects that employ renewable energy for at least 20% of the total energy requirements, (excluding the purchase of energy from the electric grid that was produced with renewable energy).

The priority will be for projects that are connected with providing public facilities to meet basic human needs such as water or waste water. It is anticipated that the projects funded would meet the National Objective of benefiting a “target area” where at least 51 percent of the residents are low and moderate income persons, although the project would be allowed to qualify under other National Objective alternatives. The maximum amount of the project would be \$500,000 and the minimum would be \$50,000. The program may directly award additional funds to an existing contract as necessary for a complete and successful project.

The projects will be selected on the following basis (which are assigned points under Section IV(C)(6) of this Action Plan):

(A) Type of Project: Primarily used in conjunction with providing public facilities to meet basic human needs such as water or waste water and/or benefit to low/moderate-income persons.

(B) Innovative Technology / Methods – A project that would demonstrate the application of innovative technology and/or methods.

(C) Duplication in Other Rural Areas – A project that could have widespread application (although it would not need to be applicable in every portion of the State.)

(D) Long-term Cost / Benefit and Texas Renewable Energy Goals – Projects that demonstrate long term cost / benefit analysis including benefits to the human environment and consistency with Texas renewable energy goals.

(E) Partnership / Collaboration – Projects that have a demonstrated partnership and collaboration with other entities focusing on promoting renewable energy including universities, funding agencies, associations, or businesses.

(F) Leveraging – projects with committed funds from other entities including funding agencies, local governments, or businesses – percent of portion of total project receiving Tx CDBG funds is leveraged with other funds.

(G) Location in Rural Areas – Projects that benefit cities with populations under 10,000 or counties under 100,000.

### **Community Facility Fund**

**Purpose:** The purpose of this community enhancement program is to provide one project to benefit a community in each of the 24 Councils of Governments (COG) regions over the PY 2011 / 2012 period and beyond if necessary based on available funding. This program is designed to sustain the smallest of the rural communities within Texas. The project must be a community facility project that would have the potential to benefit all citizens with the jurisdiction. It must not involve providing basic infrastructure nor

be a recreational project, as determined by Tx CDBG staff. The project may include connections to existing infrastructure. (A community center could hold recreational activities or events within the facility.) The community facilities must provide a benefit that will enhance the overall quality of life in the rural community. (While the project to be funded may not be considered a recreational project, the design may provide for an incidental amount of recreational facilities that would be constructed using other sources of funding in another future phase. The initial phase funded under this program may not include construction of any recreational facilities.)

Amount available for each COG region and each award: \$250,000. If a city has as part of its application a resolution in support of the project from the county where it is located, the maximum application amount, and amount available to the region, will be \$300,000. (A county that meets the LMI percentage requirement that is submitting an application on its own behalf may receive up to \$300,000.) The Tx CDBG staff will select at random the initial regions that may apply in PY 2011. The remaining regions would be the eligible applicants in PY 2012 and subsequent program years, if necessary based on available funding.

Source of funding: Funding will be provided from deobligated funds, program income, or other external sources.

Eligibility requirements: The applicant must meet the Low and Moderate Income (LMI) national objective for its entire jurisdiction (at least 51 percent LMI). The Tx CDBG may establish other national objective criteria. Additional requirements may be specified in the application. The applicant must demonstrate that it has the financial resources to sustain the operation and maintenance of the facility.

Pre-application: The applicant must submit a pre-application for initial eligibility determination. Application will be by invitation to those entities that meet the pre-application eligibility requirements. Additional details and requirements may be established in the pre-application and application.

**C. ALLOCATION OF AVAILABLE FUNDS BY FUND CATEGORY**

The U.S. Department of Housing and Urban Development has not yet announced the State's 2012 program year CDBG allocation. The State's 2012 allocation could be lower than the 2011 allocation of \$66,604,562.

The amount available for Tx CDBG assistance will be the 2012 State CDBG allocation amount plus an estimated \$2,500,000 in program income. Funds will be allocated according to the following percentages of the State's 2012 allocation upon the execution of the grant agreement with HUD:

FUND	2012 PERCENT	AMOUNT AVAILABLE
Community Development Fund	61.71 <sup>1</sup>	
Texas Capital Fund (TCF) Program Income from TCF	14.51	\$ 2,000,000 <sup>4</sup>
Colonia Fund Colonia Planning and Construction Fund	7.00	

Colonia EDAP Legislative Set-aside	3.00 <sup>5</sup>	
Colonia Self-Help Centers Legislative Set-aside	2.50	
Planning And Capacity Building Fund	1.0	
Disaster Relief/Urgent Need Fund		
Disaster Relief	4.10	
Urgent Need	0 <sup>2</sup>	
Tx CDBG STEP Fund	3.03	
Administration	2.69	
Administration - \$100,000	0.15	
Technical Assistance	0.31	
Pilot Programs (Deobligated Funds/ Program Income):		
Renewable Energy Demonstration Pilot Program	0 <sup>3</sup>	
Community Facilities Fund		
Other Program Income:		\$ 500,000

**Note:** The percentages shown above are based on the State's actual 2011 allocation percentages. Changes to the above percentages may occur if the State's 2012 CDBG allocation is different than the 2011 allocation of \$66,604,562.

Deobligated funds/program income notes:

- 1 Allocated to each region based on Section II (B).
- 2 Deobligated funds and/or program income sufficient to replenish to \$1,000,000 is made available for the Urgent Need Fund on the first day of PY 2012. Based on a Tx CDBG Program determination of respective demand for financial assistance under the Urgent Need and Disaster Relief portions of the Disaster Relief/Urgent Need Fund, Urgent Need funds may be used for Disaster Relief projects.
- 3 Deobligated funds and/or program income of \$500,000 is made available on the first day of PY 2012.

The amounts for these fund categories may be adjusted during PY 2012 as needed.

- 4 Used based on Section II (C) (a).
- 5 May be transferred for other projects benefitting Colonias if there are an insufficient number of EDAP-eligible projects ready for CEDAP connection funding.

Deobligated funds and/or program income up to \$500,000 sufficient to provide for the timely expenditure initiative are made available on the first day of the Program Year.

## **Timely Expenditure Initiative – Pilot Program for the Community Development Fund**

As a pilot program, the Tx CDBG will establish a program that provides an opportunity for the reimbursement of additional demonstrated costs incurred to complete the project activities earlier than the regular contract implementation schedule based on all of the following criteria.

All construction funded with Tx CDBG funds must be completed and 90 percent of the Tx CDBG budget must be requested from Tx CDBG for eligible costs with acceptable supporting documentation not later than 60 days earlier than the original contract end date;

The Tx CDBG will consider reimbursement of up to one percent (1%) of the Tx CDBG funds budgeted for construction and acquisition/relocation for additional demonstrated costs incurred to complete the project activities 60 days earlier than the original contract end date;

The opportunity to receive any additional reimbursement under this program will automatically end without any further action being necessary by either party to the Tx CDBG contract and it will no longer be possible to be considered regardless of circumstances for reimbursement of any additional costs under this program after a date 60 days prior to the end of the original contract period;

These funds cannot replace local funds already provided for activity delivery costs or local administration;

The reimbursement is contingent on available Tx CDBG funds at the time; and

Tx CDBG may use either annual allocation funds, deobligated funds, or program income to fund these additional costs incurred.

Examples of eligible costs include: additional contacts made with other entities involved in the Tx CDBG contract activities, additional monitoring of the status of the Tx CDBG-funded activities; attendance at additional meetings directly related to the Tx CDBG-funded activities, and other additional activity delivery costs.

## **Summary of Activities That Utilize Technical Assistance Funding**

### ***Technical Assistance Performed Through the Community Development Program***

The Texas Community Development Block Grant Program will conduct numerous on-site technical assistance visits funded with the one percent technical assistance (TA) set-aside approved by HUD. These visits will be conducted throughout the year when the Tx CDBG staff recognizes that assistance is needed at the local level or when assistance is requested by the grantees.

Tx CDBG Community Development staff, including its field office staff, will visit localities that are preliminarily recommended for funding to verify information provided in the applications, to view the project sites, to distribute Project Implementation Manuals, and to provide technical assistance regarding the initial Tx CDBG project implementation procedures.

Other technical assistance visits will be conducted with TA funds for special cases dealing with investigations, compliance issues, and to help contractor localities comply with all program requirements.

The TA funds are utilized for a portion of staff salaries which allows Tx CDBG staff to provide greater one-on-one technical assistance to the small communities throughout the contract period.

The Texas Department of Housing and Community Affairs is using technical assistance funds for on-site technical assistance on the Colonia Self-Help Centers program.

The Tx CDBG is utilizing the technical assistance funds to introduce, facilitate, and provide community access to the Texas Small Towns Environment Program (Texas STEP) which targets water and wastewater needs. Staff visits localities that are interested in utilizing the Texas STEP method of self-help and provides technical assistance on the development of a financial framework, managing a self-help project and building capacity within a community through self-help.

The Tx CDBG may utilize the technical assistance funds to support Tx CDBG activities related to disaster relief efforts. State efforts for response to disasters and the mitigation of the consequences of disasters require dedication of considerable resources for disaster relief efforts.

In 2012, the Tx CDBG will use a portion of the technical assistance to provide outreach information regarding the CDBG program to local officials of non-entitlement cities and counties. The technical assistance will include information on the application process, program administration, and to improve their capacity to implement a CDBG program.

The technical assistance funds will also be used by each of the 24 State Planning Regions to provide non-project specific technical assistance to cities and counties that are eligible for Tx CDBG funds in each region.

The technical assistance funds may be used to support the operations of the border colonia technical assistance field offices.

The technical assistance funds may be used to support the operations of TDA field offices that assist in administering the Tx CDBG.

### **Deobligated Funds, Unobligated Funds, and Program Income**

(a) Deobligated funds, unobligated funds and program income generated by Texas Capital Fund projects shall be retained for expenditure in accordance with the Consolidated Plan. Program income derived from Texas Capital Fund projects will be used by the Tx CDBG for eligible Texas Community Development Block Grant Program activities in accordance with the Consolidated Plan.

Any deobligated funds, unobligated funds, program income, and unused funds from this year's allocation or from previous years' allocations derived from any Texas Community Development Block Grant Program Fund, including program income recovered from Texas Capital Fund local revolving loan funds, and any reallocated funds which HUD has recaptured from Small Cities may be redistributed among the established 2012 program year fund categories, for otherwise eligible projects. The selection of eligible projects to receive such funds is approved by TDA on a priority needs basis with eligible disaster relief and urgent need projects as the highest priority, followed by, established priority uses within existing fund categories or programs, any awards necessary to resolve appeals under fund categories covered by Texas Administrative Code at 10 T.A.C., Part 6, Chapter 255.1(g), TCF projects, special needs projects, projects in colonias, housing activities, and other projects as determined by TDA. Other purposes or initiatives may be established as a priority use of such funds within existing fund categories or programs by TDA.

If a portion of the State's 2012 Community Development Block Grant allocation is rescinded by the federal government, or if the State's 2012 allocation differs significantly from the State's 2011

allocation, the Tx CDBG may make corresponding changes within the fund allocation percentages as required.

(b) **Re-distribution of Funds Recaptured from Withdrawn Awards.** Should the applicant fail to substantiate or maintain the claims and statements made in the application upon which the award is based, including failure to maintain compliance with application thresholds in Section III, F.(1) through F.(4), within a period ending 90 days after the date of the Tx CDBG's award letter to the applicant, the award will be immediately withdrawn by the Tx CDBG (excluding the colonia self-help center awards). Should the applicant fail to execute the Tx CDBG's award contract (excluding Texas Capital Fund and colonia self-help center contracts) within 60 days from the date of the letter transmitting the award contract to the applicant, the award will be withdrawn by the Tx CDBG. For an award that is withdrawn from an application, the Tx CDBG follows different procedures for the use of those recaptured funds depending on the fund category where the award is withdrawn.

(1) Funds recaptured under the Community Development Fund from the withdrawal of an award made from the first year of the biennial funding are offered to the next highest ranked applicant from that region that was not recommended to receive an award from the first year regional allocation. Funds recaptured under the Community Development Fund from the withdrawal of an award made from the second year of the biennial funding are offered to the next highest ranked applicant from that region that was not recommended to receive full funding (the applicant recommended to receive marginal funding) from the second year regional allocation. Any funds remaining from the second year regional allocation after full funding is accepted by the second year marginal applicant are offered to the next highest ranked applicant from the region as long as the amount of funds still available exceeds the minimum Community Development Fund grant amount. Any funds remaining from the second year regional allocation that are not accepted by an applicant from the region or that are not offered to an applicant from the region may be used for other Tx CDBG fund categories and, if unallocated to another fund, are then subject to the procedures described in paragraph (a) of this section.

(2) For the Community Development Fund, if there are no remaining unfunded eligible applications in the region from the same biennial application period to receive the withdrawn funding, then the withdrawn funds may be used for other Tx CDBG fund categories and, if unallocated to another fund, are considered as deobligated funds, subject to the procedures described in paragraph (a) of this section.

(3) Funds recaptured under the Planning and Capacity Building Fund from the withdrawal of an award made from the first year of the biennial funding are offered to the next highest ranked applicant from that Statewide competition that was not recommended to receive an award from the first year allocation. Funds recaptured under the Planning and Capacity Building Fund from the withdrawal of an award made from the second year of the biennial funding are offered to the next highest ranked applicant from that Statewide competition that was not recommended to receive full funding (the applicant recommended to receive marginal funding) from the second year allocation. Any funds remaining from the second year allocation after full funding is accepted by the second year marginal applicant are offered to the next highest ranked applicant from the Statewide competition. Any funds remaining from the second year allocation that are not accepted by an applicant from the Statewide competition or that are not offered to an applicant from the Statewide competition may be used for other Tx CDBG fund categories and, if unallocated to another fund, are then subject to the procedures described in paragraph (a) of this section.

(4) Funds recaptured under the Colonia Planning and Construction Fund from the withdrawal of an award remain available to potential Colonia Program Fund applicants during that program year to meet the 10 percent colonia set-aside requirement and, if unallocated within the colonia fund, may be used for other Tx CDBG fund categories. Remaining unallocated funds are then subject to the procedures described in paragraph (a) of this section.

(5) Funds recaptured under the Colonia Economically Distressed Areas Program Legislative Set-Aside from the withdrawal of an award remain available to potential Colonia Economically Distressed Areas program set-aside applicants during that program year. Any funds remaining from the program year allocation that are not used to fund Colonia Economically Distressed Areas Program set-aside applications within twelve months after the Tx CDBG receives the federal letter of credit would remain available to potential Colonia Program Fund applicants during that program year to meet the 10 percent colonia set-aside requirement and, if unallocated within the colonia fund, may be used for other Tx CDBG fund categories. Remaining unallocated funds are then subject to the procedures described in paragraph (a) of this section.

(7) Funds recaptured under the program year allocation for the Disaster Relief/Urgent Need Fund from the withdrawal of an award are subject to the procedures described in paragraph (a) of this section.

(8) Funds recaptured under the Small Towns Environment Program (STEP) Fund from the withdrawal of an award will be made available in the next round of STEP competition following the withdraw date in the same program year. If the withdrawn award had been made in the last of the two competitions in a program year, the funds would go to the next highest scoring applicant in the same STEP competition. If there are no unfunded STEP applicants, then the funds would be available for other Tx CDBG fund categories. Any unallocated STEP funds are subject to the procedures described in paragraph (a) of this section.

(9) Funds recaptured under the Texas Capital Fund from the withdrawal of an award are subject to the procedures described in paragraph (a) of this section.

#### **D. PROGRAM INCOME**

Program income is defined as gross income received by a state, a unit of general local government or a subrecipient of a unit of general local government that was generated from the use of CDBG funds. When program income is generated by an activity that is only partially funded with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. Any remaining program income must be used to establish an approved Revolving Loan Fund (RLF) or returned to the State.

The State may use up to the maximum allowable percentage of the amount recaptured and reportable to HUD each year for administrative expenses under the Texas Community Development Block Grant Program. This amount will be matched by the State on a dollar-for-dollar basis.

Program income includes, but is not limited to, the following:

- Payments of principal and interest on loans using CDBG funds
- Proceeds from the sale of loans made with CDBG funds
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient with CDBG funds

- Gross income from the use, sale, or rental of real property and/or real property improvements owned by the unit of general local government or subrecipient that was constructed or improved with CDBG funds
- Gross income from the use of infrastructure improvements constructed or improved with CDBG funds
- Funds collected through special assessments, impact fees or other additional fees from benefiting businesses, if the special assessments or fees are used to recover all or part of the CDBG portion of public improvements
- Proceeds from the disposition of equipment purchased with CDBG funds
- Interest earned on funds held in an RLF account

### **1. Texas Capital Fund Program Income**

For program income generated through Texas Capital Fund projects, communities that elect to participate in the recapture of program income for use at the local level through a designated Revolving Loan Fund (RLF) will be limited to receiving one Texas Capital Fund contract award per program year. If a community elects not to participate in the recapture of program income, the community may apply for as many Texas Capital Fund awards as it has eligible projects. This determination must be made at the time of the original award and cannot be changed with subsequent awards.

A local government, electing to retain program income at the local level, must have a Revolving Loan Fund Plan (RLFP) approved in writing by the Tx CDBG, prior to committing and expending any program income. The RLFP shall be approved and must be used for economic development in accordance with Title I of the United States Housing and Community Development Act of 1974, as amended. The RLFP must be submitted for approval no later than six (6) months from the commencement date of the contract. Program income generated by the award prior to the Tx CDBG approval of an RLFP must be returned to the State.

Funds retained in the local RLF must be committed within three years of the original Tx CDBG contract programmatic close date. Every award from the RLF must be used to fund the same type of activity, for the same business, from which such income is derived. A local Revolving Loan Fund (RLF) may retain a cash balance not greater than 33 percent of its total cash and outstanding loan balance. If the local government does not comply with the local RLF requirements, all program income retained in the local RLF and any future program income received from the proceeds of the RLF must be returned to the State.

Communities electing to retain program income through an approved RLF are required to monitor and report to the State program income account balances reflecting amounts received and disbursed and the status of outstanding loans or leases. Such report should also include information regarding RLF loans, leases, and commitments made.

If the local government elects not to participate in program income recapture, fails to meet all requirements of this section or requirements identified in Section 6 of its TCF/Tx CDBG contract or an RLFP is not submitted for approval within the first six (6) months from the commencement date of the contract, then all program income must be returned to the State. This section, "Texas Capital Fund Program Income," replaces the Texas Capital Fund Program Income Sections of the Final Statements for program years 1989, 1990, 1991, 1992, 1993, 1994, and 1995 and affects all TCF local revolving loan funds established by contracts awarded in program years 1989, 1990, 1991, 1992, 1993, 1994, and 1995. The following provisions, however, do not apply: 1) "The RLFP must be submitted for approval no later than six (6) months from the commencement date of the contract. Program income generated by the award prior to Tx CDBG approval of an RLFP must be returned to the State." 2) "...every award from the RLF must be used to fund the same type of activity, for the same business, from which such income is

derived.” 3) “...contract or an RLFP is not submitted for approval within the first six (6) months from the commencement date of the contract, then all program income must be returned to the state.”

## **2. Program Income Generated Through Housing Activities**

For program income generated through housing activities funded through the Housing Fund or Tx CDBG fund categories other than the Texas Capital Fund, a local government, electing to retain program income at the local level, must have a Revolving Loan Fund Plan (RLFP) approved in writing by the Tx CDBG, prior to committing and expending any program income. The RLFP shall be approved and must be used for housing activities principally benefiting low to moderate income persons in accordance with Title I of the United States Housing and Community Development Act of 1974, as amended.

The RLFP must be submitted for approval at least sixty (60) days prior to the termination date of the contract award generating the program income. This requirement shall also apply to 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004 Housing Fund contract awards. Program income generated by the contract award prior to Tx CDBG approval of an RLFP must be returned to the State.

Funds retained in the local RLF must be committed within three years of the original Tx CDBG contract programmatic close date. A local Revolving Loan Fund (RLF) may retain a cash balance not greater than 33 percent of its total cash and outstanding loan balance. If the local government does not comply with the local RLF requirements, all program income retained in the local RLF and any future program income received from the proceeds of the RLF must be returned to the State.

Communities electing to retain program income through an approved RLF are required to monitor and report the amount of program income recaptured to the State with updates concerning the status of outstanding loans or leases on a quarterly basis, including but not limited to payments received and amendments to the original loan or lease agreement, as required by the Tx CDBG.

If the local government elects not to participate in program income recapture or an RLFP is not approved prior to the contract close-out, then all program income must be returned to the Tx CDBG.

## **III. APPLICATION INFORMATION**

### **A. TYPES AND NUMBER OF APPLICATIONS**

The following two types of applications are permitted under the Texas Community Development Block Grant Program:

#### **1. Single Jurisdiction Applications**

An eligible applicant may submit one application on its own behalf. When certain situations exist, which will be defined in Tx CDBG application guides, an eligible city may submit an application which benefits persons residing inside of the extraterritorial jurisdiction of the city, and a county may submit a single jurisdiction application on behalf of a city. The submitting city or county is accountable to the Tx CDBG for financial compliance and program performance. If a city or county submits a single jurisdiction application, or its residents are the beneficiaries of a single jurisdiction application, then the city or county cannot participate in another single jurisdiction or multi-jurisdiction application for the same funding category. Local accountability cannot be assigned to another party.

An application from an eligible city or county for a project that would primarily benefit another city or county that was not meeting the Tx CDBG application threshold requirements would be considered ineligible.

**2. Multi-Jurisdiction Applications**

Multi-Jurisdiction applications will be accepted from two or more eligible units of general local government where the application clearly demonstrates that the proposed activities will mutually benefit the residents of the city(ies)/county(ies) applying for such funds. One of the participating units of general local government must be designated to act as the authorized applicant for the multi-jurisdiction application and the authorized applicant is accountable to the Tx CDBG for financial compliance and program performance; however, all entities participating in the multi-jurisdiction application will be accountable for application threshold compliance. A multi-jurisdiction application generally cannot be submitted solely on the basis of administrative convenience. Any city or county participating in a multi-jurisdiction application may not submit a single jurisdiction application for the same funding category.

Under the Community Development Fund regional competitions, a multi-jurisdiction application that includes participating units of general local government from more than one State planning region will compete in the regional competition where the majority of the application activity beneficiaries are located.

**B. APPLICATION CYCLES**

Based on the support from cities and counties for previous biennial funding cycles, applications for the Community Development, Colonia Planning and Construction Fund, and Planning and Capacity Building Fund will be accepted on a biennial basis. The biennial funding cycles for these fund categories will improve the timeliness of the expenditure of CDBG funds and therefore prove more cost effective.

The following table summarizes the proposed frequency of application submission for various application types. The application deadline dates are subject to change:

TYPE OF APPLICATION	SUBMISSION CYCLE	APPLICATION DEADLINE
1. Community Development Fund	Biennial <sup>1</sup>	October 2010
2. Texas Capital Fund	Continuous	
Real Estate Program	Continuous	
Infrastructure Program	Annually	
Main Street Program	Annually	
Downtown Revitalization Program		
3. Colonia Fund:		
Planning and Construction Fund	Biennial	June 3, 2011
EDAP Set-aside	As-needed	
4. Planning/Capacity Building Fund	Biennial <sup>1</sup>	October 8, 2010
5. Disaster Relief/Urgent Need Fund:		
Disaster Relief	As needed	
Urgent Need <sup>2</sup>	By notification	

6. Tx CDBG STEP Fund	Two times annually
Renewable Energy Demonstration Pilot Program	As announced, at least once annually.

<sup>1</sup> The applications submitted for the program year 2011 Community Development Fund and Planning and Capacity Building Fund as part of the 2011/2012 biennial application process will be scored and ranked. Applications will be funded to the extent that allocated 2012 funds are available. Applications submitted for the Colonia Planning and Construction Fund will be scored and ranked. The final 2011 program year rankings under the Community Development Fund, Planning and Capacity Building Fund, Colonia Planning and Construction Fund will be used to determine the 2011 applicants that are selected for funding from the 2012 program year allocations. Only one application may be submitted for the combined 2011 program year and 2012 program year period under the Community Development Fund, Colonia Construction component, Colonia Planning component, and the Planning and Capacity Building Fund.

**C. CONTRACT AWARDS**

With the qualified exceptions of the Texas Capital Fund, Colonia Fund, and Disaster Relief/Urgent Need Fund, an applicant is eligible to receive only one grant award per fund. Maximum and minimum contract awards for any single project allowable under the Texas Community Development Block Grant Program are:

FUND	CONTRACT AWARD	
	MAXIMUM	MINIMUM
<b>Community Development Fund</b>		
Single Applicant	\$ 800,000 <sup>1</sup>	\$ 75,000 <sup>1</sup>
Multi-Jurisdiction Application	\$ 800,000 <sup>1</sup>	\$ 75,000 <sup>1</sup>
<b>Texas Capital Fund</b>		
Real Estate Program	\$ 750,000 <sup>2</sup>	\$ 50,000
Infrastructure Program	\$ 750,000 <sup>2</sup>	\$ 50,000
Main Street Program	\$ 150,000 <sup>3</sup>	\$ 50,000
Downtown Revitalization Program	\$ 150,000 <sup>3</sup>	\$ 50,000
<b>Colonia Fund</b>		
Construction Fund Component	\$ 500,000	\$ 75,000
EDAP Set-aside	\$ 500,000	None
Area Planning Component	\$ 100,000 <sup>4</sup>	None
Comprehensive Planning Component	\$ 100,000 <sup>4</sup> or \$30,000 <sup>4</sup>	None
<b>Planning/Capacity Building Fund</b>	\$ 55,000	None
<b>Disaster Relief/Urgent Need Fund</b>		
Disaster Relief Fund	\$ 350,000	\$ 50,000
Urgent Need Fund	\$ 250,000	\$ 25,000
<b>Tx CDBG STEP Fund</b>	\$ 350,000	None

**Renewable Energy Demonstration Pilot Program**

\$ 500,000

\$ 50,000

- 1 Regional Review Committees are authorized to establish a grant maximum for their respective regions between \$275,000 or an amount equal to 12.5% of its combined 2009 and 2010 allocation, whichever is less, and \$800,000 for a single jurisdiction application and between \$350,000 and \$800,000 for a multi-jurisdiction application. Tx CDBG may grant an exception to the minimum level if funds are distributed among all eligible applicants. In order to ensure there are sufficient funds in the CDBG award to provide a substantial benefit and to provide for construction efficiencies, RRCs should not prioritize application amounts lower than the maximum above or \$200,000, whichever is lower.

The maximum amount for a housing or non-border colonia priority activity application is the same as other Community Development Fund applications in the region.

- 2 The maximum contract award amount allows for administrative costs as outlined in the Texas Capital Fund Application Guidelines. The maximum award amount may be increased to an amount greater than \$750,000, but may not exceed \$1,500,000, if a unit of local government is applying for an award to provide infrastructure or real estate development improvements on behalf of a specific business, and that specific business will create or retain a designated number of jobs at a cost per job level that qualifies for the increased award amount. These increased award amounts above \$750,000 are referred to as "jumbo" awards. The number of jobs, the cost per job, and the maximum percentage of Texas Capital Fund financing of the total project costs that will qualify an application for the increased award amount will be defined in the Texas Administrative Code and the Texas Capital Fund Application Guidelines.
- 3 Texas Capital Funds are specifically reserved for Main Street and the Downtown Revitalization infrastructure activities. The maximum award amount for a Main Street or Downtown Revitalization project is \$150,000.
- 4 The maximum grant award for the Colonia Comprehensive Planning component is set at \$100,000. However, a sliding scale may be used to establish smaller maximum grant amounts based on an amended performance statement or the eligible county's total unincorporated area population. The maximum amount for a county to update its existing Colonia Comprehensive plan is \$30,000.

Amounts shown are maximum funding levels or contract "ceilings," since the Program can fund only the actual, allowable, and reasonable costs of the proposed project, not to exceed these amounts. All grants, including the Texas Capital Fund program, awarded under the Texas Community Development Block Grant Program are subject to negotiation between TDA and the applicant regarding the final grant amount.

**D. PROJECT LENGTH**

All funded projects, except the Texas Capital Fund and Colonia Self-Help Centers Fund projects, must be completed within two years from the start date of the contract agreement. STEP contracts for awards made in PY 2012 will continue to be for a twenty-four (24) month term with no automatic extension to 36 months, which is the same as PY 2009 through 2011 STEP awards. The Texas Capital Fund Main Street and Downtown Revitalization program awards will be made for a twenty-four (24) month term. The other Texas Capital Fund programs must be completed within three years from the start date of the contract

agreement. Contract end dates for Colonia Self-Help Center contracts may be adjusted to account for each program year award. Waivers through a contract amendment of these requirements for any Tx CDBG contract will only be granted when a waiver request is submitted in writing to TDA and TDA finds that compelling circumstances exist outside the control of the local government that justify the approval of such a waiver.

## **E. REVIEW PROCESS**

### **1. Regional Review Committees (RRC) - Composition**

There is a Regional Community Development Review Committee in each of the 24 State planning regions. Each committee will be comprised of 12 members appointed at the pleasure of the Governor.

The Regional Review Committees may review and comment on applications to other Tx CDBG fund categories.

### **2. Texas Capital Fund Review Process**

The Texas Capital Fund applications will be reviewed and evaluated by TDA's staff in accordance with the established selection criteria. Recommendations will be made to the Commissioner of TDA for final award.

### **3. Clearinghouse Review**

Regional review of projects will be consistent with guidelines adopted by the Governor's Office for review and comment under the Texas Review and Comment System and Chapter 391, Texas Local Government Code.

### **4. Regional Water Plans**

Water activities included in Tx CDBG applications must be consistent with Regional Water Plans promulgated in accordance with Section 16.053, Water Code.

## **F. APPLICANT THRESHOLD AND PAST PERFORMANCE REQUIREMENTS**

A city or county must meet the following requirements in order to submit an application or to receive funding through the Texas Community Development Block Grant Program:

1. Demonstrate the ability to manage and administer the proposed project, including meeting all proposed benefits outlined in its application, by using the following criteria:
  - a. Provide the roles and responsibilities of local staff designated to administer or work on the proposed project. Also, include a plan of project implementation;
  - b. Indicate intention to use a third-party administrator, if applicable;
  - c. If local staff, along with a third-party administrator, will jointly administer the proposed project, the respective roles and responsibilities of the designated local staff; or
  - d. Tx CDBG management may determine that an applicant has or does not have the capacity to manage and administer the proposed project based on an applicant's prior performance on a Tx CDBG contract.

2. Demonstrate the financial management capacity to operate and maintain any improvements made in conjunction with the proposed project, by using the following criteria:
  - a. Evidence of a financial person on staff, or evidence of intent to contract financial oversight;
  - b. Provide evidence or a statement certifying that financial records for the proposed project will be kept at an officially designated city/county site, accessible by the public, and will be adequately managed on a timely basis using generally accepted accounting principles; and/or
  - c. Tx CDBG management may determine that an applicant has or does not have the financial management capacity to operate and maintain any improvements made in conjunction with the proposed project based on a review of audited financial records, current financial status, or current financial management of a Tx CDBG contract.
  
3. Levy a local property (ad valorem) tax or local sales tax option.
  
4. Demonstrate satisfactory performance on all previously awarded Texas Community Development Block Grant Program contracts, by using the following criteria:
  - a. Exhibited past responses to audit and monitoring issues (over the most recent 48 months before the application due date) within prescribed times as indicated in TDA's resolution letter(s);
  - b. Evidence related to past contracts (over the most recent 48 months before the application due date), through close-out monitoring and reporting, that the activity or service was made available to all intended beneficiaries, that low and moderate income persons were provided access to the service, or there has been adequate resolution of issues regarding beneficiaries served.
  - c. No outstanding delinquent response to a written request from Tx CDBG regarding a request for repayment of funds to Tx CDBG; or
  - d. Not more than one outstanding delinquent response to a written request from Tx CDBG regarding compliance issues such as a request for closeout documents or any other required information.
  
5. Resolve any and all outstanding compliance and audit findings on previous and existing Texas Community Development Block Grant Program contracts, by using the following criteria:
  - a. Applicant is actively participating in the resolution of any outstanding audit and/or monitoring issues by responding with substantial progress on outstanding issues within the time specified in the TDA resolution process.
  
6. Submit any past due audit to TDA in accordance with Title 10, Chapter 255, Subchapter A, Section 255.1 of the Texas Administrative Code.
  - a. A community with one year's delinquent audit may be eligible to submit an application for funding by the established deadline, but the Tx CDBG may withhold the award or issuance of a contract until it receives a satisfactory audit.  
  
The Colonia Self-Help Center Fund and the Disaster Relief/Urgent Need Fund are exempt from the threshold.
  - b. A community with two years of delinquent audits may not apply for additional funding and may not receive a contract award. This applies to all funding categories under the Texas Community Development Block Grant Program.

The Colonia Self-Help Center Fund may be exempt from this threshold, since funds for the self-help center funding is included in the program's State budget appropriation. Failure to meet the threshold will be reported to the Texas Department of Housing and Community Affairs for review and recommendation.

- c. If an audit becomes due after the award date, the Office may withhold the issuance of a contract until it receives a satisfactory audit. If a satisfactory audit is not received by the Office within four months of the audit due date, the Office may withdraw the award and re-allocate the funds in accordance with Section II(C)(b) (excludes the colonia self-help center awards and Texas Capital Fund awards).

**7. 12-Month Applicant Threshold Requirement**

Obligate at least fifty percent (50%) of the total Tx CDBG funds awarded under an open Tx CDBG contract within twelve (12) months from the start date of the contract or prior to the application deadlines, have completed the plans and specifications, and have received all applicable environmental approvals from Tx CDBG covering this obligation. This threshold is applicable to Tx CDBG contracts with an original 24-month contract period.

To meet this threshold, 50% of the Tx CDBG funds must be obligated through executed contracts for administrative services, engineering services, acquisition, construction, materials purchase, etc. Plans and specifications must be completed. The Tx CDBG contract activities do not have to be 50% completed, nor do 50% of the Tx CDBG contract funds have to be expended to meet this threshold.

**Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories**

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Community Development Fund  
 Community Development Supplemental Fund  
 Community Development – Recovery (both A & B portions combined)  
 Colonia Construction Fund  
 Colonia Fund Planning  
 Disaster Relief / Urgent Need Fund  
 Planning/Capacity Building Fund  
 Non-Border Colonia Fund  
 Texas STEP (except for STEP contracts awarded prior to PY 2010)

**Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories**

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Texas Capital Fund  
 Colonia Self-Help Centers Fund  
 Housing Rehabilitation Fund  
 Housing Infrastructure Fund  
 Texas STEP awarded prior to PY2010  
 Colonia Economically Distressed Areas  
 Disaster Recovery Initiative  
 Young vs. Martinez  
 Microenterprise Loan Fund  
 Small Business Loan Fund  
 Renewable Energy Demonstration Pilot Program

This threshold is not applicable when an applicant meets the eligibility criteria for the Tx CDBG Disaster Relief Fund or for the Renewable Energy Demonstration Pilot Program. For Community Development – Recovery awards with A & B contracts, both A & B contracts will be considered as though it were one combined contract.

**8. 24-Month Applicant Threshold Requirement**

Submit to TDA the Certificate of Expenditures (COE) report showing the expended Tx CDBG funds and a final drawdown for any remaining Tx CDBG funds as required by the latest edition of the Texas Community Development Block Grant Program Project Implementation Manual. Any reserved funds on the COE must be approved in writing by Tx CDBG staff.

For purposes of meeting this threshold “expended” means that the construction and services covered by the Tx CDBG funds are complete and a drawdown for the Tx CDBG funds has been submitted prior to the application deadlines.

This threshold will apply to an open Tx CDBG contract with an original 24-month contract period and to Tx CDBG Contractors that have reached the end of the 24-month period prior to the application deadlines as described below:

<u>Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories</u>	<u>Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories</u>
Community Development Fund	Texas Capital Fund
Community Development Supplemental Fund	Colonia Self-Help Centers Fund
Community Development – Recovery (A&B portions combined)	Housing Rehabilitation Fund
Colonia Construction Fund	Housing Infrastructure Fund
Colonia Fund Planning	Texas STEP (original 24-month contract, extended to 36-months) awarded prior to PY 2009
Disaster Relief / Urgent Need Fund	Colonia Economically Distressed Areas
Planning/Capacity Building Fund	Disaster Recovery Initiative
Non-Border Colonia Fund	Young vs. Martinez
Texas STEP (except for STEP contracts awarded prior to PY 2009)	Microenterprise Loan Fund
	Small Business Loan Fund
	Renewable Energy Demonstration Pilot Program

This threshold is not applicable when an applicant meets the eligibility criteria for the Tx CDBG Disaster Relief Fund.

For Community Development – Recovery awards with A & B contracts, both A & B contracts will be considered as though it were one combined contract.

**9. 36-Month Applicant Threshold Requirement**

Submit to TDA the Certificate of Expenditures (COE) report showing the expended Tx CDBG funds and a final drawdown for any remaining Tx CDBG funds as required by the latest edition of the Texas Community Development Block Grant Program Project Implementation Manual. Any reserved funds on the COE must be approved in writing by Tx CDBG staff.

For purposes of meeting this threshold “expended” means that the construction and services covered by the Tx CDBG funds are complete and a drawdown for the Tx CDBG funds has been submitted prior to the application deadlines.

This threshold is applicable for a previously awarded Tx CDBG contract with an original 36-month contract period or a STEP 24-month contract, extended to 36 months, and to Tx CDBG Contractors that have reached the end of the 36-month period prior to the application deadlines as described below:

<b>Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories</b>	<b>Not Applicable to previously awarded Tx CDBG contracts under the following Tx CDBG fund categories</b>
Texas STEP (original 36-month contract or original 24-month contract, extended to 36 months)	Texas Capital Fund (see Texas Capital Fund Section) Colonia Self-Help Centers Fund Housing Rehabilitation Fund Colonia Economically Distressed Areas Disaster Recovery Initiative Young vs. Martinez Microenterprise Loan Fund Small Business Loan Fund Renewable Energy Demonstration Pilot Program

This threshold is not applicable when an applicant meets the eligibility criteria for the Tx CDBG Disaster Relief Fund.

10. Tx CDBG funds cannot be expended in any county that is designated as eligible for the Texas Water Development Board Economically Distressed Areas Program unless the county has adopted and is enforcing the Model Subdivision Rules established pursuant to Section 16.343 of the Water Code.
11. Texas Capital Fund contractors must expend all but the reserved audit funds, or other reserved funds that are pre-approved by TDA staff, awarded under a Texas Capital Fund contract executed at least 36 months prior to the current program year application deadline and submit to TDA the Certificate of Expenditures required by the most recent edition of the Texas Capital Fund Implementation Manual. Texas Capital Fund contractors intending to submit a new application may not have an existing contract with an award date in excess of 48 months prior to the application deadline date, regardless of extensions granted.
12. Based on a pattern of unsatisfactory (a.) performance on previously awarded Texas Community Development Block Grant Program contracts, (b.) management and administration of Tx CDBG contracts, or (c) financial management capacity based on a review of official financial records and audits, TDA may determine that an applicant is ineligible to apply for Tx CDBG funding even though at the application date it meets the threshold and past performance requirements. TDA will consider the most recent 48 months before the application due date. Tx CDBG may determine that an applicant would still remain eligible for funding under the Disaster Relief Fund even with a pattern of unsatisfactory performance and/or management capacity as discussed in this paragraph; however; the Tx CDBG must approve the contract administrator for the Disaster Relief Fund grant. An entity or person may be determined ineligible to administer the new contract if it administered the applicant’s Tx CDBG contracts during the most recent 48 months before the application date and for two or

more of such contracts it administered the applicant failed to meet its contract requirements, such as failure to submit complete closeouts documents on time.

## **G. ADMINISTRATION OF Tx CDBG CONTRACTS**

In order to administer a Tx CDBG contract awarded in PY 2012, the administrator (contracted administrators on behalf of the client community or the city or county staff of self-administering award recipients) must attend, and retain the completion certificate, from the most recent cycle of Tx CDBG Project Implementation Manual workshops. (This requirement excludes Texas Capital Fund and Colonia Self-Help Center Set-aside contracts.) The Tx CDBG contract recipient (city or county) is strongly encouraged to attend the Tx CDBG Project Implementation Workshops even if it anticipates using an outside firm to provide it with contract administration services.

The Tx CDBG is under no obligation to approve any changes in a performance statement of a Tx CDBG contract that would result in a program year score lower than originally used to make the award if the lower score would have initially caused that project to be denied funding. This does not apply to colonia self-help centers or the Texas Capital Fund.

## **IV. APPLICATION SELECTION CRITERIA**

### **A. GENERAL DESCRIPTION**

The scoring criteria used in the Tx CDBG are described in Section C below.

The points awarded under these criteria are combined to rank the projects in descending order. The projects in each fund are selected based on this descending order and the availability of dollars in each fund.

Texas Capital Fund Real Estate Program, and Infrastructure Program projects are evaluated based upon selection criteria that include, but are not limited to:

- (1) Jobs
- (2) Business Emphasis
- (3) Feasibility
- (4) Community Need

Texas Capital Fund Main Street Program and Downtown Revitalization Program projects are evaluated based upon selection criteria that include, but are not limited to:

- (1) Community Profile
- (2) Project Feasibility
- (3) Leverage Ratio
- (4) Aiding in the Elimination of Slum and/or Blight Conditions

Texas Capital Fund applications are reviewed and evaluated by TDA staff. Recommendations for all Texas Capital Fund applications will be made to the Commissioner of the Texas Department of Agriculture for final award.

In accordance with Section 2310.403, Government Code, preference will be given to applications from governing bodies of communities designated as defense economic readjustment zones over other eligible

applications for Tx CDBG grants and loans if at least fifty percent (50%) of the grant or loan will be expended for the direct benefit of the readjustment zone and the purpose of the grant or loan is to promote Tx CDBG-eligible economic development in the community or for Tx CDBG-eligible construction, improvement, extension, repair, or maintenance of Tx CDBG-eligible public facilities in the community.

Disaster Relief/Urgent Need applications must meet the threshold factors as discussed under the "Description of Funds" section.

**Readiness to Proceed Requirements:** In order to determine that the project is ready to proceed, the applicant must provide in its application information that:

- a. Identifies the source of matching funds and provides evidence that the applicant has applied for the non-local matching funds, and for local matching funds, evidence that local matching funds would be available.
- b. Provides written evidence of a ratified, legally binding agreement, contingent upon award, between the applicant and the utility that will operate the project for the continual operation of the utility system as proposed in the application. For utility projects that require the applicant or service provider to obtain a Certificate of Convenience and Necessity for the target area proposed in the application, provides written evidence that the Texas Commission on Environmental Quality has received the applicant or service provider's application.
- c. Where applicable, provide a written commitment from service providers, such as the local water or sewer utility, stating that they will provide the intended services to the project area if the project is constructed.

Any applicant's cash match included in the Tx CDBG contract budget may not be obtained from any person or entity that provides contracted professional or construction-related services (other than utility providers) to the applicant to accomplish the purposes described in the Tx CDBG contract, in accordance with 24 CFR Part 570.

## **B. RESOURCES FOR DESCRIPTIONS OF SELECTION CRITERIA BY FUND CATEGORY**

Starting on the next page, the descriptions for the selection criteria for each fund category provide a basic framework of the selection criteria and selection factors used to distribute the funds under each fund category. Additional information on the selection criteria, selection factors and methods used to determine scores for these fund categories is provided in the application guide for each fund category and in the Texas Administrative Code at 10 T.A.C., Part 6, Chapter 255, Subchapter A.

The information currently available for fund categories in the Texas Administrative Code may not yet reflect changes to selection criteria contained in this 2012 Action Plan for the 2012 program year. Any changes to the selection criteria will be published in the *Texas Register* prior to final adoption.

The Texas Administrative Code can be found on the Texas Secretary of State website at [www.sos.state.tx.us](http://www.sos.state.tx.us). Listed below are the Tx CDBG fund categories that are currently contained in the Texas Administrative Code. Certain Texas Administrative Code sections are retained for previous Fund Categories to govern existing Tx CDBG contracts.

Texas Administrative Code, Title 10 T.A.C., Part 6, Chapter 255, Subchapter A

Section	Section Title
255.1	General Provisions
255.2	Community Development Fund
255.4	Planning/Capacity Building Fund
255.5	Disaster Relief Fund
255.6	Urgent Need Fund
255.7	Texas Capital Fund
255.8	Regional Review Committees
255.9	Colonia Fund
255.11	Small Towns Environment Program Fund
255.17	Renewable Energy Demonstration Pilot Program

### C. DESCRIPTION OF SELECTION CRITERIA BY FUND CATEGORY

<b>1. COMMUNITY DEVELOPMENT FUND</b>
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#### **a. Regional Review Committee (RRC) Objective Scoring**

(1) Responsibilities of the RRC:

Each Regional Review Committee is responsible for determining local project priorities and objective factors for all its scoring components based on public input in accordance with the requirements in this Action Plan.

(2) Maximum RRC Points Possible:

The RRC shall establish the numerical value of the points assigned to each scoring factor and determine the total combined points for all RRC scoring factors.

(3) RRC Selection of the Scoring Factors:

The RRCs are responsible for convening public hearings to discuss and select the objective scoring factors that will be used to score applications at the regional level in accordance with the requirements in this Action Plan. The public must be given an opportunity to comment on the priorities and the scoring criteria considered. The final selection of the scoring factors is the responsibility of each RRC and must be consistent with the requirements in this Action Plan. Each RRC shall develop a Regional Review Committee Guidebook, in the format provided by Tx CDBG staff, to notify eligible applicants of the objective scoring factors and other RRC procedures for the region.

RRCs are encouraged to establish a priority scoring factor that considers the nature and type of the project.

(4) Examples of RRC Objective Scoring Factors:

Examples of objective scoring factors are shown in Appendix A to further clarify the term objective.

The RRC must clearly indicate how responses would be scored under each factor and use data sources that are verifiable to the public. After the RRC's adoption of its scoring factors, the score awarded to a particular application under any RRC scoring factor may not be dependent upon an individual RRC

member's judgment or discretion. (This does not preclude collective RRC action that the State Tx CDBG has approved under any appeals process.)

(5) RRC Priority Set-asides:

Housing and Non-Border Colonia projects - Each Regional Review Committee is highly encouraged to allocate a percentage or amount of its Community Development Fund allocation to housing projects and for RRCs in eligible areas, non-border colonia projects, for that region. Under a set-aside, the highest ranked applications for a housing or non-border colonia activity, regardless of the position in the overall ranking, would be selected to the extent permitted by the housing or non-border colonia set-aside level. If the region allocates a percentage of its funds to housing and/or non-border colonia activities and applications conforming to the maximum and minimum amounts are not received to use the entire set-asides, the remaining funds may be used for other eligible activities. (Under a housing and/or non-border colonia set-aside process, a community would not be able to receive an award for both a housing or non-border colonia activity and an award for another Community Development Fund activity during the biennial process. Housing projects/activities must conform to eligibility requirements in 42 U.S.C Section 5305 and applicable HUD regulations.) The RRC must include any set-aside in its Regional Review Committee Guidebook.

(6) RRC Designation of Staff Support:

The RRC shall select one of the following entities to develop the RRC Guidebook, calculate the RRC scores, and provide other administrative RRC support:

- (i) Regional Council of Governments (COG), or
- (ii) Tx CDBG staff or Tx CDBG designee, or
- (iii) A combination of COG and Tx CDBG staff or Tx CDBG designee.

The RRC Guidebook should be adopted by the RRC and approved by Tx CDBG staff at least 90 days prior to the application deadline.

The selection of the entity responsible for calculating the RRC scores must be identified in the RRC Guidebook and must define the role of each entity selected. TDA shall be responsible for reviewing all scores for accuracy and for determining the final ranking of applicants once the RRC and Tx CDBG scores are summed. The RRC is responsible for providing to the public the RRC scores, while the Tx CDBG is responsible for publishing the final ranking of the applications.

(7) Tie-breaker in a region:

If needed in the ranking of applications within a region based on available funds remaining, a tie between multiple applications shall be broken based on the per capita income ranking, with a lower per capita income level ranking higher, followed by a second tie-breaker, if needed, of the highest poverty rate ranking higher, followed by a third tie-breaker, if needed, of the highest annual unemployment rate ranking higher.

**b. State Scoring (Tx CDBG Staff Scoring) - Other Considerations – Maximum Points - 10% of Maximum Possible Score for Each RRC**

(1) Past Selection – Maximum Points - 2% of Maximum Possible RRC Score for each region - are awarded to each 2011 / 2012 Community Development Fund applicant that did not receive a 2009 or 2010

Community Development Fund, Community Development Fund-Recovery, or Rural Sustainability Fund contract award.

(2) Past Performance - Maximum Points - 4% of Maximum Possible RRC Score for each region

An applicant can receive points based on the applicant's past performance on previously awarded Tx CDBG contracts. The applicant's score will be primarily based on our assessment of the applicant's performance on the applicant's most recent Tx CDBG contract that has reached the end of the original contract period stipulated in the contract within the past 4 years (for CD/CDS contracts only the 2005/2006 and 2007/2008 cycle awards will be considered). The Tx CDBG will also assess the applicant's performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant's performance on Tx CDBG contracts up to the application deadline date. The applicant's performance after the application deadline date will not be evaluated in this assessment. (Adjustments may be made for contracts that are engaged in appropriately pursuing due diligence such as bonding remedies or litigation to ensure adequate performance under the Tx CDBG contract.) The evaluation of an applicant's past performance will include the following:

- The applicant's completion of the previous contract activities within the original contract period.
- The applicant's submission of all contract reporting requirements such as Quarterly Progress Reports.
- The applicant's submission of the required close-out documents within the period prescribed for such submission.
- The applicant's timely response to monitoring findings on previous Tx CDBG contracts especially any instances when the monitoring findings included disallowed costs.
- The applicant's timely response to audit findings on previous Tx CDBG contracts.
- The expenditure timeframes on the applicable Tx CDBG contracts.

(3) All project activities within the application would provide basic infrastructure or housing activities - 2% of the Maximum Possible RRC Score for each region. (Basic infrastructure - the basic physical shared facilities serving a community's population consisting of water, sewage, roads, and flood drainage. Housing activities - as defined in 24 CFR Part 570.)

(4) Cost per Housing Unit (CPHU) - The total amount of Tx CDBG funds requested by the applicant is divided by the total number of housing units benefiting from the application activities to determine the Tx CDBG cost per housing unit. (Use pro rata allocation for multiple activities.) - Up to 2% of the Maximum RRC Score for each region.

- (i) Cost per housing unit is equal to or less than \$8,750 - 2%.
- (ii) Cost per housing unit is greater than \$8,750 but equal to or less than \$17,500 - 1.75%.
- (iii) Cost per housing unit is greater than \$17,500 but equal to or less than \$26,500 - 1.25%.
- (iv) Cost per housing unit is greater than \$26,500 but equal to or less than \$35,000 - 0.5%.
- (v) Cost per housing unit is greater than \$35,000 - 0%.

(When necessary, a weighted average is used to score applications that include multiple activities with different beneficiaries. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for administration, a percentage of the total Tx CDBG construction and engineering dollars for each activity is calculated. Administration dollars requested is applied pro-rata to these amounts. The percentage of the total Tx CDBG dollars for each activity is then multiplied by the appropriate score and the sum of the calculations determines the score. Related acquisition costs are applied to the associated activity.)

The RRC may not adopt scoring factors that directly negate or offset these State factors.

**c. Statutory - Low and Moderate Income (LMI) Persons National Objective – Scoring factor**

To assist in fulfilling the CDBG statutory requirement for the percentage of program year awards that must meet the LMI National Objective, applications that meet the LMI National Objective for each activity (51 percent low/moderate-income benefit for each activity within the application) will receive 2% of the Maximum Possible RRC Score for each region.

Further, to ensure the Tx CDBG program meets the statutory LMI National Objective requirement, if the ranking in a region would not result in the award of at least 75 percent of the allocated funds for the LMI national objective, then the Tx CDBG will make awards based on a revised ranking to achieve at least a 75 percentage level for LMI awards for the region. If there are not sufficient applications in the region to achieve the 75 percent LMI national objective level, the amount of funds in a region equal to the shortfall in meeting this requirement will be re-allocated to a pool for other LMI national objective projects. Awards from the pool of remaining LMI applications would be based the marginal competition selection criteria.

**d. Other Tx CDBG State Responsibilities:**

The State may establish the maximum number of regional scoring factors that may be used in order to improve review and verification efficiency. Similarly, the State may determine that certain regional scoring factors may not be used because the data is not readily available or would require excessive effort to verify the information in a timely manner. To ensure consistency, the State may determine the acceptable data source for a particular regional scoring factor (such as the unemployment rate.)

The State Tx CDBG staff will review each RRC Guidebook to ensure that the scoring procedures are in compliance with 24 CFR 91.320(k)(1)(iv). The regulation states in part that “The statement of method of distribution must provide sufficient information so that units of general local government will be able to understand and comment on it and be able to prepare responsive applications.” Tx CDBG staff will also review the scoring factors selected to ensure that all scoring factors are objective. Each RRC must obtain written approval from Tx CDBG staff before implementing the RRC scoring process. As part of the approval process of the RRC Guidebook, the Tx CDBG state staff may edit the scoring factors for consistency with the Action Plan, or provide further details or elaboration on the objective scoring methodology, data sources and other clarifying details without the necessity of a subsequent RRC meeting.

The State Tx CDBG staff may establish:

- (i) a deadline for the RRC to adopt objective factors for all of its scoring components and submit its adopted Guidebook incorporating the objective scoring methodology to the State Tx CDBG staff for approval;
- (ii) an RRC scoring review appeals process in the Guidebook Instructions and/or the Texas Administrative Code.

In the event that an RRC fails to approve an objective scoring methodology to the satisfaction of the Tx CDBG consistent with the requirements in this Action Plan by the established deadline or if the RRC fails

to implement the approved methodology, Tx CDBG will establish for the region scoring factors as described in Appendix B for the 2011 / 2012 application cycle.

Only the State Tx CDBG staff may disqualify an application submitted in a region. The regional scores for RRC factors and the ranking of applications are not considered final until they have been reviewed and approved by the State Tx CDBG staff.

An oversubscription pool may be conducted that would use the scoring criteria specified in the marginal competition section that directly follows this section.

**(e) Forward Commitments – Pilot Program:**

Forward Commitments to Avoid Application Threshold Issues

As a pilot program under the Community Development Fund, the Tx CDBG may designate conditional commitments, contingent upon receiving future CDBG funds from HUD, to make awards to certain eligible applications within a region using future regional Community Development Fund allocations.

A Regional Review Committee may elect to opt out of this pilot program. If the RRC elects to opt out, forward commitments will not be available to any applicant within the region. Note: if the RRC elects to opt out, projects as described below would not be eligible for awards in that region.

These forward commitments would be made under the following terms and conditions:

1. The purpose of approving a commitment is to allow an applicant to provide a source of funding in conjunction with a larger project where the use of these Tx CDBG funds will not occur until several years into the project. It may not be used for other purposes, as determined by Tx CDBG staff. (For example, the commitment would provide funding for the water connections associated with a project to build a new water treatment plant. The Tx CDBG applicant could provide this commitment in its application to the other funding agency to demonstrate supplemental funding for this phase of the water project.)
2. The associated project must be ready to proceed within 6 months of receiving the forward commitment, including submission of an application to all other sources of supplemental funding for the complete project. The supplemental funds from other sources that will be used in conjunction with the Tx CDBG funds must be committed and awarded to the applicant within 12 months from the date of the Tx CDBG commitment.
3. A maximum of four commitments may be made under this pilot program.
4. The Tx CDBG staff will determine eligible applicants within a region that would qualify and be offered this option. In making this decision, Tx CDBG staff will consider, among other things, the anticipated number of months required to before Tx CDBG funds would be expended given the magnitude and nature of the project, the regulatory approvals required, the sources of other funding to be provided to the project, and the ranking within the region. If there are more than four eligible applicants that would qualify, a tiebreaker based on the State score as described in Community Development Fund Marginal Competition would be used to determine the four commitments to be made.

5. For the year the commitment is awarded to the recipient through a contract from Tx CDBG, the amount provided for the commitment would be subtracted from the total regional Community Development Fund allocation amount prior to allocation to other eligible applications in the regional Community Development Fund competition.

6. Not more than two commitments may be outstanding (without fully executed Tx CDBG contracts) in any given region at any time.

7. The Tx CDBG commitment would be considered an award to the applicant in the year it was awarded for purposes of scoring.

8. Termination of commitment: The commitment may be terminated if the applicant does not receive the supplemental funding for the project or fails to comply with other commitment requirements.

9. Subject to funding availability: All commitments are subject to the Tx CDBG program receiving a sufficient regular annual allocation amount from HUD and consequently the Community Development Fund receiving sufficient funds. The Tx CDBG may use deobligated funds / program income if available and considered appropriate. The commitment does not obligate Tx CDBG or TDA to use any other source of funds to provide the amount committed.

10. Contingency Plan: The applicant must provide Tx CDBG with a contingency plan to outlines the source of replacement funds to complete the project should the Tx CDBG regular annual HUD allocation or deobligated funds / program income diminish to the point that the commitment cannot be funded.

#### **Community Development Fund Marginal Competition**

A pooled marginal competition may be conducted for program year 2012 using available funds if the State's 2012 allocation is not decreased significantly from the State's 2011 Community Development allocation.

All applicants whose marginal amount available is under \$75,000 will automatically be considered under this competition.

When the marginal amount left in a regional allocation is equal to or above the Tx CDBG grant minimum of \$75,000, the marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. Alternatively, such marginal applicants may choose to compete under the pooled marginal fund competition for the possibility of full project funding.

This fund consists of all regional marginal amounts of less than \$75,000, any funds remaining from regional allocations where the number of fully funded eligible applicants does not utilize a region's entire allocation and the contribution of marginal amounts larger than \$75,000 from those applicants opting to compete for full funding rather than accept their marginal amount.

The scoring factors used in this competition are the percentage of the State score received to the maximum possible State score in the region, followed by the per capita income ranking, if needed, with a lower per capita income level ranking higher, followed by a second tie-breaker, if needed, of the highest poverty rate ranking higher; both based on a city's incorporated area and a county's total unincorporated area.

The selection criteria for the Real Estate, and Infrastructure Programs of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, the following:

- a. Creation or retention of jobs primarily for low to moderate income persons
- b. Creation or retention of jobs primarily in areas of above average unemployment and poverty
- c. Generation of a greater ratio of private investment to Texas Capital Fund investment
- d. Expansion of markets through manufacturing and/or value-added processing
- e. Provision of job opportunities at the lowest possible Texas Capital Fund cost per job
- f. Benefit to areas of the State most in need by considering job impact to community
- g. Assistance for small businesses and Historically Underutilized Businesses
- h. Feasibility of project and ability to create and/or retain jobs

Following the assessment based on the selection criteria described above, projects will be reviewed and evaluated upon the following additional factors: history of the applicant community in the program; strength of business or marketing plan; management experience of the business' principals; and justification of minimum Texas Capital Fund contribution necessary to serve the project.

<b>2b. TEXAS CAPITAL FUND</b>	<b>Main Street Program</b>
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The selection criteria for the Main Street Program of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, the following:

- a. Aid in the elimination of slum or blight
- b. The applicant must have been designated by the Texas Historical Commission as a Main Street City
- c. Feasibility of project
- d. Generation of a greater ratio of private investment to Texas Capital Fund investment
- e. Community profile

Following the assessment based on the selection criteria described above, projects will be reviewed and evaluated upon the following additional factors: history of the applicant community in the program; strength of marketing plan; and justification of minimum Texas Capital Fund contribution necessary to serve the project.

<b>2c. TEXAS CAPITAL FUND</b>	<b>Downtown Revitalization Program</b>
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The selection criteria for the Downtown Revitalization Program of the Texas Capital Fund will focus upon factors which may include, but which are not limited to, the following:

- a. Aid in the elimination of slum or blight
- b. Feasibility of project
- c. Generation of a greater ratio of private investment to Texas Capital Fund investment
- d. Community profile

Following the assessment based on the selection criteria described above, projects will be reviewed and evaluated upon the following additional factors: strength of marketing plan and justification of minimum Texas Capital Fund contribution necessary to serve the project.

<b>3a. COLONIA CONSTRUCTION COMPONENT</b>	<b>430 Total Points Maximum</b>
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- a. Community Distress – 35 Points (Maximum)**

- Percentage of persons living in poverty 15 points
- Per Capita Income 10 points
- Percentage of housing units without complete plumbing 5 points
- Unemployment Rate 5 points

**b. Benefit To Low/Moderate-Income Persons – 30 Points (Maximum)**

A formula is used to determine the percentage of Tx CDBG funds benefiting low to moderate income persons. The percentage of low to moderate income persons benefiting from each construction, acquisition, and engineering activity is multiplied by the Tx CDBG funds requested for each corresponding construction, acquisition, and engineering activity. Those calculations determine the amount of Tx CDBG benefiting low to moderate income person for each of those activities. Then, the funds benefiting low to moderate income persons for each of those activities are added together and divided by the Tx CDBG funds requested minus the Tx CDBG funds requested for administration to determine the percentage of Tx CDBG funds benefiting low to moderate income persons. Points are then awarded in accordance with the following scale;

100% to 90% of Tx CDBG funds benefiting low to moderate income persons	30
89.99% to 80% of Tx CDBG funds benefiting low to moderate income persons	25
79.99% to 70% of Tx CDBG funds benefiting low to moderate income persons	20
69.99% to 60% of Tx CDBG funds benefiting low to moderate income persons	15
Below 60% of Tx CDBG funds benefiting low to moderate income persons	5

**c. Project Priorities – 195 Points (Maximum)**

- Activities (service lines, service connections, and/or plumbing improvements) providing public access to EDAP-funded water or sewer systems 195
- First time public Water service activities (including yard service lines) 145
- First time public Sewer service activities (including yard service lines) 145
- Installation of approved residential on-site wastewater disposal systems for providing first time service 145
- Installation of approved residential on-site wastewater disposal systems for failing systems that cause health issues 140
- Housing Activities 140
- First time Water and/or Sewer service through a privately-owned for-profit utility 135
- Expansion or improvement of existing Water and/or Sewer service 120
- Street Paving and Drainage activities 95
- All Other eligible activities 20

A weighted average is used to assign scores to applications that include activities in the different Project Priority scoring levels. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for engineering and administration, a percentage of the total Tx CDBG construction dollars for each activity will be calculated. The percentage of the total Tx CDBG construction dollars for each activity will then be multiplied by the appropriate Project Priorities point level. The sum of these calculations determines the composite Project Priorities score.

**d. Project Design – 140 Points (Maximum)**

Each application is scored by a committee composed of Tx CDBG staff using the following information submitted in the application to generate scores on the project design factor:

- For projects other than water and waste water, whether the applicant has already met its basic water and waste water needs.
- Whether the project has provided for future funding necessary to sustain the project.
- The severity of need within the colonia area(s) and how the proposed project resolves the identified need. Additional consideration is given to water system improvements addressing the impacts from the current drought conditions in the State.
- The applicant will use Tx CDBG funds to provide water or sewer connections, yard service lines, and/or plumbing improvements associated with providing access for colonia residents to water or sewer systems funded by the Texas Water Development Board Economically Distressed Areas Program (EDAP).
- The applicant's past efforts (with emphasis on the applicant's most recent efforts) to address water, sewer, and housing needs in colonia areas through applications submitted under the Tx CDBG Community Development Fund or through the use of CDBG entitlement funds.
- The Tx CDBG cost per low/moderate income beneficiary.
- Whether the applicant has provided any local matching funds for administrative, engineering, or construction activities.
- If applicable, the projected water and/or sewer rates after completion of the project based on 3,000 gallons, 5,000 gallons and 10,000 gallons of usage.
- The ability of the applicant to utilize the grant funds in a timely manner.
- Whether the applicant has waived the payment of water or sewer service assessments, capital recovery fees, and any other access fees for the low and moderate income project beneficiaries.
- The availability of grant funds to the applicant for project financing from other sources.
- The applicant's past performance on previously awarded Tx CDBG contracts.
- Proximity of project site to entitlement cities or metropolitan statistical areas.

**e. Matching Funds – 20 Points (Maximum)**

Applicant(s) population equal to or less than 1,500 according to the 2000 Census:

- Match equal to or greater than 5% of grant request 20 points
- Match at least 2%, but less than 5% of grant request 10 points
- Match less than 2% of grant request 0 points

Applicant(s) population equal to or less than 3,000 but over 1,500 according to the 2000 Census:

- Match equal to or greater than 10% of grant request 20 points
- Match at least 2.5%, but less than 10% of grant request 10 points
- Match less than 2.5% of grant request 0 points

Applicant(s) population equal to or less than 5,000 but over 3,000 according to the 2000 Census:

- Match equal to or greater than 15% of grant request 20 points
- Match at least 3.5%, but less than 15% of grant request 10 points
- Match less than 3.5% of grant request 0 points

Applicant(s) population over 5,000 according to the 2000 Census:

- Match equal to or greater than 20% of grant request 20 points

- Match at least 5%, but less than 20% of grant request 10 points
- Match less than 5% of grant request 0 points

The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities.

The population category under which multi-jurisdiction applications are scored is based on the combined populations of the applicants according to the 2000 Census.

Applications that include a housing rehabilitation and/or affordable new permanent housing activity for low- and moderate-income persons as a part of a multi-activity application do not have to provide any matching funds for the housing activity. This exception is for housing activities only. The Tx CDBG does not consider sewer or water service lines and connections as housing activities. The Tx CDBG also does not consider on-site wastewater disposal systems as housing activities.

Demolition/clearance and code enforcement, when done in the same target area in conjunction with a housing rehabilitation activity, is counted as part of the housing activity. When demolition/clearance and code enforcement are proposed activities, but are not part of a housing rehabilitation activity, then the demolition/clearance and code enforcement are not considered as housing activities. Any additional activities, other than related housing activities, are scored based on the percentage of match provided for the additional activities.

**Past Performance – 10 points (Maximum)**

An applicant can receive from ten (10) to zero (0) points based on the applicant’s past performance on previously awarded Tx CDBG contracts. The applicant’s score will be primarily based on our assessment of the applicant’s performance on the applicant’s two (2) most recent Tx CDBG contracts that have reached the end of the original contract period stipulated in the contract. The Tx CDBG will also assess the applicant’s performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant’s performance on Tx CDBG contracts up to the application deadline date. The applicant’s performance after the application deadline date will not be evaluated in this assessment. The evaluation of an applicant’s past performance will include, but is not necessarily limited to the following:

- The applicant’s completion of the previous contract activities within the original contract period.
- The applicant’s submission of all contract reporting requirements such as Quarterly Progress Reports, Certificates of Expenditures, and Project Completion Reports.
- The applicant’s submission of the required close-out documents within the period prescribed for such submission.
- The applicant’s timely response to monitoring findings on previous Tx CDBG contracts especially any instances when the monitoring findings included disallowed costs.
- The applicant’s timely response to audit findings on previous Tx CDBG contracts.

**Colonia Construction Component Marginal Applicant**

The marginal applicant is the applicant whose score is high enough for partial funding of the applicant's original grant request. If the marginal amount available to this applicant is equal to or more than the Colonia Construction Component grant minimum of \$75,000, the marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. In the event that the marginal amount remaining in the Colonia Construction Component allocation is less than \$75,000, then the remaining funds will be used to either fund a Colonia Planning Fund application or will be reallocated to other established Tx CDBG fund categories.

**3b. COLONIA ECONOMICALLY DISTRESSED AREAS PROGRAM SET-ASIDE**

The allocation is distributed on an as-needed basis to eligible counties, and nonentitlement cities located in those counties, that are eligible under the Tx CDBG Colonia Fund and Texas Water Development Board's Economically Distressed Areas Program (TWDB EDAP). Unutilized funds under this program may be redistributed among the established current program year fund categories, for otherwise eligible projects.

Eligible projects shall be located in unincorporated colonias; in colonias located in eligible nonentitlement cities that annexed the colonia and the application for improvements in the colonia is submitted within five (5) years from the effective date of the annexation; or in colonias located in eligible nonentitlement cities where the city is in the process of annexing the colonia where the improvements are to be made.

Eligible applicants may submit an application that will provide assistance to colonia residents that cannot afford the cost of service lines, service connections, and plumbing improvements associated with being connected to a TWDB EDAP-funded water and sewer system improvement project. An application cannot be submitted until the construction of the TWDB EDAP-funded water or sewer system begins.

Eligible program costs include water distribution lines and sewer collection lines providing connection to water and sewer lines installed through the Texas Water Development Board's Economically Distressed Areas Program (when approved by the Tx CDBG), taps and meters (when approved by the Tx CDBG), yard service lines, service connections, plumbing improvements, and connection fees, and other eligible approved costs associated with connecting an income-eligible family's housing unit to the TWDB improvements.

Tx CDBG staff will evaluate the following factors prior to awarding Colonia Economically Distressed Areas Program funds:

- The proposed use of the Tx CDBG funds including the eligibility of the proposed activities and the effective use of the funds to provide water or sewer connections/yard lines to water/sewer systems funded through EDAP.
- The ability of the applicant to utilize the grant funds in a timely manner.
- The availability of grant funds to the applicant for project financing from other sources.
- The applicant's past performance on previously awarded Tx CDBG contracts.
- Cost per beneficiary.
- Proximity of project site to entitlement cities or metropolitan statistical areas.

**3c. COLONIA AREA PLANNING COMPONENT**

**340 Total Points Maximum**

**a. Community Distress – 35 Points (Maximum)**

- Percentage of persons living in poverty 15 points

- Per Capita Income 10 points
- Percentage of housing units without complete plumbing 5 points
- Unemployment Rate 5 points

**b. Benefit To Low/Moderate-Income Persons – 30 Points (Maximum)**

Points are then awarded based on the low to moderate income percentage for all of the colonia areas where planning activities are located according to the following scale;

100% to 90% of Tx CDBG funds benefiting low to moderate income persons	30
89.99% to 80% of Tx CDBG funds benefiting low to moderate income persons	25
79.99% to 70% of Tx CDBG funds benefiting low to moderate income persons	20
69.99% to 60% of Tx CDBG funds benefiting low to moderate income persons	15
Below 60% of Tx CDBG funds benefiting low to moderate income persons	5

**c. Matching Funds – 20 Points (Maximum)**

Applicant(s) population equal to or less than 1,500 according to the 2000 Census:

- Match equal to or greater than 5% of grant request 20 points
- Match at least 2%, but less than 5% of grant request 10 points
- Match less than 2% of grant request 0 points

Applicant(s) population equal to or less than 3,000 but over 1,500 according to the 2000 Census:

- Match equal to or greater than 10% of grant request 20 points
- Match at least 2.5%, but less than 10% of grant request 10 points
- Match less than 2.5% of grant request 0 points

Applicant(s) population equal to or less than 5,000 but over 3,000 according to the 2000 Census:

- Match equal to or greater than 15% of grant request 20 points
- Match at least 3.5%, but less than 15% of grant request 10 points
- Match less than 3.5% of grant request 0 points

Applicant(s) population over 5,000 according to the 2000 Census:

- Match equal to or greater than 20% of grant request 20 points
- Match at least 5%, but less than 20% of grant request 10 points
- Match less than 5% of grant request 0 points

The population category under which county applications are scored is based on the actual number of beneficiaries to be served by the colonia planning activities.

**d. Project Design – 255 Points (Maximum)**

Each application is scored by a committee composed of Tx CDBG staff using the following information submitted in the application to generate scores on the project design factor:

- The severity of need within the colonia area(s), how clearly the proposed planning effort will remove barriers to the provision of public facilities to the colonia area(s) and result in the development of an implementable strategy to resolve the identified needs.
- The planning activities proposed in the application.
- Whether each proposed planning activity will be conducted on a colonia-wide basis.

- The extent to which any previous planning efforts for colonia area(s) have been accomplished.
- The Tx CDBG cost per low/moderate-income beneficiary.
- The availability of grant funds to the applicant for project financing from other sources.
- The applicant's past performance on previously awarded Tx CDBG contracts.

A Colonia Planning Component application must receive a minimum score for the Project Design selection factor of at least 70 percent of the maximum number of points allowable under this factor to be considered for funding.

**Colonia Area Planning Component Marginal Applicant**

The marginal applicant is the applicant whose score is high enough for partial funding of the applicant's original grant request. The marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. Any unobligated funds remaining in the Colonia Area Planning allocation will be reallocated to either fund additional Colonia Comprehensive

Planning applications, Colonia Construction Component applications, or will be reallocated to other established Tx CDBG fund categories.

<b>3d. COLONIA COMPREHENSIVE PLANNING COMPONENT</b>	<b>200 Total Points Maximum</b>
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**a. Community Distress – 25 Points (Maximum)**

- |   |           |
|---|-----------|
| • Percentage of persons living in poverty               | 10 points |
| • Per Capita Income                                     | 5 points  |
| • Percentage of housing units without complete plumbing | 5 points  |
| • Unemployment Rate                                     | 5 points  |

**b. Project Design – 175 Points (Maximum)**

Each application will be scored by a committee composed of Tx CDBG staff using the following information submitted in the application to generate scores on the project design factor:

- The severity of need for the comprehensive colonia planning effort and how effectively the proposed comprehensive planning effort will result in a useful assessment of colonia populations, locations, infrastructure conditions, housing conditions, and the development of short-term and long term strategies to resolve the identified needs.
- The extent to which any previous planning efforts for colonia area(s) have been accomplished.
- Whether the applicant has provided any local matching funds for the planning or preliminary engineering activities.
- The applicant's past performance on previously awarded Tx CDBG contracts.
- An applicant that has previously received a Tx CDBG comprehensive planning award would receive lower priority for funding.

A Colonia Planning Component application must receive a minimum score for the Project Design selection factor of at least 70 percent of the maximum number of points allowable under this factor to be considered for funding.

**Colonia Comprehensive Planning Component Marginal Applicant**

The marginal applicant is the applicant whose score is high enough for partial funding of the applicant's original grant request. The marginal applicant may scale down the scope of the original project design, and accept the marginal amount, if the reduced project is still feasible. Any unobligated funds remaining in the Colonia Comprehensive Planning allocation will be reallocated to either fund additional Colonia Area Planning Fund applications, Colonia Construction Component applications, or will be reallocated to other established Tx CDBG fund categories.

<b>4. PLANNING AND CAPACITY BUILDING FUND</b>	<b>430 Total Points Maximum</b>
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**a. Community Distress – 55 Points (Maximum)**

- Percentage of persons living in poverty 25 points
- Per Capita Income 20 points
- Unemployment rate 10 points

**b. Benefit to Low/Moderate Income Persons - 0 Points**

Applicants are required to meet the 51% low/moderate income benefit as a threshold requirement, but no score is awarded on this factor.

**c. Project Design – 375 Points (Maximum)**

- (1) Program Priority 50 points

Applicant chooses its own priorities here with 10 points awarded per priority as provided below.

Base studies (base mapping, housing, land use, population components) are recommended as one selected priority for applicants lacking updated studies unless they have been previously funded by Tx CDBG or have been completed using other resources.

An applicant requesting Tx CDBG funds for fewer than five priorities may receive point credit under this factor for planning studies completed within the last 10 years that do not need to be updated. An applicant requesting Tx CDBG funds for a planning study priority that was completed within the past 10 years using Tx CDBG funds would not receive scoring credit under this factor.

Applicants should not request funds to complete a water or sewer study if funds have been awarded within the last two years for these activities or funds are being requested under other Tx CDBG fund categories.

- (2) Base Match 0 points

- Five percent match required from applicants with population equal to or less than 1,500.
- Ten percent match required from applicants with population over 1,500 but equal to or less than 3,000.
- Fifteen percent match required from applicants with population over 3,000 but equal to or less than 5,000.
- Twenty percent match required from applicants with population over 5,000.

The population will be based on available information in the latest national decennial census.

**(3) Areawide Proposals**

50 points

Applicants with jurisdiction-wide proposals because the entire jurisdiction is at least 51 percent low/moderate-income qualify for these points. County applicants with identifiable, unincorporated communities may also qualify for these points provided that incorporation activities are underway. Proof of efforts to incorporate is required. County applicants with identifiable water supply corporations may apply to study water needs only and receive these points.

**(4) Planning Strategy and Products**

275 points

- New applicants receive up to 50 points while previous recipients of planning funds receive either up to 30 or 20 points depending on the level of implementation of previously funded activities. Recipients of Tx CDBG planning funds prior to PY 2002 will be considered new applicants for this scoring factor
- Up to 225 points are awarded for the applicant’s Proposed Planning Effort based on an evaluation of the following:
  - the extent to which any previous planning efforts have been implemented or accomplished;
  - how clearly the proposed planning effort will resolve community development needs addressed in the application;
  - whether the proposed activities will result in the development of a viable and implementable strategy and be an efficient use of grant funds; and
  - demonstration of local commitment.

<b>5. Tx CDBG STEP FUND</b>	<b>120 Total Points Maximum</b>
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The following is the selection criteria to be used by Tx CDBG staff for the scoring of assessments and applications under the Texas STEP Fund. The maximum score of 120 points is divided among five scoring factors:

**a. Project Impact – 60 Points (Maximum)**

Activity	Score
• First time service	60-40
• To address drought	60-40
• To address a severe impact to a water system (imminent loss of well, transmission line, supply impact)	60-40
• TCEQ relevant documentation or Texas Department of Health Imminent Threat to Health	60-40
• Problems due to severe sewer issues that can be addressed through the STEP process (documented)	60-40
• Problems due to severe pressure problems (documented)	50-40
• Line replacement (water or sewer) other than for above	40-30
• All other proposed water and sewer projects that are not reflected above	30-20

A weighted average will be used to assign scores to applications that include activities in the different Project Impact scoring levels. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for engineering and administration, a percentage of the total Tx CDBG construction dollars for each activity will be calculated. The percentage of the total Tx CDBG construction dollars for each activity will then be multiplied by the appropriate Project Impact point level. The sum of these calculations will determine the composite Project Impact score.

Factors that are evaluated by the Tx CDBG staff in the assignment of scores within the predetermined scoring ranges for activities include, but are not limited to, the following:

1. how the proposed project will resolve the identified need and the severity of the need within the applying jurisdiction; and
2. projects designed to bring existing services up to at least the State minimum standards as set by the applicable regulatory agency are generally given additional consideration.

**b. STEP Characteristics, Merits of the Project, and Local Effort - 30 points (Maximum)**

The Tx CDBG staff will assess the proposal for the following STEP characteristics not scored in other factors:

1. degree work will be performed by community volunteer workers, including information provided on the volunteer work to total work;
2. local leaders (sparkplugs) willing to both lead and sustain the effort;
3. readiness to proceed – the local perception of the problem and the willingness to take action to solve it;
4. capacity – the manpower required for the proposal including skills required to solve the problem and operate applicable construction equipment;
5. merits of the projects, including the severity of the need, whether the applicant sought funding from other sources, cost in Tx CDBG dollars requested per beneficiary, etc.; and
6. local efforts being made by applicants in utilizing local resources for community development.

**c. Past Participation and Performance – 15 Points (Maximum)**

An applicant would receive ten (10) points if they do not have a current Texas STEP grant.

An applicant can receive from five (5) to zero (0) points based on the applicant's past performance on previously awarded Tx CDBG contracts. The applicant's score will be primarily based on our assessment of the applicant's performance on the applicant's two (2) most recent Tx CDBG contracts that have reached the end of the original contract period stipulated in the contract. The Tx CDBG will also assess the applicant's performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant's performance on Tx CDBG contracts up to the application deadline date. The applicant's performance after the application deadline date will not be evaluated in this assessment. The evaluation of an applicant's past performance will include, but is not necessarily limited to the following:

- The applicant's completion of the previous contract activities within the original contract period.

- The applicant’s submission of all contract reporting requirements such as Quarterly Progress Reports, Certificates of Expenditures, and Project Completion Reports.
- The applicant’s submission of the required close-out documents within the period prescribed for such submission.
- The applicant’s timely response to monitoring findings on previous Tx CDBG contracts especially any instances when the monitoring findings included disallowed costs.
- The applicant’s timely response to audit findings on previous Tx CDBG contracts.

**d. Percentage of Savings off of the retail price – 10 Points (Maximum)**

For STEP, the percentage of savings off of the retail price is considered a form of community match for the project. In STEP, a threshold requirement is a minimum of 40 percent savings off the retail price for construction activities.

For Communities that are equal to or below 1,500 in Population

55% or more Savings	10 points
50% - 54.99% Savings	9 points
45% - 49.99% Savings	7 points
41% - 44.99% Savings	5 points

For Communities that are above 1,500 but equal to or below 3,000 in Population

55% or more Savings	10 points
50% - 54.99% Savings	8 points
45% - 49.99% Savings	6 points
41% - 44.99% Savings	3 points

For Communities that are above 3,000 but equal to or below 5,000 in Population

55% or more Savings	10 points
50% - 54.99% Savings	7 points
45% - 49.99% Savings	5 points
41% - 44.99% Savings	2 points

For Communities that are above 5,000 but equal to or below 10,000 in Population

55% or more Savings	10 points
50% - 54.99% Savings	6 points
45% - 49.99% Savings	3 points
41% - 44.99% Savings	1 points

For Communities that are 10,000 or above in Population

55% or more Savings	10 points
50% - 54.99% Savings	5 points
45% - 49.99% Savings	2 points
41% - 44.99% Savings	0 points

The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for beneficiaries for the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities.

The population category under which multi-jurisdiction applications are scored is based on the combined populations of the applicants according to the 2000 Census.

**e. Benefit To Low/Moderate-Income Persons – 5 Points (Maximum)**

Applicants are required to meet the 51 percent low/moderate-income benefit for each activity as a threshold requirement. Any project where at least 60 percent of the Tx CDBG funds benefit low/moderate-income persons will receive 5 points.

A project must score at least 75 points overall and 15 points under factor 12(b) to be considered for funding.

<b>6. RENEWABLE ENERGY DEMONSTRATION PILOT PROGRAM</b>	<b>70 Total Points Maximum</b>
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**(A) Type of Project:** Primarily used in conjunction with providing public facilities to meet basic human needs such as water or waste water and/or benefit to low/moderate-income persons – up to 15 points.

**(B) Innovative Technology / Methods** – A project that would demonstrate the application of innovative technology and/or methods – up to 10 points.

**(C) Duplication in Other Rural Areas** – A project that could have widespread application (although it would not need to be applicable in every portion of the State.) – up to 10 points

**(D) Long-term Cost / Benefit and Texas Renewable Energy Goals** – Projects that demonstrate long term cost / benefit analysis including benefits to the human environment and consistency with Texas renewable energy goals – up to 10 points

**(E) Partnership / Collaboration** – Projects that have a demonstrated partnership and collaboration with other entities focusing on promoting renewable energy including universities, funding agencies, associations, or businesses – up to 10 points.

**(F) Leveraging** – projects with committed funds from other entities including funding agencies, local governments, or businesses.

Applicant(s) population equal to or less than 2,500 according to the latest decennial Census:

- Match equal to or greater than 15% of grant request 10 points
- Match at least 8% but less than 15% of grant request 5 points
- Match at least 3%, but less than 8% of grant request 3 points
- Match at least 2%, but less than 3% of grant request 1 point
- Match less than 2% of grant request 0 points

Applicant(s) population equal to or less than 5,000 but over 2,500 according to the latest decennial Census:

- Match equal to or greater than 25% of grant request 10 points
- Match at least 13% but less than 25% of grant request 5 points
- Match at least 5%, but less than 13% of grant request 3 points
- Match at least 3%, but less than 5% of grant request 1 point
- Match less than 3% of grant request 0 points

Applicant(s) population equal to or less than 10,000 but over 5,000 according to the latest decennial Census:

- Match equal to or greater than 35% of grant request 10 points
- Match at least 18% but less than 35% of grant request 5 points
- Match at least 7%, but less than 18% of grant request 3 points
- Match at least 4%, but less than 7% of grant request 1 point
- Match less than 4% of grant request 0 points

Applicant(s) population over 10,000 according to the latest decennial Census:

- Match equal to or greater than 50% of grant request 10 points
- Match at least 25% but less than 50% of grant request 5 points
- Match at least 10%, but less than 25% of grant request 3 points
- Match at least 5%, but less than 10% of grant request 1 point
- Match less than 5% of grant request 0 points

The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for beneficiaries for the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county.

**(G) Location in Rural Areas** – Projects that benefit cities with populations under 10,000 or counties under 100,000 – 5 points.

Tiebreaker – If needed in the ranking of applications based on available funds, a tie between multiple applications shall be broken based on the score of (D) Long-term Cost / Benefit and Texas Renewable Energy Goals, followed by the per capita income ranking for the entire population of the city or county that applied.

<b>7. COMMUNITY FACILITY FUND</b>	<b>80 Total Points Maximum</b>
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**Selection factors:**

**(1) LMI percentage of the applicant** - Compare each applicant's low and moderate income percentage to all other applicants in the region – up to 20 points maximum

(A higher LMI percentage would score higher. The applicant's LMI percentage is divided by the base amount for the entire region and then multiplied by the maximum possible score of 20, provided the

product may not exceed 20 points. The base amount is the average (mean) of the LMI of all the applicants in the region multiplied by a factor 1.25.)

**(2) Location in the most rural areas** – maximum of 20 points

- a. Projects that benefit cities with populations equal to or under 1,500 or counties with populations, after excluding metropolitan cities, that are equal to or under 30,000 – 20 points.
- b. Projects that benefit cities with populations equal to or under 2,500 (but over 1,500) or counties with populations, after excluding metropolitan cities, that are equal to or under 50,000 (but over 30,000) – 18 points.
- c. Projects that benefit cities with populations equal to or less than 5,000 (but over 2,500) or counties with populations, after excluding metropolitan cities, that are equal to or under 75,000 (but over 50,000) – 15 points.
- d. Projects that benefit cities with populations equal to or under 10,000 (but over 5,000) or counties with populations, after excluding metropolitan cities, that are equal to or under 100,000 (but over 75,000) – 10 points.

Populations will be determined by Tx CDBG based on the latest Census or HUD data available.

**(3) No other comparable facilities available.** If there are no other comparable facilities, as determined by Tx CDBG staff, within the applicant’s jurisdiction – 20 points

**(4) Leveraging** – projects with committed funds from other entities including funding agencies, local governments, or businesses – 20 points.

Applicant(s) population equal to or less than 2,500 according to the latest decennial Census:

- Match equal to or greater than 2.5% of grant request 20 points

Applicant(s) population equal to or less than 5,000 but over 2,500 according to the latest decennial Census:

- Match equal to or greater than 5% of grant request 20 points

Applicant(s) population equal to or less than 10,000 but over 5,000 according to the latest decennial Census:

- Match equal to or greater than 10% of grant request 20 points

Applicant(s) population over 10,000 according to the latest decennial Census:

- Match equal to or greater than 15% of grant request 20 points

**(5) Tie-breaker in a region:**

A tie between multiple applications shall be broken based on the per capita income ranking, with a lower per capita income level ranking higher, followed by a second tie-breaker, if needed, of the highest poverty rate ranking higher, followed by a third tie-breaker, if needed, of the highest annual unemployment rate ranking higher.

## **V. PERFORMANCE MEASURES** - Goals, Objectives, Outcomes, Strategies, and Outputs

### **Tx CDBG Strategic Plan Performance Measures**

The Tx CDBG currently has a performance measurement system in place that is part of its strategic plan and the Texas legislative budgeting process. The Tx CDBG has already implemented a performance measurement system that supports the HUD goals as stated in *CPD Notice – 03-09*, issued September 3, 2003, which “strongly encouraged each CPD formula grantee to develop and use a state or local performance measurement system.” In this notice, HUD asked the State CDBG programs, along with all other CDBG grantees, that currently have and use a state or local performance measurement system to “(1) describe, in their next Consolidated Plan or Annual Action Plan, the method they use to measure the outputs and outcomes of their CPD formula grant programs.”

The Tx CDBG has the following Performance Measures system in place for administering and evaluating the success of the CDBG non-entitlement program.

#### **GOALS AND OUTCOMES – For FY 2012**

Goal 1: Support Community and Economic Development Housing and Health Projects

Outcome 1: Percent of the Small Communities’ Population Benefiting from Projects

Output 1: Number of New Community / Economic Development Contracts Awarded

Output 2: Number of Projected Beneficiaries from New Community / Economic Development Contracts Awarded

Output 3: Number of Programmatic Monitoring Visits Conducted

#### **HUD CDBG Performance Outcome Measurement System:**

The Tx CDBG has implemented the HUD CDBG Performance Outcome Measurement System, which is a nationwide reporting system based on standardized Objective categories, Outcome categories, and specific Output Indicators.

The outcome performance measurement system has three objectives: (1) Creating Suitable Living Environments, (2) Providing Decent Affordable Housing, and (3) Creating Economic Opportunities. There are also three outcomes under each objective: (1) Availability/Accessibility, (2) Affordability, and (3) Sustainability. Thus, the three objectives, each having three possible outcomes, produce nine possible outcome/objective combinations within which to categorize CDBG grant activities. Specific Output Indicators, many of which Tx CDBG has used in the HUD Integrated Disbursement and Information System reporting system, will be used to provide the quantifiable information used to actually measure the outcome/objective combinations for the funded CDBG projects (such as the number of persons who have new access to water facilities).

## **VI. OTHER 2012 CDBG PROGRAM GUIDELINES**

### **A. COMMUNITY NEEDS ASSESSMENT**

Each applicant for Tx CDBG funds must prepare an assessment of the applicant’s housing and community development needs. The needs assessment submitted by an applicant in an application for

the Community Development Fund must also include 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.

## **B. LEVERAGING RESOURCES**

### **Texas Capital Fund**

The following matching funds requirements apply under the Real Estate, Infrastructure, Main Street and Downtown Revitalization Program:

- a. The leverage ratio between all funding sources to the Texas Capital Fund (TCF) request may not be less than 1:1 for awards of \$750,000 or less (except for the Main Street and Downtown Revitalization programs which both require 0.1:1, or more match), and 4:1 for awards of \$750,100 to \$1,000,000; and 5:1 for awards of \$1,000,100 to \$1,500,000.
- b. All businesses are required to make financial contributions to the proposed project. A cash injection of a minimum of 2.5% of the total project cost is required. Total equity participation must be no less than 10% of the total project cost. This equity participation may be in the form of cash and/or net equity value in fixed assets utilized within the proposed project. A minimum of a 33% equity injection (of the total projects costs) in the form of cash and/or net equity value in fixed assets is required, if the business has been operating for less than three years and is accessing the Real Estate program.

Over the past five program years the ratio of matching funds to Texas Capital Fund awards is approximately 3.75:1. If this ratio continues for the 2012 program year then the estimated amount of leveraged funds for the 2012 program year is approximately \$45 million.

## **C. MINORITY HIRING/PARTICIPATION**

The Tx CDBG encourages minority employment and participation among all applicants under the Community Development Block Grant Program. All applicants to the Community Development Block Grant Program shall be required to submit information documenting the level of minority participation as part of the application for funding.

## **D. CITIZEN PARTICIPATION**

A grant to a locality under the Texas Community Development Block Grant Program may be awarded only if the locality certifies that it is following a detailed citizen participation plan that provides for and encourages citizen participation at all stages of the community development program. Tx CDBG applicants and funded localities are required to carry out citizen participation in accordance with the Citizen Participation Plan requirements described in Tx CDBG application guides.

## APPENDIX A – Examples of Objective Scoring Factors

**1. Per Capita Income – 20 points maximum** - Compare each applicant's per capita income level to all other applicants in the region.

Method: The base amount for the entire region is divided by the applicant's per capita income level and then multiplied by the maximum possible score of 20, provided the product may not exceed 20 points. The base amount is the average (mean) of the per capita income levels of all the applicants in the region multiplied by a factor 0.75.

Details:

Incorporated City Applications:

For an incorporated city, the data used to score is based on the 2000 decennial Census SF 3 information for the city's entire population.

For a new incorporated city that was not included in the 2000 decennial Census as an incorporated city, the data used to score is based on the 2000 decennial Census information for the entire county unincorporated population.

County Applications:

For a county, the data used to score is based on the 2000 decennial Census SF 3 information for:

- the county's entire population (for county-wide benefit activities);
- the county's entire unincorporated population (for activities that only benefit persons in unincorporated areas); or
- the 2000 decennial census geographic area information specific to the unincorporated areas benefiting from the county's application activities (for activities that only benefit persons in unincorporated areas) (only census tracts, or block numbering areas, and block groups are allowable census geographic areas)

Geographic area information may be substituted only for county applications where the application activities benefit no more than two separate unincorporated target areas. County applications that include application activities for unincorporated areas that are located in more than two county precincts are scored for the entire county unincorporated population or the entire county population.

If a county elects to use census geographic area information that is specific to the unincorporated areas benefiting from the application activities, the county must submit the census geographic area identification number and the associated per capita income amount for each target area.

Multi-Jurisdiction applications - For multi-jurisdiction applications, the data used for scoring is based on a simple average of the per capita income amounts for all of the participating jurisdictions.

Data Source – US Bureau of the Census - 2000 Census – SF 3, Per Capita Income

## **2. Matching Funds – 60 Points Maximum**

Applicant(s) population equal to or less than 1,500 according to the 2000 Census:

- Match equal to or greater than 5% of grant request 60 points

- Match at least 4% but less than 5% of grant request 40 points
- Match at least 3%, but less than 4% of grant request 20 points
- Match at least 2%, but less than 3% of grant request 10 points
- Match less than 2% of grant request 0 points

Applicant(s) population equal to or less than 3,000 but over 1,500 according to the 2000 Census:

- Match equal to or greater than 10% of grant request 60 points
- Match at least 7.5% but less than 10% of grant request 40 points
- Match at least 5%, but less than 7.5% of grant request 20 points
- Match at least 2.5%, but less than 5% of grant request 10 points
- Match less than 2.5% of grant request 0 points

Applicant(s) population equal to or less than 5,000 but over 3,000 according to the 2000 Census:

- Match equal to or greater than 15% of grant request 60 points
- Match at least 11.5% but less than 15% of grant request 40 points
- Match at least 7.5%, but less than 11.5% of grant request 20 points
- Match at least 3.5%, but less than 7.5% of grant request 10 points
- Match less than 3.5% of grant request 0 points

Applicant(s) population over 5,000 according to the 2000 Census:

- Match equal to or greater than 20% of grant request 60 points
- Match at least 15% but less than 20% of grant request 40 points
- Match at least 10%, but less than 15% of grant request 20 points
- Match at least 5%, but less than 10% of grant request 10 points
- Match less than 5% of grant request 0 points

The population category for an incorporated city is based on the city's 2000 Census population. The population category under which county applications are scored is dependent upon the project type and the beneficiary population served. If the project is for beneficiaries for the entire county, the total population of the county is used. If the project is for activities in the unincorporated area of the county with a target area of beneficiaries, the population category is based on the unincorporated residents for the entire county. For county applications addressing water and sewer improvements in unincorporated areas, the population category is based on the actual number of beneficiaries to be served by the project activities.

The population category under which multi-jurisdiction applications are scored is based on the combined populations of the applicants according to the 2000 Census.

Multi-Jurisdiction Applications - The population category under which multi-jurisdiction applications will be scored will be based on the combined populations of the participating applicants according to the 2000 census. The guidelines for determining the population category for county applications will also apply to multi-jurisdiction applications when a county or counties are participants in a multi-jurisdiction application.

Data Source - US Bureau of the Census - 2000 Census, SF 3.

### **3. Project Priorities – 30 Points Maximum**

a. Activities providing or improving water or wastewater (including yardlines on residential property) and other affordable housing activities – 30 Points

b. Street improvements - 15 Points

c. All other eligible activities – 5 Points

(When necessary, a weighted-average is used to score to applications that include multiple activities. Using as a base figure the Tx CDBG funds requested minus the Tx CDBG funds requested for administration, a percentage of the total Tx CDBG construction and engineering dollars for each activity is calculated. Administration dollars requested is applied pro-rata to these amounts. The percentage of the total Tx CDBG dollars for each activity is then multiplied by the appropriate score and the sum of the calculations determines the score. Related acquisition costs are applied to the associated activity.)

**APPENDIX B** – Scoring if a RRC for a region fails to approve an objective scoring methodology to the satisfaction of the Tx CDBG consistent with the requirements in this Action Plan by the established deadline or if the RRC fails to implement the approved methodology.

The State Tx CDBG staff will begin with the final RRC scoring factors for the 2009/2010 cycle and adjust them based on the following:

a. The State may establish the maximum number of regional scoring factors that may be used in order to improve review and verification efficiency and may insert factors to provide a minimum number of factors;

b. The State may determine that certain regional scoring factors may not be used because the data is not readily available or would require excessive effort to verify the information in a timely manner; and

c. To ensure consistency, the State may determine the acceptable data source for a particular regional scoring factor.