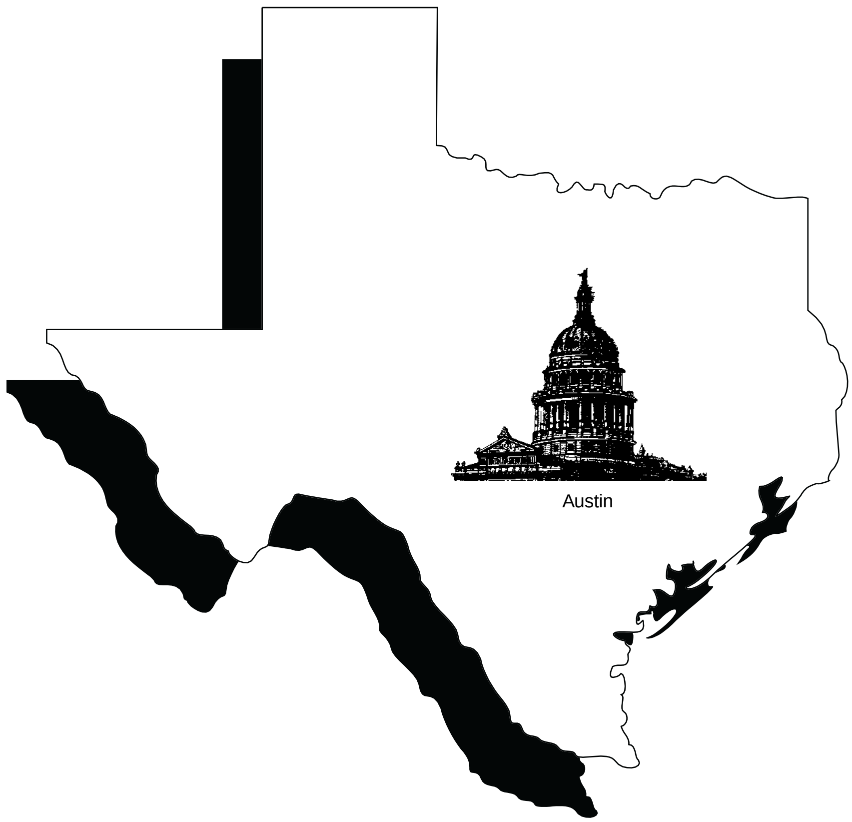
Sunset Advisory Commission



Texas Department of Housing and Community Affairs

Texas State Affordable Housing Corporation

Texas Interagency Council for the Homeless

Staff Report

2000

SUNSET ADVISORY COMMISSION

In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them. This report is the Commission staff's recommendations, which serves as the starting point for the Commission's deliberations.

Texas Department of Housing and Community Affairs

Texas State Affordable Housing Corporation

Texas Interagency Council for the Homeless

Sunset Staff Report

Table of Contents

SUMMARY

Summary

Overview

Texas Department of Housing and Community Affairs

The Texas Department of Housing and Community Affairs' mission — to provide funds for affordable housing and community support services — is important to Texans. The rise in poverty along with a growing shortage of affordable rental housing has created a housing crisis for many lower income Texans. Long-term projections indicate that future population characteristics will create even a greater demand for affordable and subsidized housing than there is today, causing the affordable housing crisis to continue and expand. Given this situation, the continuing need for an agency to fund statewide affordable housing and community support services cannot be argued. While the Sunset review of the Department found that it is funding a significant amount of affordable housing and effectively assisting many communities statewide, key problems were found regarding the Department's failure to allocate resources to meet the State's most pressing housing needs.

Basically, the Department cannot ensure its funds are not going to local areas, or to certain income levels, that could be served with other existing resources. This stems from the fact that the Department collects information about needs, but does not identify other existing resources available to meet those needs. In addition, the Department is continually challenged over its lack of responsiveness to the public. Public input is a key component to the effective allocation of resources. These two themes, public accountability and the allocation of funds to meet the most pressing needs, resulted from the identification of a number of problems, as outlined below.

- *Public accountability of the agency and its governing body*. The Department's governing body currently includes a majority of housing-related professionals that may give the perception of a conflict of interest and no longer fit with the agency's broader role. In addition, the Board's process for receiving public comment and the conduct of certain Board members have created an unreceptive atmosphere that discourages public participation and erodes confidence in the Department's ability to fairly allocate resources. The review also found that the Department does not take an active role in ensuring against discrimination within the housing projects it has funded.

- *Allocation of funds to meet the most pressing needs statewide*. The Department's current method for allocating funds, as discussed above, does not fill needed gaps because it does not accurately access already existing resources available at the local level. This prevents the Department from strategically meeting the worst-case needs statewide. The current allocation methods also do not take advantage of the highly competitive market for multi-family housing funds to reward applicants willing to maintain units as affordable for a longer period or to spread funds out among a broader range of developers statewide. In addition, the Department has not taken an active role in preserving affordable housing that, if allowed to expire, will only worsen an already serious affordable housing shortage.

The recommendations in this report are designed to address these problems. However, with the problems highlighted above, the Sunset review concluded that the Department should only be continued for a two-year "probationary" period and re-evaluated before the legislative session in 2003 to ensure that needed changes have been implemented.

Texas State Affordable Housing Corporation

In its five years of existence, the Corporation has primarily made a number of down payment assistance loans and a very limited number of home improvement and single- and multi-family loans. The Corporation's role has been to provide financing for affordable housing in areas (particularly rural areas and areas outside major metropolitan areas) which are currently not being served by other organizations or lenders. None of these current programs require a statutory link to the State. Given its historical activity, Sunset staff found no compelling reason to maintain the Corporation's statutory ties to the State. Removing the statutory standing of the Corporation would not impact its ability to compete for the most numerous funds available in the state to fund affordable housing. As a result, the review concluded that statutory authority for the Corporation should be eliminated, allowing the Corporation to operate as any non-profit housing provider in the state.

Texas Interagency Council for the Homeless

Although the Texas economy has grown, many Texans are homeless, and the State has a continuing need to coordinate its numerous and fragmented homeless services. The Texas Interagency Council for the Homeless performs an important information-sharing function and has helped to establish a central information resource. However, because the State has no single point of accountability for homelessness and because many Council members lack necessary authority and visibility, the Council has had limited success directly impacting the problems of homelessness. The Sunset review identified the Texas Department of Housing and Community Affairs as the most appropriate agency to have primary responsibility for homelessness. Attaching the Council to the Department as an advisory committee and requiring stricter membership requirements should provide the committee with a forum for policy recommendations, increase its visibility, and encourage more active member participation. These changes should strengthen the State's ability to meet homeless needs through the various agencies that serve the homeless population.

A more detailed discussion of the key recommendations and findings for each of the issues in this report follows.

Issues / Recommendations

Issue 1 The Department's Board, as Currently Structured and Operating, is Not Adequately Serving as a Governing Board.

Key Recommendations

- Restructure the Department's governing body as a five-member Board composed of public members with demonstrated interests in housing and community support services issues.
- Require the Board to appoint advisory committees on housing finance and community support services, and other advisory committees as necessary.
- Require training for Board members.
- Require the Department to develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the Executive Director and agency staff.

Key Findings

- In practice, a majority of the agency's Board members have professional backgrounds related to housing construction and housing finance that do not match with the broader mission of the agency.
- Narrow professional representation on the Board has resulted in meddling in agency operations and perceived conflicts of interest.
- The Board's current statutory structure prevents a complete and integrated view of all agency programs.

Issue 2 The Department Does Not Encourage Meaningful Public Participation in Its Hearings, Harming Its Ability to Make Good Decisions.

Key Recommendations

- Require the Department to make relevant materials available well in advance of Board and agency public hearings, and to provide the public with a reasonable opportunity to participate in these hearings.
- Require the Board to develop a process for the public to appeal its decisions.
- Require the Department to consolidate its numerous public hearings into a single, integrated public hearing process.

Key Findings

- The Department does not provide the public with meaningful opportunities to participate in Board meetings or agency public hearings.

- Members of the public do not participate at Board meetings and public hearings because they perceive an unreceptive atmosphere and fear retaliation.
- The Department holds too many separate public hearings, resulting in poor attendance, a lack of cohesion between agency program policies, and duplication of staff effort.

Issue 3 The Department's Approach to Funding Housing and Community Support Services Does Not Serve Texans with the Greatest Need.

Key Recommendations

- Require the Department to develop a strategic plan, customized by region, to provide affordable housing and community support services.
- Allocate funds to meet regional housing and community service priorities.
- Create a uniform application and funding cycle for housing programs that support projects that meet established need.

Key Findings

- The Department has no accurate assessment of Texas' housing and community service needs and resources on which to base its funding decisions.
- The Department's housing funds do not consistently reach Texans with the greatest need.
- Legislative mandates directing Department funds to needier Texans have not resulted in change in the Department's overall philosophy, or its funding practices.
- Department programs operate independently, precluding the strategic allocation and best use of housing funds.

Issue 4 The Department's Administration of Multi-Family Housing Finance Programs Does Not Maximize Resources and Outcomes.

Key Recommendations

- Require the Department to increase non-profit and public housing authority participation in the Low Income Housing Tax Credit program by providing appropriate incentives.
- Require the Department's tax credit allocation process to reward applications with lower developer's fees.
- Require the Department to cap the amount of tax credits per developer at $2.4 million over a period of three years.
- Restructure the private activity bond allocation schedule so that left over funds are funneled to multi-family use.

- Provide the Department with direct allocation authority over a portion of the multi-family bond funds currently distributed through the Bond Review Board lottery.
- Modify the statutory requirements for 501(c)(3) bonds by removing the overall dollar cap and the requirement that 50 percent of the funds be allocated for new construction.

Key Findings

- The Department's administration of the Low Income Housing Tax Credit program fails to maximize outcomes in the State's interest.
- Texas' limited allocation of private activity bond funding to multi-family housing limits developers' access to low-cost debt and federal tax credits.
- The use of a lottery for allocating multi-family private activity bond funds prevents the State from distributing these funds to best meet needs.
- Current restrictions on the 501(c)(3) bond program impose unnecessary barriers to non-profits accessing these funds.

Issue 5 The Department Does Not Actively Ensure That Its Programs Provide Fair Access to Housing.

Key Recommendations

- Require the Department to obtain certifications of compliance with anti-discrimination laws by applicants for all housing-related programs.
- Require the Board to establish procedures, in rule, to monitor and enforce compliance with fair housing laws.
- Require the Department to adopt a policy, in rule, that identifies reasonable Section 8 admittance policies for all tax credit properties.
- Require the Department to establish procedures, in rule, to monitor and take action against tax credit properties that, as policy, refuse to accept tenants with Section 8 vouchers.
- Require the Department to train all employees on fair housing laws, and maintain at least one employee with experience in fair housing in its Compliance Division.

Key Findings

- The Department does not ensure that all of its programs further fair housing objectives.
- Many tax credit properties use admittance policies that discriminate against Section 8 voucher holders.
- Tax credit properties' use of requirements that exclude persons with Section 8 vouchers makes both the Department and property owners liable to litigation.

Issue 6 The Department is Not Fulfilling Its Role to Preserve Expiring Affordable Housing Stock.

Key Recommendations

- Require the Department to create a staff function with the responsibility to develop and implement policies designed to preserve affordable housing.
- Require the Department to establish a minimum 10 percent set-aside from the multi-family allocation process for preservation projects.
- The Department should establish an Office of Housing Preservation.

Key Findings

- The Department allocates few staff resources towards preservation efforts despite its mandate to preserve affordable housing.
- The Department's existing policies do not adequately encourage preservation.

Issue 7 The Department Does Not Sufficiently Consider Applicants' Compliance History Before Approving Newly Proposed Projects.

Key Recommendations

- Require the Board to consider an applicant's compliance history before approving any newly proposed projects.
- Require the Department to maintain compliance information in a central database.

Key Findings

- Allocation decisions made by the Department do not adequately consider the past performance of developers.
- Developers with a history of compliance violations continue to receive additional project awards from the agency.
- Projects are not adequately monitored during construction.
- Program compliance information is scattered throughout the Department and not maintained in a central location that is easily accessible.
- The Credit Underwriting Division does not routinely monitor projects to check the appropriateness of initial recommendations.

Issue 8 Some Local Communities Do Not Use Community Development Funds to Meet Basic Human Needs.

Key Recommendations

- Require the Department, by rule, to define basic human needs and specify them as a priority for all Community Development funding.
- In non-competitive regions, require review committees to demonstrate that basic human needs are being met before funding other types of projects.

Key Findings

- Border communities use significantly less of their Community Development funds to meet basic water and wastewater needs than communities in the rest of the state.
- The non-competitive application process used in the border regions does not prioritize meeting basic human needs and may lead to unequal living conditions within the regions.

Issue 9 The Department Has Provided Limited Leadership and Initiative in Addressing Colonia Issues.

Key Recommendations

- Create a Colonia Advisory Committee to advise the Board on the needs of colonia residents and the effectiveness of Department policies.
- Require the Department to develop an annual assessment of colonia resident needs and a biennial action plan to address the needs.
- Require the Department to develop recommendations to the Legislature identifying options to improve the funding system for colonia programs.
- Require the Department to improve its management and coordination of the colonia self-help centers.

Key Findings

- The Department does not have a strategic vision to address colonia issues.
- The Department has no formal process for sharing and receiving information with the public about colonia issues and programs.
- The lack of direct funding creates administrative difficulties for managing colonia programs and limits the effectiveness of the programs.
- The operation of the Colonia Self-Help Centers is complicated by conflicting claims of authority and responsibility.

Issue 10 The Department Does Not Make Information About Community Resources and Affordable Housing Easily Accessible to the Public.

Key Recommendations

- Require the Texas Department of Housing and Community Affairs to establish a central housing and community services clearinghouse, and clarify the Department's statutory role as an information provider.
- Require the Health and Human Services Commission to include the Department's programs in Texas Information and Referral Network resources.
- Require the Board to adopt, by rule, policies and procedures to ensure agency compliance with the Public Information Act.

Key Findings

- The Department has two information offices, but does not function as a clearinghouse for information about affordable housing and community resources.
- The lack of a single source of integrated, user-friendly information may result in public unawareness and confusion about housing and community programs.
- The Department's programs are not included in the Texas Information and Referral Network.
- The agency has shown reluctance to make information available to the public.

Issue 11 Regulation of Manufactured Housing is Not Logically Located at the Department.

Key Recommendations

- Transfer responsibility for the regulation of manufactured housing to the Texas Department of Licensing and Regulation.

Key Findings

- The regulation of manufactured housing does not fit well with the overall mission or structure of the Department.
- The Division is the only licensing and regulatory function at the Department.
- Requiring TDHCA to administer a regulatory program creates administrative inefficiencies.
- TDLR is the State's umbrella agency for regulatory and licensing functions and performs these same regulatory functions for more than 16 businesses and industries.

Issue 12 Texas Has a Continuing Need for the Services Provided Through the Texas Department of Housing and Community Affairs.

Key Recommendations

- Continue the Department for a two-year "probationary" period, and require the Sunset Commission to re-evaluate the agency and its efforts, to ensure that needed changes have been implemented before the legislative session in 2003.

Key Findings

- Texas has a continuing need for affordable housing and community support services.
- Sunset found no benefit from having any other federal, state, local, or private entity perform the functions of the Department.
- Considerable problems exist in how the Board and the Department function, and how services are currently delivered.
- While organizational structures vary, most states use one of two models to manage the programs found in the Department.

Issue 13 No Clear Need was Found for Maintaining the Statutory Link Between the State and the Texas State Affordable Housing Corporation.

Key Recommendations

- Allow the Corporation to operate independent of the State as a private non-profit corporation by deleting the statutory ties between the State and the Corporation.

Key Findings

- The State gains little advantage from the Corporation's statutory standing and the Corporation could continue to operate programs that have been historically successful without statutory authority.

Issue 14 Homeless Services Need a Single Point of Accountability and More Visibility.

Key Recommendations

- Charge the Texas Department of Housing and Community Affairs with primary responsibility for addressing homelessness at the state level.

- Make the Texas Interagency Council for the Homeless an advisory committee to the Texas Department of Housing and Community Affairs.

Key Findings

- The need to serve homeless people through coordinated services remains important to the State.
- No single agency has the primary responsibility for addressing homelessness at the state level.
- The Council lacks the necessary authority and visibility to directly impact homelessness.

Fiscal Implication Summary

This report contains several recommendations that will have a fiscal impact to the State. They are discussed below, followed by a 5-year summary chart.

- Issue 1 - Reducing the size of the Board would save $40,000 per year, from reduced travel expenses.
- Issue 2 - Requiring consolidation of public hearings would save $20,000 per year, from reduced travel expenses.
- Issue 3 - Requiring enhanced planning efforts would cost $190,000 per year; resulting from the need for more staff, equipment, and associated travel expenses.
- Issue 4 - Restructuring the Private Activity Bond Allocation schedule would increase the amount of 4 percent tax credits available to build affordable housing by an additional $2.6 million for each one percent increase in bond cap allocation.
- Issues 5 and 7 - Increased responsibilities for underwriting and compliance functions could require additional staff. Costs for additional staff would be offset by an appropriate increase in the project application and/or compliance fee paid by developers who apply and receive funding from the Department.
- Issue 6 - Increase preservation efforts would cost $180,000 per year; resulting from the need for more staff, equipment, and associated travel expenses.
- Issue 10 - Requiring the Department to compile integrated reports and improve its response to information requests would cost $64,500 per year; resulting from staff needed to support the Department's website.
- Issue 13 - Requiring the Texas State Affordable Housing Corporation to refund state transfers of property and locans would be a gain to the State. Estimates range from $900,000 to more than $4 million, but the actual amount of the transfers would have to be determined by the State Auditor's Office.

Fiscal Year	Savings to General Revenue	Cost to General Revenue	Savings to Earned Federal Funds	Savings to Appropriated Receipts	Net Fiscal Impact	Change in FTEs
2002	$20,000	$434,500	$12,000	$28,000	$374,500	+7
2003	$20,000	$434,500	$12,000	$28,000	$374,500	+7
2004	$20,000	$434,500	$12,000	$28,000	$374,500	+7
2005	$20,000	$434,500	$12,000	$28,000	$374,500	+7
2006	$20,000	$434,500	$12,000	$28,000	$374,500	+7

Issues / Recommendations

Issue 1

The Department's Board, as Currently Structured and Operating, is Not Adequately Serving as a Governing Board.

Summary

Key Recommendations

- Restructure the Department's governing body as a five-member Board composed of public members with demonstrated interests in housing and community support services issues.
- Require the Board to appoint advisory committees on housing finance and community support services, and other advisory committees as necessary.
- Require training for Board members.
- Require the Department to develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the Executive Director and agency staff.

Key Findings

- In practice, a majority of the agency's Board members have professional backgrounds related to housing construction and housing finance that do not match with the broader mission of the agency.
- Narrow professional representation on the Board has resulted in meddling in agency operations and perceived conflicts of interest.
- The Board's current statutory structure prevents a complete and integrated view of all agency programs.

Conclusion

The Department's current Board structure is a relic of the old Texas Housing Agency and is not adequate for the current mission of the agency, which includes funding community support services. In practice, a majority of the Board members have professional expertise related to the housing industry, which lessens their focus on the Department's other programs and creates potential conflicts of interest. In addition, the narrow professional representation on the Board produces unintended biases regarding the State's housing priorities. While this expertise is valuable, the State would be better served by individuals on the Board with a broader view of communities' needs.

The Sunset review focused on giving the agency the most appropriate governing board to ensure a more unified vision for the agency's programs. The review also explored ways to clarify the responsibilities of the Board and staff, and ensure that the Board's policy authority applies to all agency programs. Finally, the Board needs to have the training to make more informed decisions, serving as a true governing body.

Support

<u>Current Situation:</u> **The current structure of the Department's Board resulted from the merger of the Texas Department of Community Affairs and the Texas Housing Agency in 1991.**

The Legislature merged the Texas Department of Community Affairs and the Texas Housing Agency to better integrate the state's housing programs with community support services.

- The Legislature merged the two former agencies with the intent of better integrating the State's housing finance programs with community support services that increase the effectiveness affordable housing programs. Community support services include water and wastewater infrastructure development, capacity-building for non-profit entities involved in housing services, and community-based social services that support the self-sufficiency of residents in subsidized housing.
- The agency's enabling statute requires a nine-member Board composed of six individuals representing various professions or interests, primarily related to low income housing finance and development. The remaining three members are public citizens.

TDHCA Board Required Structure

Place 1:	Lending Institutions
Place 2:	Local Government
Place 3:	Housing Construction
Place 4:	Non-profit Housing Organizations
Place 5:	Realtors or Housing Developers
Place 6:	Low Income Individuals and Families
Place 7-9:	Public Members

- The Board determines departmental policy for the Housing Finance Division by authorizing bonds, approving loans, reviewing the Division budget, adopting administrative rules, and other activities. The Board has no explicit statutory oversight of the Community Affairs and Community Development Divisions, other than to adopt a goal for the Community Affairs Division to apply funds toward housing assistance for very low income people, and to define the Division's responsibilities.
- The agency spent $237.2 million in appropriated funds in fiscal year 1999 on housing, community development, and community support services. Community development and support services constituted 78 percent of the Department's expenditures and affordable housing programs represented 17 percent. The remaining agency expenditures supported the regulation of manufactured housing and agency administration.

<u>Problem:</u> In practice, a majority of the agency's Board members have professional backgrounds related to housing construction and housing finance.

- As detailed in the chart, TDHCA Board - Required Structure, four of the slots on the agency's Board must be filled by individuals with professional backgrounds related to housing. Although not required by statute, the remaining two specified places have usually been filled by individuals with positions and experience in the housing industry and local housing programs.

  Currently, the local government position is filled by the director of Housing and Community Development for the City of Houston, and the position for low income individuals and families is filled by a realtor. Two of the public members also have professional ties to the housing industry.

<u>Problem:</u> Professional representation on the Board has resulted in meddling in agency operations and perceived conflicts of interest.

- Questions have repeatedly arisen over the relationship between the Board and agency staff related to project award allocations. In many cases the responsibilities of the Board and staff are not clearly delineated and the Board appears to make operational decisions that are inconsistent with its policymaking role. The State Auditor's Office has noted the agency needs to clearly articulate the criteria used by the Board in the awards decisionmaking process, to reduce the perception of undue influence.[1]

- The professional representation on the Board provides a greater opportunity for potential conflicts of interest. While expertise on housing issues is useful, boards with members from a profession or group affected by the activities of an agency may not respond adequately to broad public interests. In addition, other members of the Board tend to defer to the members with professional expertise, inappropriately absolving themselves of their fiduciary responsibility as a board member.

  The potential also exists for the agency staff to not fully train or educate the Board on the agency's functions, assuming the members with technical knowledge will fill the void. Some Board members indicated to Sunset staff that they had not recieved adequate training on the Department's programs and, as a result, lacked the knowledge to make informed decisions or challenge the positions of other Board members.

- Narrow professional representation at the Board level has the potential to produce unintended biases regarding the State's housing priorities. Board members naturally make decisions based on the types of

Professional representation on the Board provides a greater opportunity for potential conflicts of interest.

projects that work well in their communities, or in their professional judgment. The result, however, may not be representative of the needs of communities in other regions or the state as a whole.

As an example, the plan approved by the Board to allocate low income housing tax credits favors new development over rehabilitation, and larger multi-family developments over duplexes or single-family developments. Although this policy may serve to maximize the number of units the Department is able to fund, it does not maximize the State's goal of furthering preservation or meeting the needs of communities where multi-family developments may not be appropriate.

Problem: The Board's current statutory structure prevents a complete and integrated view of all agency programs.

The current Board structure is a relic of the old Texas Housing Agency and is not adequate for the agency and its current mission.

- The current Board structure is a relic of the old Texas Housing Agency and is not adequate for the agency and its current mission. When the Texas Housing Agency and the Department of Community Affairs were merged in 1991, many of the statutory provisions related to Board responsibilities and agency organization were not restructured to reflect the merger. Board members' statutory responsibilities currently focus on the agency's housing finance programs, with no explicit authority over the remaining agency functions. In addition, the statute requires housing finance duties to be kept separate from the duties of all other agency functions.
- A key objective of the 1991 merger was to ensure better integration of the State's housing programs with other community support services. However, a review of the agendas and attendance at Board and subcommittee meetings clearly indicate that the Board spends most of its time dealing with housing finance programs. Deliberations related to community development, community affairs, and manufactured housing are brief and predominantly handled at the staff level. For example, the federally-required Weatherization Assistance Program Policy Advisory Council has the responsibility for advising TDHCA, but no formal relationship exists between the Advisory Council and the Board.
- The Board's narrow professional slant results in little or no focus on the important relationship between housing programs and complementary programs at other agencies, such as health and human services agencies and the Texas Workforce Commission. Services such as health care and job training, when paired with affordable housing, increases the likelihood a person will achieve self-sufficiency, which will enable them to move up the continuum of housing services into home ownership.

For example, the Board does not factor in other state agency programs when determining the priority populations to be served by the State's housing programs. The Health and Human Services Commission is reviewing all services and support systems available to persons with disabilities, to assure that the State moves deliberately toward a system that provides meaningful opportunities for people with disabilities to live in their homes and communities. While the Department is participating in this initiative at the staff level, the Board rarely deliberates on these types of considerations. In fact, the Board has refused to make accessibility a standard for tax credit projects, opting instead to award additional points during the award process for projects that propose to make their units accessible.

Recommendation

Change in Statute

1.1 Restructure the Department's governing body as a five-member Board composed of public members with demonstrated interests in housing and community support services issues.

1.2 Require the Board to appoint advisory committees on housing finance and community support services, and other advisory committees as necessary.

Under these recommendations the size of the Board would be reduced from nine to five members, and appointments would no longer have to meet specified representation requirements. The Governor would appoint a new Board composed of public citizens with broader interests in housing and community support services. The new Board structure could be immediate or phased-in over a two to four-year period.

Program-specific advisory committees required for the housing finance and community development program areas would provide the technical expertise necessary to advise the Board on decisions related to policy development. Other issues in this report require the appointment of advisory committees for colonia and homeless issues, and the Board could appoint additional committees as warranted. The Board should also adopt a formal means for obtaining input from the Weatherization Assistance Program Policy Advisory Council.

1.3 Require training for Board members.

Members of state boards and commissions should be provided with adequate information and training by agency staff to allow them to properly discharge their duties. Elements of the training program should include, but not be limited to, the agency's enabling legislation, the agency's functions, the rules of the agency, and the current budget for the agency. Each person who is appointed to and qualifies for office as a member of the board would not be allowed to vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program.

This is a Sunset Commission across-the-board recommendation. Staff included it as part of this issue because of concerns identified during the review.

1.4 Require the Department to develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the Executive Director and the staff.

This recommendation establishes the Executive Director as the individual in charge of managing the agency's day-to-day activities, removing the possibility of the policymaking body administering the agency in addition to setting agency policy. The Board should have an appropriate role in reviewing and approving the staff's decisions, but these roles should be clearly defined and involve public scrutiny. Other issues in this report recommend a specific role for the Board to sanction agency decisions, such as approval of funding decisions. These represent critical agency activities that require Board involvement. As with the recommendation above, this is an across-the-board approach which is included in this issue because of particular concerns identified.

1.5 Remove programmatic and divisional references constraining the Board's statutory authority and remove organizational references constraining staff's ability to implement Board policies.

This recommendation would remove the statutory requirements requiring the Department to maintain specific divisions and the requirement that the duties of the Housing Finance Division be kept separate from the other duties of the Department. This would remove programmatic and divisional references related to the Board's authority, clarifying the policy role for the Board for each of the agency's programs, allowing the Board to take an integrated approach to policy development. Removing arbitrary organizational references from the statute would also allow the agency staff to fully implement Board policies related to program integration.

Impact

The intent of these recommendations is to create a Board that can provide a more unified vision for the agency, clarify the responsibilities of the Board and staff, and ensure that the agency's programs are integrated with complementary community services. Changing the Board's structure, defining its role, and freeing it of statutory constraints, will better equip it to oversee the State's efforts to provide housing and other services to low income Texans.

Fiscal Implication

Reducing the size of the Board from nine members to five will have a positive fiscal impact resulting from savings in per diem and travel costs for fewer Board members. Board member expenses are funded primarily through appropriated receipts and earned federal funds. These savings are estimated in the chart below.

Fiscal Year	Savings to Earned Federal Funds	Savings to Appropriated Receipts	Change in FTEs From FY 2001
2002	$12,000	$28,000	0
2003	$12,000	$28,000	0
2004	$12,000	$28,000	0
2005	$12,000	$28,000	0
2006	$12,000	$28,000	0

[1] Office of the State Auditor, Letter to Governor George Bush and Members of the Legislative Audit Committee, Risk Assessment of the Current Situation at the Texas Department of Housing and Community Affairs, February 3, 1999.

Issue 2

The Department Does Not Encourage Meaningful Public Participation in Its Hearings, Harming Its Ability to Make Good Decisions.

Summary

Key Recommendations

- Require the Department to make relevant materials available well in advance of Board and agency public hearings, and to provide the public with a reasonable opportunity to participate in these hearings.
- Require the Board to develop a process for the public to appeal its decisions.
- Require the Department to consolidate its numerous public hearings into a single, integrated public hearing process.

Key Findings

- The Department does not provide the public with meaningful opportunities to participate in Board meetings or agency public hearings.
- Members of the public do not participate at Board meetings and public hearings because they perceive an unreceptive atmosphere and fear retaliation.
- The Department holds too many separate public hearings, resulting in poor attendance, a lack of cohesion between agency program policies, and duplication of staff effort.

Conclusion

The Department does not have a user-friendly public input process. The public does not receive important hearing materials nor have an opportunity for meaningful participation. The unfriendly atmosphere at Board meetings discourages public participation and erodes confidence in the Board and agency staff. Citizens feel that their views do not matter because the Board appears to have already made its decisions, or worse, that they will face retaliation if they do participate. In addition, by conducting separate hearings for each program area, the Department compartmentalizes the discussion of policy issues, obscuring the big picture view. In the end, the Department misses the opportunity for valuable feedback and perspective to improve its decisionmaking.

The Sunset review identified a number of actions the Department should take to encourage meaningful public participation. These rather prescriptive measures are necessary because the Board's approach to these matters was found to be very out of line with the normal approach used by other state agency boards and commissions. The recommendations would help inform the public about Board and agency activities and enable the public to offer valuable information to guide decisionmaking. The recommendations also improve the process by allowing the public to appeal Board decisions. Finally, by considering all programs in a single public hearing process, the Board and agency can better view how issues relate across programmatic lines. Ultimately, providing for adequate public input improves not only the Department's decisionmaking, but also its credibility.

Support

<u>Current Situation:</u> The Department does not provide the public with meaningful opportunities to participate in Board meetings or agency public hearings.

- The Department holds two types of public meetings. The Board conducts monthly meetings, and agency staff hold numerous public hearings concerning Department programs.
- Board meeting agendas do not usually list each proposed project up for a vote, so the public does not know which particular items the Board will consider at each meeting. As a result, members of the public do not know whether to attend a certain meeting and cannot prepare appropriate testimony.
- Materials such as staff recommendations and program data, used by the Board to make major decisions, are not made available to the public until after the Board has made its decisions.
- The Board generally requires all public testimony at the beginning of the Board meeting, rather than after staff presentations and Board motions on each agenda item. This practice forces people to predict discussion items instead of delivering relevant comments that address Board and staff concerns, and forces Board members to vote on motions without the benefit of tailored public input. In addition, the Board's two-minute time limit on public testimony gives the perception that the Board does not value public input.
- Board decisions are final — no appeals process exists to challenge Board decisions. If someone feels the Board did not follow the correct procedures for making a decision, the only recourse is to file a lawsuit.

The Board requires public testimony at the beginning of its meetings, rather than after staff presentations and Board motions on each agenda item.

<u>Problem:</u> Members of the public do not participate at Board meetings and public hearings because they perceive an unreceptive atmosphere and fear retaliation.

- The unfriendly atmosphere caused by the Board's policies on public testimony discourage members of the public from participating at hearings. Sunset staff also observed some Board members exhibiting a basic lack of courtesy toward those testifying on more than one occasion. As most people do not distinguish between the Board and agency staff, this perception extends to all agency public hearings.

Board members rarely discuss public comments, and little change seems to result from public participation.

- The sometimes chaotic environment at Board meetings further erodes public confidence in the Board. At a recent meeting, after a motion to open the tax credit process to the scrutiny of the entire Board, one Board member passed out materials accusing other members of illegal activities.

- Citizens do not feel their input makes a difference. Board members rarely discuss comments made by the public, and little change can be discerned to Board and agency policies resulting from public testimony and participation. For example, the Board made few significant changes to the year 2000 tax credit program even though two independent working groups, bridging a wide spectrum of interests, proposed many substantial changes.

  In 1999, the Department's Housing Trust Fund Program also reiterated the message that the agency does not value public input. First, the rulemaking process occurred after the Department had already sent out the Notice of Funding Availability. Second, the hearings for the proposed repeal and amendment of these rules were held in three urban areas, on the dates of December 27, 1999, and January 4 and 6, 2000.

Many people do not participate because they fear Department retaliation.

- Many individuals and groups told Sunset staff that they do not provide input or testimony at Board meetings and public hearings because they fear retaliation. For example, some developers fear that the Department will either deny or withdraw project funding if they criticize agency staff or Board recommendations. In a number of instances, individuals refused to talk with Sunset staff or requested anonymity, citing concerns about Department reprisal.

<u>Problem:</u> The Department holds too many separate public hearings, resulting in poor attendance, a lack of cohesion between agency program policies, and duplication of staff effort.

- With the exception of federally-mandated joint hearings and the State Low Income Housing Plan Hearings, the Department generally holds separate hearings around the state for each of its programs, rather than combining hearings to allow the public to provide input on multiple programs at once. For example, in fiscal year 1999, the Department held five separate hearings in the Dallas area, six in the Lubbock area, and 15 in Austin. In addition, the agency sometimes selects inappropriate locations for public hearings, either missing important locations where citizens will be affected by agency programs, or choosing to discuss a program that does not affect the local citizens.

Three or fewer people testified at 26 out of 50 public hearings in fiscal year 1999.

- Public participation at many of the Department's single-program public hearings is minimal. A substantially large number of people provided spoken and written testimony on the 1999 Consolidated Plan and the State Low Income Housing Plan, which cover numerous programs. However, three or fewer people testified at 26 out of 50 public hearings in fiscal year 1999, including 15 hearings where no one testified. In fiscal year 2000, Sunset staff attended numerous hearings in Austin, San Antonio, and Houston where few or no people testified. Although many members of the public and advocacy groups would like to comment on each agency program, attending every hearing would consume too much time.
- Separation of public hearings adds to the lack of program integration detailed in Issue 3 of this report. Without a joint hearing and relevant materials, the public becomes confused about how agency programs fit together and cannot provide comments that apply across programs, preventing the Department from making cohesive policy decisions.
- The Department spends about $40,000 annually on costs related to holding public hearings. The Department could better spend this valuable travel money and time in its program technical assistance and compliance efforts.

Recommendation

Change in Statute

2.1 Require Department staff to publish and make available all relevant meeting materials at least seven days before a Board meeting.

2.2 Require Board meeting agendas to contain each individual item of discussion.

2.3 Require the Board to provide for public comment after the staff presentation on each agenda item.

Under these recommendations, the Department must make information available to Board members as well as the public. All material to be discussed at a Board meeting must be sent to interested parties, posted on the Department's website, made available in hard copy at the agency, listed in the Texas Register, and disseminated through any other means required by the Department's enabling statute or by the Open Meetings Act. Board meeting agendas must state each individual project the staff has recommended that the Department fund. The Board could still permit public testimony at the beginning of the meeting, but must also allow it after staff presentations and Board motions on each item. The Board cannot consider written items not preposted for the required time period. Finally, the Board must provide written justification if it does not follow advisory committee recommendations.

2.4 Require the Board to develop and implement rules that give the public a reasonable time frame in which to testify at Board meetings.

As in legislative committee hearings and other agency Board meetings, the Board should encourage people testifying to summarize their comments and stay on point. The Chair should exercise reasonable judgment in setting time limits for public testimony, curtailing repetitive or irrelevant remarks.

2.5 Require the Board to develop and implement rules outlining a formal process to appeal Board decisions.

In developing these rules, the Board should use the Department's Community Development Block Grant Appeals process as a guide. Under this recommendation, the rules must include the requirements for appealing a decision, including who may file and and grounds for appeal; an explanation of the filing process, including what type of information must be submitted; reasonable time frames in which to file an appeal and for the Board to respond; an explanation of who will hear an appeal and how a decision will be made; a description of possible outcomes of an appeal; and a notification process for approval or rejection of an appeal, including a basis for rejection.

2.6 Require the Department to consolidate its numerous public hearings into a single public hearing process.

2.7 Require Department staff to publish all relevant meeting materials at least six weeks before each consolidated public hearing.

The agency should consolidate hearings to the extent possible, but should also take into account valid reasons to hold separate hearings, such as issuing bonds, or to comply with federal mandates. The Department must hold a single consolidated public hearing in each uniform service region of the state (as defined in Issue 3) for the following programs:

- Housing Trust Fund,
- HOME Investment Partnership Program,
- Single-Family Housing Mortgage Revenue Bonds,
- Multi-Family Housing Mortgage Revenue Bonds,
- Low Income Housing Tax Credits,
- Low Income Energy Assistance,
- Weatherization Assistance,

- any other programs included in the Consolidated Plan, and
- any other programs included in the Low Income Housing Plan.

All material to be discussed at each consolidated public hearing must be sent to interested parties, posted on the Department's website, made available in hard copy at the agency, listed in the Texas Register, and disseminated through any other means required by the Department's enabling statute or by the Open Meetings Act. In addition, public hearing agendas must state each individual project the staff has recommended that the Department fund. While this recommendation requires a longer notice period than the Administrative Procedure Act, this would allow the public enough time to review complex material, and the Department should have no trouble meeting this requirement.

2.8 Require the Department to provide for public input before developing rules for programs with Requests for Proposal and Notices of Funding Availability.

This recommendation would ensure that rules affecting Requests for Proposal and Notices of Funding Availability address important public concerns, and would also eliminate the Department's need to republish materials based on ad hoc comments.

2.9 Require the Department to develop and implement rules outlining formal rulemaking procedures for the Low Income Housing Tax Credits Program and the Multi-Family Housing Mortgage Revenue Bonds Program.

These two programs, the Department's largest in terms of funding and people affected, require a more formal process to ensure adequate public input. To implement this recommendation, the Department should use the rulemaking process adopted by Public Utility Commission as a guide. These rules must include procedures for allowing any interested person to petition the Department requesting adoption of a new rule or amendment of an existing rule, notice requirements and time frames in accordance with the Administrative Procedure Act, and provision for public hearings.

Impact

The intent of these recommendations is to provide the public with meaningful opportunities to participate in Board and Department decisionmaking, better equip the Board and Department in making important decisions that affect the public, provide for better integration of policy development between agency programs, and eliminate duplication of staff effort.

Fiscal Implication

Requiring the Department to provide decision materials before hearings should result in little or no fiscal impact. Requiring the Department to consolidate public hearings on its various programs, but allowing for some additional hearings, would reduce the number of public hearings from about 50 to 25, and should save the Department about $20,000 per year in travel costs. The Department should use the savings to provide on-site program technical assistance, in its compliance efforts, and to reimburse advisory committee members for their travel.

Fiscal Year	Savings to the General Revenue Fund	Change in FTEs From FY 2001
2002	$20,000	0
2003	$20,000	0
2004	$20,000	0
2005	$20,000	0
2006	$20,000	0

Issue 3

The Department's Approach to Funding Housing and Community Support Services Does Not Serve Texans with the Greatest Need.

Summary

Key Recommendations

- Require the Department to develop a strategic plan, customized by region, to provide affordable housing and community support services.
- Allocate funds to meet regional housing and community service priorities.
- Create a uniform application and funding cycle for housing programs that support projects that meet established need.

Key Findings

- The Department has no accurate assessment of Texas' housing and community service needs and resources on which to base its funding decisions.
- The Department's housing funds do not consistently reach Texans with the greatest need.
- Legislative mandates directing Department funds to needier Texans have not resulted in change in the Department's overall philosophy, or its funding practices.
- Department programs operate independently, precluding the strategic allocation and best use of housing funds.

Conclusion

The Department does not have an accurate assessment of the State's housing and community service needs and resources. This prevents it from structuring an equitable allocation system to fill funding gaps not met by other entities. The Department's housing funds do not consistently reach Texans with the greatest need, despite legislative mandates directing the Department to increase its assistance to needier Texans. The Department cannot strategically allocate housing funds to meet the most pressing needs as long as it operates its housing programs independently.

The Sunset review identified several steps the agency could take to ensure its funds meet the State's most pressing needs. These recommendations would improve the process by which the Department assesses the statewide need for affordable housing and community support services by region, and would require the agency; to set priorities that meet the greatest need. Creating a uniform application and funding cycle and allocating funds according to regional priorities would allow service providers to prepare proposals that use a variety of funding sources to best meet the needs of a specific region rather than competing in independent, statewide allocations.

Support

Local entities received 69 percent of the more than $416 million in federal HUD funds that flowed to Texas in 1999.

<u>Current Situation:</u> A majority of Texas' housing and community service needs are addressed at the local level, and the Department's role is to fill the gaps.

- Texas' housing and community service needs are met through numerous sources of funds, including federal, state, local, and private funds. The majority of these needs are addressed at the local level by cities, counties, and a variety of non-profit organizations.
- The U.S. Department of Housing and Urban Development (HUD) gave Texas more than $416 million in fiscal year 1999 to provide affordable housing and community support services. Of that amount, 69 percent, or about $288 million, went directly to the local level. This included funding for 65 cities, counties, local housing authorities, and community housing development organizations across the state. HUD awarded the remaining 31 percent to the Department to address the statewide needs not otherwise covered by local entities.[1] Appendix E, *Local Housing and Community Affairs Organizations*, describes in more detail the local structure in Texas set up to address affordable housing and community support services.
- Local housing finance corporations (HFCs) also address the need for affordable housing. HFCs, established in federal statute, receive two-thirds of the private activity bond issues for single-family housing and compete on a statewide basis for multi-family bonds.
- Other entities that meet the local affordable housing and community service needs include local non-profit organizations, such as community development corporations (CDCs) and community action agencies (CAAs). While each of these types of non-profit organizations has a role in fulfilling a mission similar to that of the Department, increasingly, the roles are blending and each is doing its part with federal, state, local, and private funds to address a variety of housing-related needs in Texas. Together, CDCs and CAAs cover all 254 counties statewide.
- The State's role in addressing the affordable housing and community service needs in Texas is to use its resources, 90 percent of which are federal funds, to fill the gaps in coverage across the state. For this purpose, the Department has access to many of the same types of funds as local housing entities, including federal HOME, Community Services Block Grant, and Community Development Block Grant (CDBG) funds and private activity bonds. Appendix E, *Local Housing and Community Affairs Organizations*, provides a summary of the sources of funds available and which organizations may access them.

<u>Problem:</u> The Department has no accurate assessment of Texas' housing and community service needs and resources on which to base its funding decisions.

While the Department collects information on needs, no assessment of existing resources is done, making it impossible to determine unmet needs or gaps.

- Despite more than 20 mandated individual planning documents, the Department has no coordinated or integrated approach to assess the housing need in Texas. The agency does not have an integrated needs assessment for the entire agency; rather, housing finance and community service needs are considered and planned for separately within each program. So, while the agency compiles and collects a large amount of data, no succinct, integrated information emerges for strategic planning purposes. The chart, *Major Planning Documents*, lists examples of the most comprehensive planning documents prepared by the Department, including the purpose of the plan and time of year it is prepared.

Major Planning Documents

Plan	Purpose	Date Due
Consolidated Plan	Five year plan for HUD with annual updates (applies only to CDBG and HOME)	December
Agency Stategic Plan	Biennial plan to Legislature	June
State Low Income Housing Plan	Annual plan to Legislature (even numbered years)	March
Qualified Allocation Plan for Low Income Housing Tax Credits	Annual program rules and request for proposal to apply for Low Income Housing Tax Credits	January

- The Department's current statewide housing needs analysis, the State Low Income Housing Plan, is based on 1990 census data and a 1995 community needs survey. While the communities that respond to the survey may adequately reflect the demand for housing and community support services, no real assessment of supply is contemplated. As a result, the Department cannot assess what community resources already exist, and cannot, therefore, accurately assess unmet need.

- Since the majority of funds go directly from the federal government to local governments, the Department does not have an accurate picture of existing locally administered funds and initiatives. Therefore, the Department cannot create an equitable statewide system to distribute funds to fill gaps not met by these other entities. Even though many local housing entities prepare planning documents that outline their available resources and needs within their region, the Department does not use this information to plan how it will allocate the State's resources.

Problem: The Department's housing funds do not consistently reach Texans with the greatest need.

- The Department's programs do not serve families with the worst case housing needs. The chart, *Low Income Housing Needs*, describes the different income categories and the types of housing problems faced by families in each category. The housing needs for extremely low- and very low-income families are more severe than those for low- and moderate-income families. Despite the extraordinary housing needs faced by extremely low- and very low-income families, the Department allocated only 60 percent of its funds for their assistance in fiscal year 1999.

Low Income Housing Needs

Income Category	Types of Housing Problems	Percentage of Department's FY 1999 Expenditures*
Extremely Low Income *0% to 30% Area Median Family Income (AMFI)*	Homelessness,trouble finding any housing, paying more than half of income on rent, living in overcrowded and/or substandard housing.	10.24%
Very Low Income *30% to 60% AMFI*	Paying more than half of income on rent, living in overcrowded and/or substandard housing.	49.81%
Low Income *60% to 80% AMFI*	Pay more than 30 percent of income on rent, may have difficulty paying for a mortgage.	30.83%
Moderate Income *80% to 115% AMFI*	Usually do not have problems in the rental market, but may experience difficulty in purchasing a first home.	9.09%

* Texas Department of Housing and Community Affairs, *2000 Low Income Housing Plan and Annual Report* (Austin, January 2000)

- The Department's statewide allocation systems for housing funds do not account for regional differences in median incomes. The chart, *Agency Income Designations and Examples*, shows examples of the income eligibility limits used by the agency across the state, according to area median family incomes. For example, families in Houston or Dallas who earn $40,000 would qualify for assistance as a low-income household, whereas families with the same income in areas of the state with lower median incomes would not.

  Because the Department does not account for regional income differences, State administered funds tend to flow to higher median income areas. For example, more than 40 percent of funds for two of the largest HOME activities, rental housing development and down payment assistance, go to metropolitan cities and counties that receive HOME funds directly from HUD.[2] These areas tend to have higher median incomes than the state average, and they also have more non-profit organizations with significant resources that are trying to meet the same need as the Department.

Agency Income Designations and Examples[3]
(based on a family of four at the upper limit of the designation)

Designation	Dallas	Houston	State Average*
Extremely Low Income	$17,450	$16,250	$10,150
Very Low Income	$34,920	$32,460	$20,340
Low Income	$46,560	$43,300	$27,100
Moderate Income	$66,930	$62,215	$38,956

* In areas of the state where residents' incomes fall below the state average, the Department uses the state average.

- Most multi-family financing resources also go to areas of the State with higher median incomes. Higher rents in these areas improve the cash flow of the deals, making it easier for developers to pay operating costs and to repay lenders. For example, higher-income counties have received twice the per-capita allocation of Low Income Housing Tax Credits as the lowest income counties. The Department does not assist the financing of multi-family housing deals in lower median income areas.
- The Department notes that it prioritizes the use of state HOME funds for areas that do not receive HOME funds directly from HUD, but sometimes those areas do not have the capacity to use these funds. However, the Department devotes very few resources to the capacity building that lower income areas need to effectively use more HOME funds.

The Department spent only 10 percent of its housing funds to assist extremely low-income families in 1999, despite a legislative goal of 15 percent.

<u>Problem:</u> Legislative mandates directing Department funds to needier Texans have not resulted in a change in the Department's overall philosophy, or its funding practices.

- After considerable debate and legislative scrutiny, the Legislature has included riders in the last three General Appropriations Acts specifically directing the Department on how to spend its housing finance funds. However, the agency has consistently fallen short of legislative goals for meeting the needs of Texans with worst-case housing needs. In fiscal year 1998, less than 6 percent of the housing funds available to the Department was used to assist extremely low-income families, when the goal set by the Legislature was 15 percent. In fiscal year 1999, only 10 percent of housing funds was spent in this lowest income category. Approximately a third of the funding used to meet these mandates is from Section 8 rental assistance that, by federal law, can only by used to serve extremely-low and very-low income individuals.

The Department's philosophy of recycling funds through loans results in a larger percentage of moderate income Texans being served, since they have a greater ability to repay the loans.

- In spite of legislative direction to increase funding to lower income categories, the Department has historically operated with a philosophy of recycling funds. This strategy of making loans versus grants ultimately results in a larger percentage of moderate-income Texans being served by the Department, since they have a greater ability to repay the loans. In addition, the majority of the Department's performance measures focus on numbers of units produced or individuals served. This approach discourages deeper subsidies for lower income families that reduce the number of individuals served.

  For example, the Department allocates a majority of its most flexible funding source, the State-funded Housing Trust Fund, in the form of loans that must be repaid. Further, the Department spent only 10 percent of its fiscal year 1999 Housing Trust funds on extremely low-income residents. By attempting to recycle even these funds through loans, the Department fails to tap one of the best resources it has for helping extremely low-income residents.

Problem: Department programs operate independently, precluding the strategic allocation and best use of housing funds.

- No agency wide system ensures that individual programs work together to meet agency goals or legislative directives. Programs operate independently and make funding decisions with little consultation across programs. Furthermore, the structure of the programs encourages housing developers to apply to meet award criteria rather than housing needs of given areas. As a result, the Department cannot meet legislative mandates to serve lower income residents across the state, because each program alone cannot meet the mandates.

- Most programs cannot independently finance the development of projects that reach lower income families. For example, tax credit projects require rents high enough to cover the debt incurred on the project. Without additional sources of funds, such as Housing Trust Fund or HOME, tax credit funded project rents are often too high to serve the lowest income families.

- The Department does not have a system to allocate funds in a way that best meets the needs of the applicant or the State. For example, many tax credit applications for development in urban areas would be better funded with private activity bond funds. Using bond funds would ensure the developers have enough funds to cover the debt and operations of the project, while freeing tax credits for use in rural or lower income areas of the state.

In this example, by not using discretion in fund allocation, the Department does not maximize two resources. Bond funds must be used for multi-family development with rents high enough to repay bond holders, and as a result work best in metropolitan areas of the state with higher median incomes. Tax credit funds, however, can be used more creatively with other sources of funding, allowing for lower rents, thus making these developments better suited for rural areas of the state. However, the Department allows both of these resources to flow primarily to metropolitan areas.

Opportunity: Local housing providers offer innovative and customized housing solutions.

- Local housing entities, such as CDCs, housing authorities, and housing finance corporations have developed innovative housing products and solutions that meet the needs of local residents while making the best use of local resources. However, limits in Department funding cycles and individual program restrictions can inhibit developers from leveraging local funding and development resources.
- In the border region of the state, CDCs, such as McAllen Affordable Homes and Brownsville CDC, use local resources to build and finance homes at a low cost, and use alternative credit underwriting that best meets the needs of local residents. As a result, these local housing developers are successful at creating affordable housing tailored to meet the needs of their community.[4] The Fifth Ward CDC in Houston also uses a mixture of local, state, and federal funds, combined with the labor of residents of the community to develop low cost homes.[5]
- Such partnerships are dependent upon relationships in the community and can only occur at the local level. To ensure the best use of state funds, the Department should encourage these local initiatives with funding cycles that ensure local developers are able to leverage private, local, and federal funds.

Recommendation

Change in Statute

3.1 Require the Department to develop a strategic plan, customized by region, to provide affordable housing and community support services.

Require the Department, in developing its strategic plan, by region, to include:

- an assessment of the need for affordable housing and community support services;

- an inventory of all resources, both publicly and, where possible, privately funded resources, including public housing authorities, housing finance corporations, community development corporations, and community action agencies;
- objectives for meeting the needs of the region, by population; and
- priorities for affordable housing and community support services.

This recommendation would require the Department to conduct a more thorough assessment of, not only the need for housing and community support services in the State, but also the supply. The year 2000 census data will provide the Department with a new opportunity to better assess the demographics of the state. This information should be combined with existing data from the various local housing and community service providers across the state, such as public housing authorities, housing finance corporations, community development corporations, and community action agencies, as a basis for assessing the demand for and supply of affordable housing in Texas. In determining the need for affordable housing and community support services, the Department should seek input from these local housing providers, as well as local governmental entities such as councils of government.

With this new and improved information the Department should decide funding priorities by region. This recommendation would not alter, but build on legislation passed in 1999 that requires the TDHCA to allocate funds "to each uniform service region based on a formula developed by the Department that is based on the need for housing assistance."[6] In allocating funds by region, the agency should establish priorities by region based on the availability of resources and need for affordable housing and community services, such as single-family housing, multi-family housing, housing rehabilitation, or non-profit capacity building. In addition to information gathered by the Department, regional priorities should be based on input from local housing and community service providers and local governmental entities.

In addition to regional priorities, this recommendation would require the Department to establish objectives for each income category. For example, if residents with extremely low incomes in rural parts of the state cannot afford the financial obligation of owning a home, the Department should establish rental subsidy as a priority for this population. In regions of the state where extremely low-income people do not have sufficient rental housing needs met by a local provider, the Department would establish multi-family development as one of the priorities for that region.

3.2 Allocate funds to meet to regional housing and community service priorities.

This recommendation would require the Department to establish priorities to ensure that:

- awards go to the applicants who are best able to meet the needs as established by the Department;
- the most flexible funds are used to serve the lowest income residents when possible; and
- funds are awarded based on an applicant's ability to:
  - create the greatest number of units,
  - reach people with the lowest percent AMFI,
  - extend the length of time the project will serve a public need, and

– use other funding sources to minimize the amount of subsidy needed to complete the project.

3.3 Create a uniform application and funding cycle for housing programs that supports projects that meet established need.

By creating a uniform application and fund allocation cycle, the Department could consider proposals together, and assess their ability to meet regional objectives. This single process would allow the Department the flexibility to apply its funding tools to each project to ensure its greatest success. All allocation decisions and applicant scoring would give the greatest weight to those projects that go the furthest to meeting the State's established housing and community service objectives.

Multi-family projects should have a single application cycle using HOME, Housing Trust Fund, Low Income Housing Tax Credits, Private Activity Cap, and 501(c)(3) bond funds. Where possible, the application should use uniform, across-the-board threshold requirements for components such as market studies and environmental reports. Developers would submit applications to meet regional need with proposed financing and the Department would then be in a position to allocate the best mix for debt and equity from its available resources to meet the State's strategic housing objectives and fund the highest quality bids.

This would allow the Legislature to eliminate the multiple legislatively-mandated funding requirements placed on the Department. Appropriation riders that direct the agency to use $30 million of housing finance funds toward families with incomes of 30 percent AMFI or lower should no longer be necessary. Once the Department applied its funding priorities to eligible applications, the resulting awards would be made to developers who go the furthest toward meeting the State need, and should therefore ensure that the lowest income residents are assisted to the maximum extent possible. Performance measures should be established to measure how effectively the Department meets identified need, by each region of the State.

3.4 Require the Department to establish an Executive Award Review Committee to make funding allocation decisions.

This recommendation would require the Department to establish a special committee to set priorities in each region of the state and make funding decisions to meet the need, subject to Board approval. This committee would provide the agency, or the Board where appropriate, with a unified approach to awarding funds to projects. Applicants would apply to meet the needs established in a particular region of the state. The committee would determine which agency funding tools would make the best use of State resources.

The committee should be comprised of program directors from Housing and Community Affairs; and one representative each from the agency's Planning, Underwriting, and Compliance Divisions. This agency wide approach to establishing funding priorities and allocations would ensure that programs and agency funds work in concert to ensure maximum benefit, rather than the piecemeal effort the agency has used to date.

Management Action

3.5 Develop a system that encourages local housing providers to use innovative products and tools that best meet the housing needs in their region.

The Department should explore ways for local housing and community service providers to fund innovative projects that are developed outside of the regular funding cycle, using lapsed funds and other de-obligated dollars or tax credits. This system would promote local creativity and allow for the development of best practices that could be modeled across the state. In awarding these grants and contracts, the Department should give extra credit to local initiatives that reach the lowest income families, and leverage private and local funds and resources.

Impact

The intent of these recommendations is to shift in the Department's funding priorities to ensure that the neediest Texans' receive housing assistance from the State. These recommendations call for a redesign of the Department's system for allocating funds for housing and community support services in Texas. A strategic plan to meet housing and community service needs by region, a uniform application and funding cycle for housing programs, and an Executive Award Review Committee would help the Department to realign its funding priorities.

Fiscal Implication

These recommendations would require the Department to enhance its current planning efforts, which would require an increase in the Department's appropriations for FTEs and equipment. These costs are estimated in the following chart.

Fiscal Year	Cost to the General Revenue Fund	Change in FTEs From FY 2001
2002	$190,000	3
2003	$190,000	3
2004	$190,000	3
2005	$190,000	3
2006	$190,000	3

[1] US Department of Housing and Urban Development, "Fiscal Year 1999 Formula Program Allocations," December 31, 1998.

[2] Letter from Daisy Stiner, Executive Director, Texas Department of Housing and Community Affairs, to the Honorable Fred Bosse, Chairman, Texas Sunset Advisory Commission, February, 11, 2000, Attachment 3.

[3] Texas Department of Housing and Community Affairs, *1999 State of Texas Low Income Housing Plan and Annual Report* (Austin, Tex., January 1999), Section 7.

[4] Interviews with Don Currie, Executive Director, Brownsville Community Development Corporation, Brownsville, Texas, December 14, 1999, and Robert Calvillo, Executive Director, McAllen Affordable Homes, Inc., McAllen, Texas, December 15, 1999.

[5] Interview with Stephen Fairfield, Fifth Ward Community Development Corporation, Houston, Texas, December 17, 1999.

[6] Tex. Gen. Govt. Code Ann. Ch. 2306, sec. 2306.111 (Vernon's Supplement 1999).

Issue 4

The Department's Administration of Multi-Family Housing Finance Programs Does Not Maximize Resources and Outcomes.

Summary

Key Recommendations

- Require the Department to increase non-profit and public housing authority participation in the Low Income Housing Tax Credit program by providing appropriate incentives.
- Require the Department's tax credit allocation process to reward applications with lower developer's fees.
- Require the Department to cap the amount of tax credits per developer at $2.4 million over a period of three years.
- Restructure the private activity bond allocation schedule so that left over funds are funneled to multi-family use.
- Provide the Department with direct allocation authority over a portion of the multi-family bond funds currently distributed through the Bond Review Board lottery.
- Modify the statutory requirements for 501(c)(3) bonds by removing the overall dollar cap and the requirement that 50 percent of the funds be allocated for new construction.

Key Findings

- The Department's administration of the Low Income Housing Tax Credit program fails to maximize outcomes in the State's interest.
- Texas' limited allocation of private activity bond funding to multi-family housing limits developers' access to low-cost debt and federal tax credits.
- The use of a lottery for allocating multi-family private activity bond funds prevents the State from distributing these funds to best meet needs.
- Current restrictions on the 501(c)(3) bond program impose unnecessary barriers to non-profits accessing these funds.

Conclusion

The State ineffectively administers the three largest programs for housing low-income families. The Low Income Housing Tax Credit program fails to reward developers proposing superior developments and does not exploit the high competition for tax credit dollars. Multi-Family Private Activity Bonds are allocated through a lottery system that precludes the strategic allocation of funds and discourages the submission of quality proposals. The $250 million available per year through the 501(c)(3) Bond program has gone virtually unused for the past three years.

In short, the State is: not allocating funds in a strategic manner, not rewarding superior applications, leaving significant funds untapped, favoring large developers over smaller non-profit corporations, and engendering a perception of unfairness in the way funds are awarded. These problems, altogether, preclude the Department from effectively serving low income families in need of affordable housing.

The Sunset review of the agency's multi-family finance programs focused on three ways to increase their efficacy in serving low income families. First, the review explored ways for the Department to reward project proposals that best serve the State's interests. Second, the review identified ways to increase the Department's flexibility in allocating multi-family funds. Lastly, Sunset identified ways to increase the amount of available resources going towards the development of affordable multi-family housing.

Support

Current Situation: The Department has three primary tools for providing affordable rental housing: low income housing tax credits, multi-family private activity bonds, and 501(c)(3) bonds.

- The tax credit, multi-family private activity bond, and 501(c)(3) bond programs are the largest housing finance programs available to the Department. By virtue of their size, these programs are capable of providing the most housing to low income Texans.

Program	Units Provided in FY 1999	Program Type	Funds Available Per Year	Selection Process
Low Income Housing Tax Credit (9% tax credits)	5,440	Equity	$25 million in FY 1999	Department selection
Multi-Family Private Activity Bonds with 4% tax credits	490	Debt and Equity	$165 million in FY 2000, and about $43 million in 4% tax credit equity	Bond Review Board Lottery, Department allocates tax credits
501(c)(3) Bonds	None	Debt	Maximum of $250 million per year, $0 spent in FY 1999	Department recommends, Bond Review Board approves

Low Income Housing Tax Credits

Current Situation: The Low Income Housing Tax Credit program is the Department's largest housing finance program.

- The Department is authorized by the Internal Revenue Service to award tax credits to developers for the production of affordable rental housing. Each year, the Department awards roughly $25 million in tax credits through a competitive application cycle. During this cycle, applications that meet certain threshold criteria are scored and ranked by the Department's staff. Although scoring plays a critical part in selecting projects, the Department is not required to rely exclusively upon the scoring system. The tax credit program's rules allow the Department to take other factors, such as geographic dispersion, site conditions, and project feasibility into account.
- Each annual allocation of tax credits must meet certain set-asides. Federal law requires that at least 10 percent of the State's tax credits must be awarded to non-profit developers. Another15 percent is set-aside for rural development. The remaining 75 percent of tax credit dollars is available in the general tax credit pool for all other projects.

Problem: The Department's administration of the Low Income Housing Tax Credit program fails to maximize outcomes in the State's interest.

- The Department's consistent, large tax credit allocations to certain developers has created the impression of favoritism within the tax credit program. Department rules allow a maximum annual allocation of $1.2 million per project and $2.4 million per developer. The latter figure was recently decreased to $1.8 million during the 2000 Qualified Allocation Plan hearing. Consistently awarding large allocations to a select few developers limits the ability of others to participate and creates the perception of unfairness within the program. This perception has undermined public confidence in the program, even discouraging some developers from participating.
- The Department limits non-profit competition for tax credits. Federal rules require that at least 10 percent of the State's available tax credits be allocated to qualified non-profit organizations. Historically, the Department has treated this minimum federal requirement as an allocation ceiling by allocating only 10 percent of its tax credits to non-profit organizations.
- The Department's scoring process for the general tax credit pool actually precludes non-profits from participating. For example, unlike for profit developers, non-profits are ineligible to receive points for

The Department's consistent, large allocation of tax credits to certain developers has created the impression of favoritism.

Frequently Asked Questions about Low Income Housing Tax Credits

When did the tax credit program begin?
The tax credit program was authorized as part of the 1986 Tax Reform Act by Congress.

What are tax credits?
A tax credit is a dollar-for-dollar reduction in federal income tax liability. Developers and their investors use the tax credits to decrease the amount of income tax owed.

How many tax credits does Texas get?
Each year the IRS awards the state $1.25 per capita in tax credits. Based on the State's population, the Department received $25.1 million in tax credits in 1999.

How much are tax credits really worth?
IRS rules allow for each dollar of tax credit to be used on an annual basis for ten years. For example, $15 worth of tax credits multiplied over ten years becomes $150. The amount of tax credits that Texas received in 1999 actually had a net worth of $251 million ($25.1 million multiplied by 10 years).

How do tax credits work?
Most developers do not have enough income tax liability to use all of the tax credits they are awarded. Developers usually sell their tax credits to purchasers known as syndicators who purchase tax credits for a fraction of the dollar. For example, if a developer wants to sell $100 of tax credits, and a syndicator offers $0.75 per dollar of tax credit, then the developer earns $75 through the sale. The proceeds from the sale then serve as the equity needed for the construction of affordable housing.

What is the difference between a 4 percent and a 9 percent tax credit?
A 4 percent tax credit is awarded to projects receiving private activity bond funds for multi-family housing development. The 9 percent tax credit is allocated through the Department's regular tax credit program. The percentages refer to the amount of tax credits that each type of project is eligible to receive based upon their eligible development costs.

Do 4 percent tax credits count against the State's total tax credit allocation?
No. The amount of 4 percent tax credits available depends on the amount of private activity bond funds available for multi-family housing development. These tax credits are essentially unlimited, and not subject to the State's annual tax credit allocation.

Why is the tax credit program so popular?
The tax credit program is the State's largest housing program. The sheer volume of funds available draws applications from throughout the state and even across the nation. In addition to its size, federal rules for the program allow developers to charge a 15 percent developer fee that covers a developer's administrative costs and provides a source of profit.

being a historically underutilized business. These policies can prevent non-profits from effectively participating in the program.

- The tax credit program is not designed to assist public housing authorities receiving HOPE VI grants from the U.S. Department of Housing and Urban Development. Many housing authorities use HOPE VI grants for the demolition of aging public housing and the construction of newer, mixed-income units.

  Although HOPE VI grants provide a significant equity contribution, the funds are often not enough. Participating public housing authorities are expected to find other sources of equity, including tax credits, for their HOPE VI projects. Although the Department has issued tax credits to housing authorities receiving HOPE VI grants, vigorous competition in the program's general category discourages housing authorities' participation, as they are given no special consideration by the Department.

The HOPE VI Program

Each year HUD makes approximately $500 million in HOPE VI grants available to public housing authorities. The program is designed to give housing authorities flexibility in revitalizing their distressed public housing developments. The goal of HOPE VI is for housing authorities to "create mixed-finance and mixed income affordable housing that is radically different from traditional public housing 'projects.'" HOPE VI grants are available to public housing authorities on a competitive basis. (Source: *U.S. Department of Housing and Urban Development*)

- The current scoring process does not reward proposals where developers are willing to accept lower developer's fees. Developer's fees pay a developer's administrative costs and profit. Federal rules allow tax credit developers to take a sizeable 15 percent developer's fee. In the 1999 tax credit allocation round, some developer's fees amounted to $2.4 million for a single project. Reductions in this fee permit more capital to be invested in the housing project itself. The current selection process does not reward developers, such as non-profits, willing to accept lower profits in the interest of investing more capital into a housing project.

- Developers are not encouraged to solicit the highest offers from syndicators for the sale of tax credits. Under the current process, developers are required to demonstrate that they have an offer from a tax credit syndicator. Once developers are awarded tax credits, they usually get offers from other syndicators to pay more for the available credits. The Department does not encourage applicants to solicit these higher offers for tax credits during the application phase.

Squeezing Pennies Out of Tax Credit Dollars

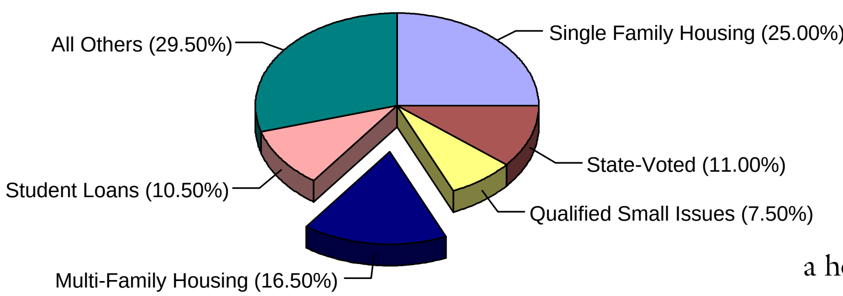
Most tax credit developers receive a higher offer for their tax credits after the Department has awarded them funds. For example, a developer originally told the Department that she had an offer to purchase the tax credits at $0.75 on the dollar from syndication firm XYZ. After the developer was awarded tax credits, however, she received an offer for $0.80 from firm ABC. The new offer would allow five additional cents of equity per tax credit dollar to be invested in the housing project. For example, if a developer received a tax credit allocation worth $10 million, then the original syndication offer would earn the developer $7.5 million in equity for the project. The latter syndication offer, however, would earn the developer $8 million. The additional $500,000 helps fund the project.

Multi-Family Private Activity Bonds

<u>Current Situation</u>: The Multi-Family Private Activity Bond program provides tax-exempt bond financing and 4 percent tax credits to multi-family housing developers.

- The amount of private activity bond funds allocated for multi-family use is set by the Legislature. For fiscal year 2000, 16.5 percent, or roughly $165 million, is reserved for multi-family housing. This percentage is reflected in the chart below. The State's Bond Review Board allocates the multi-family housing cap among issuers within the State.

Private Activity Bond Allocation
Calendar Year 2000



Developers seeking private activity bond financing have the option of being sponsored by either the Department or a local housing finance corporation. Housing finance corporations can only sponsor private activity bond projects located within their jurisdiction. The Department can sponsor projects anywhere, even within the jurisdiction of a housing finance corporation.

Developers applying for private activity bond funds through the Department must meet the required unit set-asides and maximum rents. Once these criteria are met, the application is then submitted by the Department to the Bond Review Board for entry into the allocation lottery pool. Applications sponsored by housing finance corporations are also entered into the lottery pool. The competition for an allocation is extraordinarily high. For example, in 1999, applications requested 1,407 percent of available funds. If a project "wins" the lottery, and receives a commitment, then it must go to the Department to receive its 4 percent tax credit allocation.

<u>Problem</u>: Texas' limited allocation of private activity bond funding to multi-family housing limits developers' access to low-cost debt and federal tax credits.

- The State's private activity bond cap for multi-family housing (16.5 percent in fiscal year 2000) is low given the large statewide demand for affordable housing. Other states with growth patterns comparable to Texas' allocate a larger portion of their private activity bond capacity to multi-family housing. For example, California allocates 54.3 percent of its volume cap to multi-family housing and Florida allocates 25 percent.

Historically, Texas has allocated few private activity bond funds towards multi-family housing. Last year, however, the Legislature increased the multi-family bond cap from 7.5 percent to 16.5 percent. Despite the increase, the cap is still low relative to the caps set by the Legislature for single family housing (25 percent) and the other issues category (29.5 percent).

- The low cap for multi-family housing presents two opportunity costs. First, it limits developers' ability to access low-cost debt for affordable housing development. Second, the low cap hinders the State's capacity to capitalize on 4 percent federal tax credit allocations available for all multi-family private activity bond transactions. Each 1 percent increase in the multi-family cap makes an additional $2.6 million in tax credits available for affordable housing development. A 10 percent increase in the cap could make an additional $26.3 million in tax credits available.

Problem: The use of a lottery for allocating multi-family private activity bond funds prevents the State from distributing these funds to best meet needs.

- Multi-family private activity bond funds are allocated through a lottery administered by the Bond Review Board. Distributing funds on the basis of random selection precludes the strategic allocation of a key state resource for providing affordable housing. Projects that serve special needs groups such as the disabled or elderly, or that specifically meet the housing needs of a certain area, do not receive preference in the lottery system. In addition, the lottery system does not reward quality projects, such as those with added social services or a proven readiness to proceed.

Distributing funds via a lottery precludes allocations to serve groups with special needs, such as the disabled or elderly.

- The lottery system does not encourage the submission of sound, workable projects. Some developers submit a large number of applications for the lottery because the greater number of applications increases their odds of "winning" a bond reservation. In their attempt to submit multiple applications, some developers are unable to adequately structure their proposals, and submit lower-quality applications to any bond issuer willing to accept them. In addition, the lottery system favors large developers that have the capacity to submit numerous applications, thereby excluding smaller developers who do not have that ability.

  In some instances, proposals that previously failed to meet the Department's underwriting standards have been sponsored by local housing finance corporations with less stringent criteria. Some of these projects won approval but were later incapable of closing within the required 120 days.

Problem: The Department's allocation of 4 percent tax credits to private activity bond projects is inefficient and can cause unfair delays.

- The TDHCA Board votes on 4 percent tax credit allocations for all private activity bond projects. This procedure gives the Department significant control over the multi-family private activity bond program, effectively subjugating the policies of local housing finance corporations to the Department's decisions.

  For example, developers sponsored by local housing finance corporations have had trouble receiving the tax credit allocation from the Department in time to meet the Bond Review Board's commitment time frame. Some developers indicated that they lost their bond reservations because the Board failed to allocate their tax credits on time.

  This situation creates a potential conflict of interest for the Department. If the TDHCA Board chooses to deny or delay credits to deals not sponsored by the Department, the sponsors can lose their bond reservations. This effectively moves Department-sponsored deals up on the waiting list, allowing the Department to increase its issuances, and capitalize off of the resultant issuance fees.

501 (c)(3) Multi-Family Bonds

Current Situation: The 501(c)(3) Multi-Family Bond program is only available to non-profit corporations for the development of affordable housing.

- The 501(c)(3) Bond program provides tax-exempt bond financing to non-profit corporations for the development of multi-family housing. Unlike the private activity bond program, the 501(c)(3) program does not come with a 4 percent tax credit allocation. The amount of 501(c)(3) funds that the Department can issue is capped at $250 million per year. These bonds are issued once a non-profit developer has received approval from the Department and the Bond Review Board. No 501(c)(3) bond funds were issued during fiscal year 1999.

Problem: Current restrictions on the 501(c)(3) bond program have resulted in this significant resource for building affordable housing being virtually untapped.

- The Department's statute requires that at least 50 percent of all 501(c)(3) bond issuances be used for new construction or acquisition with substantial rehabilitation. The high cost of these types of projects, however, makes it difficult to use a debt instrument like bonds without an equity component.

The Limits of 501(c)(3) Bond Transactions

Unlike private activity bonds that include a tax credit allocation, 501(c)(3) bonds do not have an equity component. As a result, the bonds work best for acquisition and/or rehabilitation projects since these projects typically cost less than new construction. Bonds can be used for new construction if the participating non-profit organization manages to bring its own source of equity into the project.

The Department has not been able to sponsor any 501(c)(3) projects that meet the 50 percent requirement. The Department's inability to meet this requirement has also kept it from using the program for other strategic purposes such as preservation. As a result, the state's 501(c)(3) program has remained largely unused, in spite of the $250 million in bond authority available. For example, no 501(c)(3) bond funds were issued by the Department in 1999.

- The Department's statute requires that the Bond Review Board place a cap on the amount of 501(c)(3) bonds issued by the Department. Federal rules for the program, however, do not require a cap. If the Department were to effectively activate the program, the cap might unnecessarily limit the program's ability to finance the development and preservation of affordable housing by non-profit organizations.

State Resources for Affordable Housing

<u>Opportunity</u>: The State of Texas needs additional financial resources for the development and preservation of affordable housing.

- The State dedicates few of its own resources towards affordable housing. Currently, federal resources constitute over 90 percent of the Department's budget. Reliance on federal resources limits the Department's ability to creatively design programs to meet Texas' housing needs.

The State needs to increase the resources available for the development of affordable housing.

- Projects require other sources, or layers, of funding to serve lower income families. The two housing programs that have the greatest ability to provide additional layers of funding, HOME and Housing Trust Fund, are currently not large enough to be effective as additional sources of equity for multi-family developments.

- The State needs to increase the resources available for the development of affordable housing. With the exception of the Housing Trust Fund, the State has not created any other program for housing development, relying instead on federally-funded programs. Alternatives for the creation of new programs are available, however. One such example is a mortgage insurance program that would reduce the level of risk exposure for private lenders underwriting affordable housing development.

  Other states such as Florida, New York, and Massachusetts already have state-run mortgage insurance programs designed to assist the development of affordable housing. The Florida program alone has facilitated the construction of over 8,300 multi-family units. A mortgage insurance program would fill a gap caused by the absence of mortgage insurers for affordable housing development in Texas. Other potential programs include a bridge financing program, the creation of public-private partnerships, and dedicated sources of revenue for housing.

Recommendation

Change in Statute

4.1 Require the Department to increase non-profit and public housing authority participation in the Low Income Housing Tax Credit program by providing appropriate incentives.

The Department should change its program structure to:

- reward services that non-profit organizations are capable of providing, and
- reward public housing authorities receiving HUD HOPE VI grants.

This recommendation would not require an increase in the set-aside for non-profit developers. Instead, current barriers to non-profit participation in the general tax credit pool, such as not allowing non-profits to receive points for HUB participation, should be removed. As part of this recommendation the Department should adopt evaluation criteria that reward services that non-profit organizations are capable of providing. Examples of these services include superior social services, developing housing in traditionally under-served areas, holding properties in trust for perpetuity, and garnishing a higher degree of community support. The Department should also take steps to ensure genuine non-profit participation in a project's development. The Department should ensure the score reflects the true quality of the proposal for each factor, as opposed to awarding a set number of points for minimal compliance.

As part of this recommendation, the Department should also reward public housing authorities receiving HOPE VI grants from HUD. Public housing authorities have expertise in serving extremely low income families and keeping properties affordable for long periods of time. This recommendation would ensure that tax credit resources go to those entities that have a proven capability to serve low income Texans in need of affordable housing.

4.2 Require the Department's tax credit allocation process to reward applications with lower developer's fees.

As part of this recommendation the Department should adopt a system to reward both for-profit and non-profit developers willing to earn less profit from their tax credit project and invest more of their tax credit equity into the project. Rewarding lower developer's fees encourages greater capital investment in tax credit projects and an increase in quality of the completed housing project.

4.3 Require the Department to cap the amount of tax credits per developer at $2.4 million over a period of three years.

This recommendation would help spread the use of tax credits to more developers overall, and hopefully to more developers throughout the state. Furthermore, lowering the amount of tax credits that each developer is eligible to receive over time should decrease the factors creating the perception of favoritism within the program. In addition, this recommendation would give developers receiving large allocations time to establish a compliance and program performance history before receiving additional funds. This recommendation would apply to developers and principals associated with tax credit projects.

4.4 Restructure the private activity bond allocation schedule so that left-over funds are funneled to multi-family use.

This recommendation does not require that the existing set-aside for multi-family use under the private activity bond program be changed in the Bond Review Board enabling legislation. Rather than increase the set-aside, this recommendation directs all left-over funds in the other categories to go towards multi-family use at the end of the program year. This will require that multi-family use of the volume cap be carried-over to the subsequent year for actual closing purposes. This will have an effect similar to an increase in the set-aside, thus increasing the amount of 4 percent tax credits that the State is eligible to receive.

4.5 Provide the Department with direct allocation authority over a portion of the multi-family bond funds currently distributed through the Bond Review Board lottery.

This recommendation would allow the Department to strategically allocate a portion of the existing multi-family bond set-aside to meet state need. Like the Department's current allocation of single family private activity bond funds, multi-family allocation decisions by the Department would not be subject to the Bond Review Board's lottery system. The Department's allocation of private activity bond funds could be coordinated with complimentary programs such as tax credits and HOME.

This recommendation would also allow the Department, in certain circumstances, to pool its issuances, thereby decreasing the associated costs. The appropriate allocation amount would be determined by the BRB based upon historical data. Lastly, to avoid unfair advantage, this recommendation would remove the Department's role in sponsoring any multi-family bond projects in the annual private activity lottery.

4.6 Modify the statutory requirements for 501(c)(3) bonds by removing the overall dollar cap and the requirement that 50 percent of the funds be allocated for new construction.

This recommendation would remove the Bond Review Board's cap for the 501(c)(3) bond program. In addition, it would remove the statutory barriers to the 501(c)(3) bond program's ability to fully function and allow non-profits greater access to this significant source of funds for affordable housing development. The 501(c)(3) bonds could be used for acquisition, rehabilitation, or new construction; no new construction set-aside would have to be fulfilled. This recommendation would give the State a needed resource for the preservation of affordable housing.

Management Action

4.7 The Department should publish the final tax credit syndication rates and payment schedules used by projects receiving allocations from the previous year.

This recommendation would require that the Department research and publish what the final rates and schedules were for each tax credit project. This information should be available on the Internet through the Department's website. This information would inform applying developers of which tax credit syndicators can supply the better rates. This recommendation would encourage developers to shop around for syndication rates, and receive rates that maximize the use of each tax credit dollar.

4.8 Require that all multi-family private activity bond projects with a bond reservation automatically receive their 4 percent tax credit allocation.

This recommendation would help speed up the closing of projects sponsored by the Department and local housing finance corporations. The Department would still underwrite all bond projects to determine the appropriate tax credit allocation amount. The TDHCA Board, however, would no longer be required to vote on the 4 percent allocations.

4.9 Require that the Department study and assess other types of housing finance program options.

Other states use a variety of programs to maximize the financial resources available for the development and preservation of affordable housing. The Department should inventory what other states do, and gauge what the Department could do. The types of programs studied should include, but not be limited to, a bridge financing program, a multi-family mortgage insurance program, a dedicated source of revenue, and avenues for public-private partnerships.

A report on the study should be made available to the appropriate standing committees of the Legislature no later than February 1, 2001. While this time frame is short, the Department should be able to provide basic information on these points in time for the legislative deliberation of its Sunset bill.

Impact

The tax credit and private activity bond projects built over the past decade represent a significant departure from traditional concepts of publicly-subsidized housing. Most developments sponsored by the agency are actually well-built, handsome apartment complexes that are easily mistaken for market rate developments. Tax credit and bond developments are anything but "projects" that serve as warehouses for the poor.

Multi-family housing development is a low-cost, efficient way to providing affordable housing for Texas' low income families. While the Department currently funds the development of a significant number of multi-family units each year, the surging statewide demand for affordable housing requires a greater effort by the Department to provide more. The intent of these recommendations is to enable the Department to leverage existing resources to provide more housing. The recommendations would also capitalize on the existing capability of the tax credit and bond programs to provide quality housing throughout the state by requiring more of each proposed project.

Fiscal Implication

Recommendations related to how the Department allocate Low Income Housing Tax Credits would primarily require changes in rules and procedures that could be accomplished with existing resources. The recommendation restructuring the private activity bond allocation schedule would increase the amount of 4 percent tax credits available within the State. Each one percent increase in the multi-family cap makes an additional $2.6 million in tax credits available for affordable housing development, which translates into about 50 new units of affordable housing. Providing the Department with direct allocation authority over a portion of multi-family bonds would require additional staff in the multi-family finance and credit underwriting areas. These costs would be offset by revenue from applications fees.

Issue 5

The Department Does Not Actively Ensure That Its Programs Provide Fair Access to Housing.

Summary

Key Recommendations

- Require the Department to obtain certifications of compliance with anti-discrimination laws by applicants for all housing-related programs.
- Require the Board to establish procedures, in rule, to monitor and enforce compliance with fair housing laws.
- Require the Department to adopt a policy, in rule, that identifies reasonable Section 8 admittance policies for all tax credit properties.
- Require the Department to establish procedures, in rule, to monitor and take action against tax credit properties that, as policy, refuse to accept tenants with Section 8 vouchers.
- Require the Department to train all employees on fair housing laws, and maintain at least one employee with experience in fair housing in its Compliance Division.

Key Findings

- The Department does not ensure that all of its programs further fair housing objectives.
- Many tax credit properties use admittance policies that discriminate against Section 8 voucher holders.
- Tax credit properties' use of requirements that exclude persons with Section 8 vouchers makes both the Department and property owners liable to litigation.

Conclusion

Although federal and state laws prohibit housing discrimination in the State's housing-related programs, the Department does not actively ensure that its programs provide fair access to housing. Developers using state-issued funds, or tax credits, may be engaging in unlawful practices. Sunset staff found evidence that some tax credit developers' practices exclude certain low income tenants, and the lack of adequate action by the Department to discourage or stop these practices subjects the agency to possible litigation.

The Sunset review identified specific recommendations for the agency to help ensure fair access to its housing-related programs, particularly low income families using Section 8 vouchers. These recommendations would require the Department to adopt policies to prevent discrimination by developers receiving funding through the Department, and establish compliance procedures to identify and sanction discriminatory practices by landlords once projects are built and operational.

Support

Current Situation: Federal and state laws prohibit discrimination in the State's housing programs.

> **TDHCA Statutory Prohibition of Discrimination**
>
> An individual may not, because of that individual's race, color, national origin, or sex, be excluded from participation, be denied benefits, or be subjected to discrimination in any program or activity funded in whole or in part with funds made available under this chapter.

- The Department's statute, the Texas Fair Housing Act, and the federal Fair Housing Act all prohibit housing discrimination. The Texas Fair Housing Act charges the Texas Commission on Human Rights with the primary responsibility for addressing housing discrimination, and requires the Commission to cooperate with other entities that design or operate programs to prevent or eliminate discriminatory housing practices.
- Federal rules for the Low Income Housing Tax Credit Program prohibit property owners from refusing to rent to an individual because of his or her status as a Section 8 voucher holder. This prohibition is a part of the land use restriction agreement (LURA) required for all tax credit properties developed after August 1993.
- Developers applying for tax credits are required to show that they have committed in writing to a local public housing authority that they will consider families on that housing authority's Section 8 and public housing waiting lists as potential tenants.

> **What is a Section 8 Voucher?**
>
> Section 8 vouchers are issued by local public housing authorities and the Department to low income families in need of rental assistance. In general, Section 8 vouchers pay a portion of a low income family's rent. The family must find housing on its own and is responsible for the remainder of the rent.

Problem: The Department does not ensure that all of its programs further fair housing objectives.

- Despite the Department's role as the State's lead housing agency and the application of numerous housing anti-discrimination laws, the Department does not take steps to actively ensure that all of its programs further fair housing objectives. Although the federal Fair Housing Act requires the Department to affirmatively further fair housing in its administration of the HOME and Community Development Block Grant programs, no requirement exists for the myriad of other Department housing-related programs.
- In its 1997 report, *Analysis of Impediments to Fair Housing*, the Department identified strategies to affirmatively further fair housing.[1] These strategies focused on serving low income individuals, but did not specifically address the needs of protected classes such as the elderly, minorities, or people with disabilities. The agency has not adopted any policies or procedures to ensure its program applicants or participants comply with anti-discrimination laws, with one exception. The Department's statute explicitly requires Youthworks Program applicants to certify their compliance with anti-discrimination laws.

- The agency lacks policies on monitoring program participant compliance with anti-discrimination laws, and it lacks procedures to take action against participants who do not meet fair housing requirements. Although some employees have attended fair housing training, the Department does not employ anyone with specific expertise in the area of fair housing.

Some tax credit properties refuse to accept tenants with Section 8 vouchers.

Problem: Many tax credit properties use admittance policies that discriminate against Section 8 voucher holders.

- Many tax credit properties use minimum income policies that require tenants to earn as much as three times the rent. These policies make tax credit housing out of reach for families with Section 8 vouchers. A study conducted by Legal Aid of Central Texas found that the use of minimum income policies by tax credit projects in the Austin area excluded 87 percent of the participants in the Austin Housing Authority's Section 8 program.[2]

- Some tax credit properties simply refuse to accept tenants with Section 8 vouchers. For example, a recent study by Legal Aid of Central Texas found eight tax credit properties in the central Texas area that refuse to accept Section 8 vouchers. Another study of tax credit projects in the Dallas area, by the Dallas Housing Authority, also found instances where Section 8 vouchers are not accepted.

A study in Austin showed that minimum income policies excluded 87 percent of Section 8 voucher holders.

- In July 1998, the Department approved over $1 million in tax credits for a 200-unit project in San Antonio. One month later, the City of San Antonio passed a zoning ordinance precluding the developer from accepting Section 8 vouchers.[3] This requirement clearly placed the project in violation of the federal code governing the tax credit program.

  To date, this project has not been completed, so tax credits have not been formally issued. The Department has indicated it can take no action to remedy the situation until the project is completed and an actual violation has occurred. This approach does not reflect an aggressive position that, to the maximum extent possible, clearly signifies that the State will not tolerate this practice.

Problem: Tax credit properties' use of requirements that exclude persons with Section 8 vouchers makes both the Department and property owners liable to litigation.

- The Department currently maintains that the use of minimum income requirements is acceptable. During the public testimony at a Board meeting late last year, the Texas Low Income Housing Information Service asked the Department to examine the legality of the use of minimum income requirements. In response to this request, the Department sought the opinion of an independent counsel. The counsel, in a privileged and confidential response, reported to the Board in January 2000 that no violation was found. In response, the Board took no action to require tax credit projects to ensure access to tenants with Section 8 vouchers.

Rent, Minimum Income Requirements, and Section 8

Assume that the typical rent for a one bedroom unit is $500 a month. If the property owner requires that the renter must earn three times the rent, then the renter must have a minimum income of $1,500 a month. This amount is more than what the typical Section 8 tenant earns in a month.

Now assume that the renter for the same $500 unit has a $400 Section 8 voucher. Since the voucher pays $400 of the rent, the tenant is responsible for only $100. If the property owner required the tenant to earn three times the remainder of the rent, then the tenant would need to earn only $300 a month. This would make tax credit housing much more accessible to tenants with Section 8 vouchers.

The Department faces a potential lawsuit if it accepts tax credit properties' use of minimum income requirements that, in effect, exclude members of protected classes. The use of minimum income requirements by tax credit properties excludes a significant proportion of households with Section 8 vouchers, many of whom are members of protected classes such as the elderly, disabled, women, and African Americans.[4]

Tax credit properties' use of income requirements could lead to lawsuits claiming discrimination.

- The Department has not taken corrective action against tax credit properties that refuse to accept Section 8 vouchers. Failing to ensure that tax credit properties meet federal requirements could subject the Department to a lawsuit.
- In 1998, Legal Aid of Central Texas filed suit against two tax credit properties on grounds that their use of minimum income policies had a disparate impact on disabled and African American households. Legal Aid argued that the use of minimum income policies violates the federal Fair Housing Act because of the disparate impact. The case was settled out of court when the developer of the properties in question agreed to discontinue the use of minimum income requirements.

Recommendation

Change in Statute

5.1 Require the Department to obtain certifications of compliance with anti-discrimination laws by applicants for all housing-related programs.

5.2 Require the Board to establish procedures, in rule, to monitor and enforce compliance with fair housing laws.

Using the Youthworks program as a model, the Department should require all housing-related program applicants to certify compliance with:

- state and federal fair housing laws, including Title VIII of the Civil Rights Act of 1968, the Fair Housing Amendments Act of 1988, and the Texas Fair Housing Act;
- the Civil Rights Act of 1964;
- the Americans with Disabilities Act of 1990; and
- the federal Rehabilitation Act of 1973.

This would apply to all of the Department's housing-related programs, including the 27 programs identified in its *Analysis of Impediments to Fair Housing*[5] report. The agency should not fund projects that do not meet this requirement.

To implement these two recommendations, the Department would need to develop rules in conjunction with the Texas Commission on Human Rights. The two entities should work together to collect necessary information from program participants. The rules should include procedures governing certification of compliance with fair housing laws and ongoing requirements for measuring compliance. The Department should be required to notify the Commission on Human Rights if its monitoring efforts suggest a possible violation of anti-discrimination laws.

The rules should also contain a range of sanctions, with reasonable time frames for correction, for non-compliance, from public reprimand up to and including removal of funding and prohibition from applying for future funding. These sanctions could be applied in addition to any action taken by the Commission on Human Rights. Finally, adopting these procedures in rule would provide the public with an opportunity to participate in the process.

5.3 Require the Department to adopt a policy, in rule, that identifies reasonable Section 8 admittance policies for all tax credit properties.

This recommendation would require the Department to adopt rules for the acceptance of Section 8 vouchers at tax credit properties. These rules should include a reasonable minimum income policy for Section 8 tenants. In addition, these rules should address other factors that can preclude Section 8 tenants access to tax credit housing. These factors should include, but not be limited to, credit histories, security deposits, and employment history. These rules should be adopted through a public process involving all interested parties.

5.4 Require the Department to establish procedures, in rule, to monitor and take action against tax credit properties that, as policy, refuse to accept tenants with Section 8 vouchers.

This recommendation would increase the Department's role in ensuring that tax credit properties are in compliance with federal rules regarding the acceptance of Section 8 vouchers. This recommendation would have the Department develop a range of sanctions to use against tax credit properties that refuse to accept tenants with Section 8 vouchers. The policies and procedures for monitoring compliance and enforcing sanctions should be adopted through a public input process.

Management Action

5.5 Allow tenants to seek relief from tax credit property landlords if denied housing on the basis of their Section 8 status. Allow tenants seeking relief to be awarded compensation and attorney's fees.

This recommendation would require that the Department change the land use restriction agreement (LURA) for tax credit properties to allow Section 8 voucher holders to seek relief and attorney's fees if they think that they have been subject to discrimination. The LURA for Resolution Trust Corporation properties already includes strong language permitting tenants legal recourse and compensation in the event that they have been discriminated against by their landlord. The LURA for tax credit properties does not include such language or provisions. This recommendation would strengthen the tax credit LURA by giving Section 8 tenants the right to challenge landlords who deny them housing on the basis of their Section 8 status. In addition, this recommendation would ease the Department's burden in enforcing Section 8 requirements by allowing tenants to litigate against landlords in violation of the law.

5.6 Require the Department to train all employees on fair housing laws, and maintain at least one employee with experience in fair housing in the Compliance Division.

This requirement would improve employee awareness of the agency's important duty to further fair housing. This would also provide the agency with the necessary expertise to ensure that individuals and entities receiving money from the Department do not discriminate against any protected classes. The agency could provide the training in-house, or it could use training provided by the Commission on Human Rights or HUD.

Impact

Like the agency's duty to affirmatively further fair housing in certain federal programs, the intent of these recommendations is to ensure that the Department does not fund individuals and entities who discriminate against any protected classes or violate state or federal fair housing laws. With respect to the Section 8 voucher and tax credit programs, these are the two largest housing resources available to low-income families. Each program is designed to assist a different type of low income household. The Section 8 voucher program helps extremely low income families, while the tax credit program assists the "working poor." Tenants with Section 8, however, are having a harder time finding housing in a private market with constantly increasing rents. Apartment complexes in the private market are not required to accept Section 8 vouchers. The failure of tax credit properties to accept Section 8 tenants highlights a significant disconnect in public policy. These recommendations bridge that gap.

Fiscal Implication

The recommendations requiring training, monitoring, and enforcement would result in increased responsibilities for the Compliance Division and may require additional staff. Costs for additional staff would be offset by an appropriate increase in the application and/or compliance fee paid by developers who apply and receive funding from the Department.

[1] "Analysis of Impediments to Fair Housing," report prepared by the Texas Department of Housing and Community Affairs, April 1997.

[2] Legal Aid of Central Texas, Summary of Tax Credit Survey Results, December 1999.

[3] City of San Antonio Zoning Ordinance, Case Number Z98191, August 1999.

[4] Legal Aid of Central Texas, Summary of Tax Credit Survey Results, December 1999.

[5] "Analysis of Impediments to Fair Housing," April 1997.

Issue 6

The Department is Not Fulfilling Its Role to Preserve Expiring Affordable Housing Stock.

Summary

Key Recommendations

- Require the Department to create a staff function with the responsibility to develop and implement policies designed to preserve affordable housing.
- Require the Department to establish a minimum 10 percent set-aside from the multi-family allocation process for preservation projects.
- The Department should establish an Office of Housing Preservation.

Key Findings

- The Department allocates few staff resources towards preservation efforts despite its mandate to preserve affordable housing.
- The Department's existing policies do not adequately encourage preservation.

Conclusion

The State needs a policy for preserving at-risk projects. Texas could lose nearly 13 percent of its subsidized rental housing units over the next five years. Many of these units house extremely low income, disabled, and elderly Texans. Thousands of tenants could be left without a home if the units are not kept affordable.

The Sunset review identified several measures to position the Department so that it would have a dedicated effort to identify housing properties in jeopardy and take steps to protect them to the extent possible. The review also found that the Department could adjust its housing finance programs to encourage better preservation in the future.

Support

<u>Current Situation:</u> Texas risks losing thousands of affordable housing units as affordability contract periods expire or are forgiven and as units deteriorate.

- The state risks losing over 20,000 affordable housing units provided through four programs. These programs are the project-based Section 8 housing program, the Low Income Housing Tax Credit Program, the Texas Rural Development Program, and housing in the Resolution Trust Corporation (RTC) portfolio. The following chart provides more detail on these programs.
- Most Section 8 projects were built in the late 1970 's and early 1980s. Project owners participating in the program were required to rent their units to very low income households for 20 to 30 years. Once this contract period expires, project owners have the option to either renew their contract with the U.S. Department of Housing and Urban Development (HUD) and maintain their income restrictions, or opt out of the Section 8 program and convert their units for market use at higher rents. Tenants living in projects that convert to market rates must either pay the higher market rents or find housing elsewhere.
- Federal law requires all tax credit properties to house low income families for a period of 15 years if built before 1990, or for 30 years if built after 1990. After these projects have served their 15- or 30-year compliance period, project owners can either maintain their affordability set-aside or convert their projects to market rents.
- The Department has an agreement with the Federal Deposit Insurance Corporation (FDIC) to monitor compliance for all Texas properties in the RTC portfolio. Under this agreement, the Department ensures that each RTC property is in compliance with the affordability requirements in its land use restriction agreement (LURA). If a property becomes physically obsolete, the Department has the authority to release it from its LURA, thereby removing the property from the State's affordable housing inventory.
- Most of the properties in the Texas Rural Development program are small, multi-family complexes located in rural areas with 40-year affordability restrictions. Although the U.S. Department of Agriculture has financed the operation of these properties, it has not provided any funding for their rehabilitation, increasing the risk that the properties will deteriorate into obsolescence.

Housing Program *Administrator*	**Program Description**	**Units Provided**	**How Units are Typically Lost**	**Number of Units at-Risk**
Project-Based Section 8 *U.S. Department of Housing and Urban Development (HUD)*	Section 8 projects are multi-family projects built with federal support to serve low income families. Projects participating in this program receive a subsidy from HUD that helps pay the rents for low income tenants. These projects are also supported by FHA-insured mortgages.	49,170 *11% of all subsidized units in Texas*	Project owners opt out of Section 8 contract renewal.	21,000 units lost, another 10,000 at risk of being lost before 2005
Low Income Housing Tax Credit *Texas Department of Housing and Community Affairs (TDHCA)*	Tax credit units include single-family and multi-family projects sponsored through the Department's tax credit program. The subsidy provided by the tax credits helps lower development costs, allowing completed projects to rent to low income families.	Over 80,000 *17% of all subsidized units in Texas*	Projects complete their 15 or 30 year compliance period.	Over 10,000 units at risk of being lost between 2002-2004
Resolution Trust Corporation *Federal Deposit Insurance Corporation (FDIC)*	In the late 1980s thousands of bankrupt housing developments were acquired by RTC. These properties were sold cheap to private developers provided that they make a share of the units available to low income families. This portfolio is currently administered by FDIC.	49,829 *11% of all subsidized units in Texas*	Department agrees to release property from its land use restriction agreement, affordability restrictions are removed.	Unknown
Texas Rural Development *U.S. Department of Agriculture (USDA)*	Housing in the Rural Development portfolio was developed through a low interest loan from the federal government. Once built, these projects continue to receive a rental subsidy for low income tenants from USDA.	26,881 *6% of all subsidized units in Texas*	Projects depreciate into dilapidated condition, declared obsolete, demolished.	Unknown

Problem: The Department allocates few staff resources towards preservation efforts despite its mandate to preserve affordable housing.

- The Department's enabling statute has required for several years that it cooperate in the preservation of affordable housing. Despite this mandate, the Department does not have a visible preservation function. No division within the Department has any significant preservation focus. Only one FTE within the Department, the

The Department does not have a visible preservation function.

Director of the Multi-Family Bond Program, has demonstrated expertise in the area of affordable housing preservation.

- The Department does not maintain information resources to support crafting preservation strategies. The Department cannot match projects with expiring affordability restrictions to non-profit organizations with the capacity and the resources to maintain them. The Department does not know which projects are at risk of being lost and has no method of identifying projects that are worth preserving.
- The Department does not have a plan to purchase at-risk housing. The Department's statute authorizes it to develop a program for the purchase of expiring tax credit properties. Such a program has yet to be developed. In addition, the Department has no policies to guide the purchase of at-risk project-based Section 8 housing.

Problem: The Department's existing policies do not adequately encourage preservation.

- The Department's award processes do not encourage projects that propose longer affordability periods or placement of affordable housing in trust for perpetuity. Proposed projects are only required to meet the minimum time requirements. Bonus points in the allocation process have resulted in few preservation projects receiving awards.
- Department policies favor new construction over preservation. The majority of funds issued through the Department's programs go to new construction projects. Major housing programs such as the Low Income Housing Tax Credit, HOME, and the use of private activity bonds, do not have a significant preservation focus.

  For example, the tax credit program set aside 4 percent of the total allocation for Texas Rural Development projects, of which only two-thirds went towards preservation. These policies fail to take into account the fact that acquisition and rehabilitation, the two key components of affordable housing preservation, are cheaper than new construction. A recent study of the tax credit program by the U.S. General Accounting Office found that the average costs for new construction were $68,000 per unit, while those for substantial rehabilitation were roughly $48,000 per unit.[1]

No clear, open policy guides the release of property from affordability requirements.

- The Department has no clear, open policy for the disposition of RTC properties. In 1998, the Department authorized the release of an RTC project in Austin from its affordability requirements on grounds that the property was obsolete. This decision was made without a public hearing. The occupants of the property in question were never informed of the Department's action until they were requested to leave. Independent analysis of the property concluded that the property was viable.[2] Despite this analysis the project was sold, demolished, and the State lost 40 units of affordable housing. The Department did not follow any formal procedure in approving the release of the project's land use restriction agreement.

Recommendation

Change in Statute

6.1 Require the Department to create a staff function with the responsibility to develop and implement policies designed to preserve affordable housing.

With this recommendation, the Department would create a function with staff dedicated to affordable housing preservation. Duties would include, but not be limited to, maintaining data on housing at risk of being lost, advising other housing program areas on policies that can enhance preservation strategies, and developing policies that ensure that the Department's existing housing portfolios remain intact.

6.2 Require the Department to establish a minimum 10 percent set-aside from the multi-family allocation process for preservation projects.

A minimum of 10 percent of all tax credit, private activity bond, and 501(c)(3) bond funds should be reserved for preservation purposes. These programs have the financial capacity to work in the preservation of affordable housing. The amount of funds set aside each year for preservation, beyond the required 10 percent, should be determined through the public hearing process. The set-aside is a minimum and will not adequately address the need. However, the requirement is a starting point and will begin a process of ensuring that preservation is a priority for the State. Housing Trust Fund and HOME funds, because of their limited availability for the development of multi-family housing, should not be set aside for preservation purposes, but they should not be excluded entirely from preservation uses.

6.3 Require the Department to establish incentives for longer or permanent affordability periods for multi-family housing.

The key incentive the Department could use would be to give extra points or credits to applications for multi-family housing that propose longer or permanent affordability periods. This would encourage applicants, through a competitive process, to extend the affordability period of proposed projects as long as possible rather than simply meeting a minimum affordability requirement.

Management Action

6.4 The Department should establish an Office of Housing Preservation.

This recommendation provides direction as to how the Department should comply with the proposed statutory requirement for a dedicated staff effort for preservation. In structuring the Office, the Department should include the following.

- Create and maintain a database on all affordable housing projects throughout the state at risk of being lost. The properties in this database should include, at a minimum, those in the tax credit, project-based Section 8, Rural Development, and RTC programs. This database should have information about each project's physical condition, rents, and, among other things, local real estate market data.
- Monitor the pending expiration of properties arriving at the end of their affordability requirement.
- Create a database of certified non-profit organizations that are capable of keeping a property permanently affordable.
- Develop a capacity building program for non-profit organizations to keep a property permanently affordable for low income families.
- Recommend preservation projects for the multi-family allocation set-aside.
- Develop a policy for the purchase of federally-subsidized or tax credit properties that are not purchased by qualified non-profit organizations.

This Office would enhance the Department's efforts to strategically plan for and follow through on preservation efforts. Although this recommendation calls for the creation of a new office for preservation purposes, a portion of the required duties, particularly the monitoring of property expiration, could be accomplished through the Department's Compliance Division.

6.5 The Department should adopt a policy for the release of an RTC property land use restriction agreement.

The Department needs to identify criteria and procedures for approving the release of RTC properties from their land use restriction agreements (LURAs). The Department should require the Compliance Division to conduct a comprehensive inspection of each RTC property requesting LURA release. The Preservation Office should then conduct a market assessment for each RTC property requesting the release of its LURA. The market assessment would assess the impact of releasing a property's LURA on the affected tenants and on the area's affordable housing stock. The new policy should also provide for public hearings and Board approval for each proposed LURA release.

Impact

Preserving Texas' deteriorating and expiring housing stock serves the State's interests in two ways. First, preserving these units keeps them in service for the very needy families that currently live in them. Many of these families are disabled, elderly, or are living on a fixed income. Second, preserving a project through the process of acquisition and rehabilitation is cheaper than new construction. These recommendations will allow the Department to better protect the State's investment in affordable housing stock.

Fiscal Implication

A preservation effort by the Department would require an increase in the Department's resources. A portion of the preservation function, for example the monitoring of continued compliance, could be done in conjunction with the Compliance Division. The remainder of activities recommended for the Preservation Office would require additional resources and expertise, necessitating an increase in the Department's appropriations for FTEs and equipment. These costs are detailed in the following chart.

In addition, the Department should seek additional funds from the Legislature to support preservation. Once a visible function is established within the Department, the agency will be positioned to ask for resources to expand the State's efforts to prevent the loss of properties it has invested in. This cost could not be estimated for this report.

Fiscal Year	Costs to the General Revenue Fund	Change in FTEs From FY 2001
2002	$180,000	+3
2003	$180,000	+3
2004	$180,000	+3
2005	$180,000	+3
2006	$180,000	+3

[1] U.S. General Accounting Office, Tax Credits, Reasons for Cost Differences in Housing Built by For-Profit and Nonprofit Developers, March 1999, p. 4.

[2] Legal Aid of Central Texas.

Issue 7

The Department Does Not Sufficiently Consider Applicants' Compliance History Before Approving Newly Proposed Projects.

Summary

Key Recommendations

- Require the Board to consider an applicant's compliance history before approving any newly proposed projects.
- Require the Department to maintain compliance information in a central database.

Key Findings

- Allocation decisions made by the Department do not adequately consider the past performance of developers.
- Developers with a history of compliance violations continue to receive additional project awards from the agency.
- Projects are not adequately monitored during construction.
- Program compliance information is scattered throughout the Department and not maintained in a central location that is easily accessible.
- The Credit Underwriting Division does not routinely monitor projects to check the appropriateness of initial recommendations.

Conclusion

The State may not be receiving the best product for its money by allocating funds to projects that have a greater risk of failure. The Department does not sufficiently consider underwriting and compliance recommendations in allocation decisions or compliance monitoring.

The Sunset review identified a number of actions the Department should take so that findings during the monitoring process are appropriately considered during the award process. Use of compliance and underwriting information, and improved monitoring would help ensure program funds are distributed to the best projects for the State.

Support

Current Situation: The Department's Credit Underwriting and Compliance Divisions play critical roles in the selection and oversight of projects funded through the Department.

- The Credit Underwriting Division evaluates the financial feasibility of proposed multi-family housing developments. Staff with specific financial and real estate market knowledge evaluate the developer's credit history and debt coverage ratios, and recommend to the Board the appropriate amount of tax credits or debt to issue to a project.

Some developers have received funding for new projects despite numerous violations on past projects.

- The agency's multi-family programs monitor projects during construction. The Compliance Division takes over monitoring once the projects are completed. These programs include the HOME Investment Partnership Program, Housing Trust Fund, Low-Income Housing Tax Credit, and Multi-Family Bond Programs.
- The Compliance Division ensures that fund recipients comply with all applicable rules, especially affordability occupancy requirements related to tenant income restrictions. Monitoring consists of desk reviews and on-site monitoring, including the evaluation of a recipient's accounting and management systems.

Problem: Compliance history is not adequately considered during the award process.

- Past award decisions for multi-family housing projects have not formally considered the compliance histories of applicants. Developers receive funding for new projects even though their past developments are routinely cited for compliance violations.

  In December 1999, the Bond Review Board notified TDHCA that Tax Exempt Bonds for multi-family housing projects that had recieved allocations during the lottery would not be allowed to proceed until the Department resolved project compliance issues. During the 1999 Low-Income Housing Tax Credit allocation, four of the developers who received credits in the general category had numerous past compliance issues.

- Compliance has no formal means to intervene if program staff recommend a new award to a developer with a history of non-compliance. The Department has not developed a formal process or structure that allows Compliance staff to raise concerns before a developer receives funding for new projects if the Division is aware of a history of compliance problems.

Problem: Projects are not adequately monitored by the Department during construction.

- Program staff currently monitor projects during this period. This creates a potentially difficult situation for them because they want to see projects they choose succeed, and they may be reluctant to report recipient violations if it might negatively reflect on the program.

  Program staff concentrate on awarding funds to recipients that meet detailed federal requirements, and implementing the next funding cycle. The typical funding cycle requires notification of potential recipients, application processing, and award determinations. These staff generally do not have the resources, time, or expertise to adequately monitor projects during construction.

Program staff cannot adequately monitor projects during construction because of other duties.

- Compliance Division involvement does not begin until construction is completed, often too late for projects that violate contract provisions. The Division monitors single-family and multi-family rental properties to ensure that project owners are meeting financial obligations and the intended populations are being served, as required by federal and state law. The violations most difficult to fix are cost over-runs and failure to comply with residency requirements, which occur before the Division is involved in monitoring.

Problem: Program compliance information is scattered throughout the Department and not maintained in a central location that is easily accessible.

- While information on housing projects is used by several divisions, a centralized database of all multi-family housing project information and compliance histories does not exist. A recent Internal Audit report found that "sufficient monitoring and performance related data and information resulting from the programs' monitoring processes are not maintained on the programs' automated systems in a manner to facilitate the sharing of information between program areas, planning the Department's monitoring efforts, tracking monitoring results or assessing subrecipients' performance."[1] In response, the Division recently established a compliance database for Low-Income Housing Tax Credit projects, but this database does not include information for any other programs.
- Compliance is often unaware of developers who have a project in non-compliance because the program area has not kept them informed. Additionally, because the agency lacks a central database, the compliance risk assessment evaluation does not consistently consider determinations made by the Credit Underwriting Division.
- Many of the same individuals or developers apply for funding across a variety of programs. However, applicant information is not

consistently tracked and the information that does exist is not available in an easy-to-use format. Program administrators have no way of easily knowing if an applicant has project compliance violations with another program.

The lack of centralized compliance data makes it difficult to track violations across programs.

- The Department often grants additional funds to developers who have projects with compliance violations because the information is not tracked and centralized. For example, a developer may have several HOME projects with major compliance violations, but this will not be taken into account when the developer applies for a Low-Income Housing Tax Credit project, because the information is difficult to gather without a centralized system.

Problem: The Credit Underwriting Division does not routinely monitor projects to check the appropriateness of initial recommendations.

- Projects are typically completed with no further evaluation by the Credit Underwriting Division regarding the appropriateness of its initial recommendations. Additionally, the Division does not review projects at the cost certification stage and, as a result, cannot verify if its determinations are accurate or if the projects have met financial targets regarding equity, construction costs, and operation costs. For example, a project could end up with major construction over-runs, but this information might never get back to Credit Underwriting.

Recommendation

Change in Statute

7.1 Require the Board to consider an applicant's compliance history before approving any newly proposed projects.

All projects would be reviewed by Compliance before being sent to the Board for approval. Review must be in the form of a written document that evaluates whether the proposed project meets the Division's compliance criteria. These documents must be kept in the project file to allow auditors to quickly determine that programs are following established rules. The Board must fully document and disclose any situations where funding was approved despite compliance problems.

Management Action

7.2 Require the Compliance Division to conduct risk-based monitoring of projects during construction.

Compliance should start monitoring programs at the beginning of construction. A risk-based approach should be adopted that focuses more monitoring attention on projects with higher levels of risk.

Compliance should use Credit Underwriting Division's findings to help determine the level of risk for each project funded. This would provide for an earlier opportunity to provide technical assistance if a project is encountering difficulties.

7.3 Require the Department to maintain compliance information in a central database.

Compliance information for every program would be maintained in the same database. The database must be easily accessible and provide a complete project compliance history for each applicant/developer. This would provide better monitoring for existing projects and a more thorough risk assessment for each proposed project.

7.4 Require Credit Underwriting to routinely follow up on actual project performance to validate the accuracy of its initial evaluation.

This recommendation would ensure that the Credit Underwriting Division establishes a feedback loop to monitor the actual costs of projects and uses the information to improve its estimates for future projects.

Impact

These recommendations are needed to put in place several measures that would provide better analysis of the competing projects that are submitted for funding consideration. This would ensure that the Department identifies and provides financing for the most suitable housing projects, strengthens its project monitoring, and creates a comprehensive database of project information.

Fiscal Implication

These recommendations would result in increased responsibilities for the Credit Underwriting and Compliance Divisions, requiring additional staff. Costs for additional staff would be offset by an appropriate increase in the application and/or compliance fee paid by developers who apply and receive funding from the Department.

[1] Letter from David Gaines to Members of the Texas Department of Housing and Community Affairs Audit Committee, June 4, 1999.

Issue 8

Some Local Communities Do Not Use Community Development Funds to Meet Basic Human Needs.

Summary

Key Recommendations

- Require the Department, by rule, to define basic human needs and specify them as a priority for all Community Development funding.
- In non-competitive regions, require review committees to demonstrate that basic human needs are being met before funding other types of projects.

Key Findings

- Border communities use significantly less of their Community Development funds to meet basic water and wastewater needs than communities in the rest of the state.
- The non-competitive application process used in the border regions does not prioritize meeting basic human needs and may lead to unequal living conditions within the regions.

Conclusion

The Department cannot prioritize the use of Community Development funds for projects that meet basic human needs, such as water and wastewater services, in regions where communities do not compete for funds during the regional application process. In these non-competitive regions, communities use Gentlemen's Agreements to collectively apply for the exact amount of funds available and to share the funds equally. The Agreements allow some communities with minimal basic needs to fund street improvements, parks and community centers, while other communities with greater basic needs cannot afford to meet the needs with their fund allocations. Although the Agreements are popular with local officials because they promote consensus among potential adversaries, the consensus may not be in the best interests of residents without water and wastewater services.

The Sunset review concluded Community Development funds should be used to meet the basic human needs of all state residents. Communities could use such funds flexibly under Gentlemen's Agreements if they meet basic human needs throughout the region by other means. If local officials do not agree with the State's priorities or the State's definition of basic human needs, they should share their views at TDHCA Board meetings and public hearings.

Support

<u>Current Situation:</u> Local governments in a few Council of Government regions use a non-competitive application process, which limits state input into the use of Community Development funds.

- The Community Development Fund receives 57 percent of Community Development Block Grant (CDBG) funds allocated to the state. The Fund provided $48 million in fiscal year 1999 to small cities and counties for water and wastewater services, drainage and flood control, street improvements, and other infrastructure projects. Funds are awarded on a regional basis using the 24 Council of Government regions. Project scoring in each region is divided equally between Department staff and a Regional Review Committee of 12 local elected officials appointed by the Governor.
- In 20 of the 24 regions, eligible communities compete for the regionally allocated funds. In competitive regions, the scoring by the Department staff strongly influences the funding decisions. Department staff use a priority scoring system that gives extra points to projects that meet basic human needs, such as water, sewer, and housing.
- In four regions along the Texas-Mexico border, local governments use Gentlemen's Agreements to equally divide resources among all eligible communities. The Department's priorities are not a factor in the funding decisions in these non-competitive regions because the communities collectively apply for the exact amount of funds available in each region. Local officials strongly favor the Agreements to promote cooperation among potential competitors.

Gentlemen's Agreements allow regions to divide funds equally among eligible communities, without targeting specific needs.

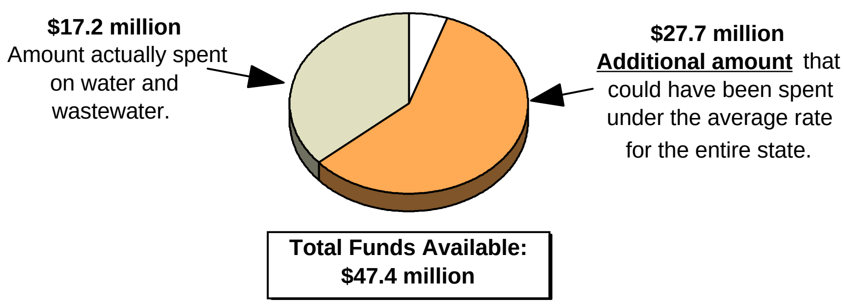
<u>Problem</u>: Border communities use significantly less of their Community Development funds to meet basic water and wastewater needs than communities in the rest of the state.

- Under the Gentlemen's Agreements, communities in the four border regions fund any eligible activities under federal CDBG rules, regardless of the Department's basic human need priorities.
- According to a Department report, from 1994 to 1999, the Gentlemen's Agreement communities used only 36 percent of their funds for water and wastewater services, compared to 95 percent in the rest of the state.[1]
- The Texas Water Development Board estimates that at least 130,000 border residents do not have water and wastewater services and will not receive such services through the Board's Economically Distressed

Areas Program.[2] The estimated cost to meet water and wastewater needs in Gentlemen's Agreement communities is $86 million.[3]

- If Gentlemen's Agreement communities funded water and wastewater services at the same rate as communities in the rest of the state, an additional $28 million could have been spent on such services since 1994 (see the chart below).

Community Development Fund Expenditures for Water and Wastewater Services in Gentlemen's Agreement Regions (1994 to 1999)



Distributing resources equally among communities may not be in the best interests of border residents without water and wastewater services.

<u>Problem</u>: The non-competitive application process does not prioritize meeting basic human needs and may lead to unequal living conditions within the regions.

- The equal distribution of funds discriminates against water and wastewater projects because the projects are often too expensive to fund with a single award. If fewer communities received larger awards in a given year, they could better fund these types of projects.
- Local government officials use the Agreements to distribute resources equally among eligible communities and to build consensus among potential adversaries. However, the consensus may not be in the best interests of border residents without water and wastewater services.

  For example, counties with water and wastewater needs in unincorporated areas often cannot afford to meet the needs, while incorporated communities with minimal water and wastewater needs may fund less expensive projects, such as street improvements, parks, and community centers.
- Local officials note that they have access to multiple funding sources for water and wastewater projects, while funding for other infrastructure projects is very scarce. However, no formal process documents water and wastewater needs and how those needs are met at the local and regional level.

Recommendation

Change in Statute

8.1 Require the Department, by rule, to define basic human needs and specify them as a priority for all Community Development funding.

The Department has demonstrated a commitment to meeting basic needs through the priority scoring system effective in the majority of the State's regions. This recommendation would reinforce the commitment statewide. Department staff would define the activities that meet basic human needs in the Community Development program rules. Subject to public input, the rules would make clear the types of projects that would more likely receive funding.

8.2 In non-competitive regions, require review committees to demonstrate that basic human needs are being met before funding other types of projects.

The Department should determine whether regions are competitive or non-competitive by comparing the number of applications received to the number of applications accepted. In a non-competitive region, the regional committee must demonstrate to the Department that the communities are committed to meeting basic human needs throughout the region to the best of their abilities, using all available resources. If the Department concludes that basic needs are not being met, communities could not use Community Development funds for projects that do not address basic needs. Communities would have to reallocate resources throughout the region to meet the basic need requirement. The Department's evaluations of the basic need requirement should be public information.

The Department should establish a formal process for documenting water and wastewater needs in non-competitive regions. If necessary, the Department could consult with the Texas Water Development Board (TWDB) and the Texas Natural Resource Conservation Commission to accurately determine such needs. Communities could demonstrate their commitment to address basic needs using funds from TWDB, USDA Rural Development, and other local, state, federal and private programs. The Department should encourage communities to leverage Community Development funds with other water and wastewater project funds to meet the basic need requirement.

Impact

The impact of these recommendations is to meet the basic human needs of low-income border residents by enforcing State priorities for the best use of Community Development funds. Communities could use such funds flexibly under Gentlemen's Agreements if they meet basic human needs throughout the region by other means. If community officials do not agree with the State's priorities or the State's definition of basic human needs, they should share their views at TDHCA Board meetings and public hearings.

Fiscal Implication

The recommendations will have no fiscal impact. The Department and the consulting agencies can implement the recommendations with existing resources.

[1] Letter from Ruth Cedillo, Director of the Texas Community Development Program, to Secretary of State Elton Bomer, February 11, 2000.

[2] Calculated from data in Texas Water Development Board, *Economically Distressed Areas Program (EDAP) Status Report*, December 31, 1999, and *Water and Wastewater Needs Survey of Economically Distressed Areas*, December 1996; available from http://www.twdb.state.tx.us/colonias/index.htm; INTERNET. Some of the 130,000 residents may be served through other water and wastewater service programs offered by the Department, the U.S. Department of Agriculture, and the North American Development Bank.

[3] Calculated from data in Texas Water Development Board, *Estimated Population, EDAs, and Water and Wastewater Construction Costs for the Economically Distressed Areas Program*, Austin, Tex., February 4, 1999 (draft of a report).

Issue 9

The Department Has Provided Limited Leadership and Initiative in Addressing Colonia Issues.

Summary

Key Recommendations

- Create a Colonia Advisory Committee to advise the Board on the needs of colonia residents and the effectiveness of Department policies.
- Require the Department to develop an annual assessment of colonia resident needs and a biennial action plan to address the needs.
- Require the Department to develop recommendations to the Legislature identifying options to improve the funding system for colonia programs.
- Require the Department to improve its management and coordination of the colonia self-help centers.

Key Findings

- The Department does not have a strategic vision to address colonia issues.
- The Department has no formal process for sharing and receiving information with the public about colonia issues and programs.
- The lack of direct funding creates administrative difficulties for managing colonia programs and limits the effectiveness of the programs.
- The operation of the Colonia Self-Help Centers is complicated by conflicting claims of authority and responsibility.

Conclusion

The current Board does not have access to expertise on colonia issues outside the Department and must rely entirely upon Department staff to make policy decisions. Colonia stakeholders express concern that the Department does not support colonia programs beyond the minimum necessary to meet legislative requirements. Some stakeholders are not satisfied with the opportunities for public input on colonia programs. Funding restrictions on colonia programs limit the number of residents served and the types of services provided. The Department has not effectively settled disputes between counties and non-profit organizations over colonia self-help centers, reducing the effectiveness of the centers during their initial years of operation.

The Sunset review identified a number of measures to improve the performance of the Department in meeting the needs of colonia residents already committed to land ownership. The colonia advisory committee, the needs assessment and the action plan will help the Department use strategic planning to develop effective colonia policies. The funding report and the self-help center improvements will help the Department to resolve the most pressing short-term issues for the implementation of current programs.

Support

Current Situation: The Department coordinates four programs to help colonia residents.

Traditional housing strategies do not meet the needs of colonia residents already committed to land ownership.

- The state has at least 400,000 colonia residents, most of whom are Hispanic and live in counties bordering Mexico. Colonia residents have extremely low incomes and live in some of the worst housing conditions in the state. Most residents purchased land under a contract for deed, which features a very low down payment and monthly payments, but very high interest rates (typically above 12 percent), and little or no equity. Residents value land ownership and home ownership very highly, and will endure very difficult living conditions to maintain their claim to a plot of land. Traditional housing strategies do not meet the needs of residents already committed to land ownership.
- Within the Department, the Office of Colonia Initiatives manages four programs to help meet colonia resident needs.
  - The *contract for deed conversion program* enables colonia residents to substantially reduce the interest rate on their land payments, to earn equity, and to receive title for their property, which makes them eligible for home improvement loans.
  - The *consumer education program* educates colonia residents on their rights under a contract for deed.
  - The *owner-builder loan program,* a statewide program, allows colonia residents, on a very low income, to purchase a new home for the land they already own.
  - *Colonia self-help centers* provide a variety of services for selected colonias, including contract for deed conversions, consumer education, right-of-way acquisition for utility services, and tool lending for self-help projects.

- The Department allocated about $4 million in fiscal year 1999 to these programs from the Community Development Block Grant (CDBG) program, the HOME program, the Housing Trust Fund, and other sources. The allocation will increase to nearly $7 million in fiscal year 2000, to account for the new owner-builder loan program. The staff of the Office of Colonia Initiatives includes three field officers, one each in El Paso, Laredo, and Edinburg, who provide technical assistance and share information on Department programs throughout the border region.

Problem: The Department does not have a strategic vision to address colonia issues.

- The current Board does not have access to expertise on colonia issues outside the Department and must rely entirely upon Department staff to make policy decisions.

- The colonia programs managed by the Department were created through legislative initiatives and appropriations riders. The Department has not implemented or funded any new colonia programs on its own initiative. In field interviews, colonia stakeholders expressed concern that the Department does not support colonia programs beyond the minimum necessary to meet legislative requirements.

- The Department has not formally asked for any additional funds to meet new legislative mandates in its Legislative Appropriations Request. Therefore, the Office of Colonia Initiatives must compete internally for funds usually dedicated to other programs, which can create tension between the Office and other programs.

Colonia stakeholders expressed concern that the Department does not support colonia programs beyond the minimum necessary to meet legislative requirements.

Problem: The Department has no formal process for sharing and receiving information with the public about colonia issues and programs.

- In field interviews, some colonia stakeholders were not satisfied with the opportunities for public input on colonia programs, which are largely limited to informal contacts with Department staff. Some stakeholders believe that the Department has implemented colonia programs without adequate public input, and that agency staff in Austin are not responsive to input brought to the field officers by stakeholders.

- The Office of Colonia Initiatives did solicit public input on the rules for the owner-builder loan program, even though it was not required by statute. However, housing advocates expressed concern that the Department did not adopt several key suggestions it received and offered no written explanation as to why the suggestions were not incorporated in the program rules.

The Department has not effectively settled disputes between counties and non-profit organizations over colonia self-help centers, reducing the effectiveness of the centers.

Problem: The lack of direct funding creates administrative difficulties for managing colonia programs and limits the effectiveness of the programs.

- Colonia self-help centers are funded through the CDBG program, which requires self-help center operating contracts to go through CDBG monitors, and limits the types of services that can be provided. This has increased administrative burdens inside and outside the Department, resulting in lengthy delays for processing the contracts and providing services to colonia residents.
- Border field officers are supported through CDBG technical assistance funds, which require the officers to assist colonia residents and local officials in every county within 150 miles of the Texas-Mexico border. The officers cannot properly serve every county in their service area, which limits their effectiveness.
- Contract for deed conversions are funded through sources that do not allow conversions on property lacking water and sewer services, even if the property is already scheduled to receive such services. HOME funds also require the Department to rehabilitate converted homes to meet federal Colonia Housing Standards, which increases the average cost of a conversion per home.

Problem: The operation of the Colonia Self-Help Centers is complicated by conflicting claims of authority and responsibility.

- Federal CDBG rules require the Department to award self-help center funds to local governments, which are responsible for contracting with a non-profit organization to operate the centers. The original intent of self-help center legislation was to allow the Department to contract directly with a non-profit organization to operate the center.[1]
- The Department has not used its authority effectively to settle disputes between counties and non-profit organizations over which colonias should be served and what services should be provided. For example, Sunset staff have received comments that some counties have limited the types of services provided, and recommended that the centers serve certain colonias chosen for political considerations. Although many of the conflicts were eventually resolved, the effectiveness of the centers was greatly reduced during their initial years of operation.

Recommendation

Change in Statute

9.1 Create a Colonia Advisory Committee to advise the Board on the needs of colonia residents and the effectiveness of Department policies.

The advisory committee should consist of one colonia resident, one representative of a non-profit organization that serves colonia residents, one local government representative, one person to represent private interests in banking or land development, and one public member. All members would be appointed by the Board and, with the exception of the public member, must reside within 100 miles of the Texas-Mexico border. The committee would provide expertise on colonia issues to the Board to complement the expertise of Department staff, and would help the Department understand how its policies affect the colonia communities.

9.2 Require the Department to develop an annual assessment of colonia resident needs and a biennial action plan to address the needs.

As a part of the statewide needs assessment addressed in Issue 3, the Department should collect information on the demand for contract for deed conversion, self-help housing, consumer education, and other colonia resident services in counties within 100 miles of the Texas-Mexico border. The Department should publish a summary of comments received at public hearings, and by other means, in the needs assessment. The Colonia Advisory Committee would review the public comments collected and included in the needs assessment. It would recommend new colonia programs or improvements to existing programs to the Board, based on the comments received.

The Office of Colonia Initiatives should prepare a biennial action plan to list policy goals for its colonia programs, the strategies to meet the goals, and the expected outcomes. An initial draft of the plan should be prepared, published and disseminated to the public at least six weeks before a public hearing. The Office should take comments through the public input process on the goals, strategies, and expected outcomes in the initial draft. The Office should then publish a final draft of the plan, which must list the specific changes made to the previous draft and must directly address public comments. The final draft should be sent to the Colonia Advisory Committee for review and comment, and then sent to the Board for final approval, with the comments of the advisory committee attached.

Management Action

9.3 Require the Department to develop recommendations to the Legislature identifying options to improve the funding system for colonia programs.

The Department should issue a report to the Legislature before January 1, 2003 with proposals for reforming the funding system for programs managed by the Office of Colonia Initiatives. The Department should solicit input on the best use of Department funds from interested stakeholders and address their suggestions in the report. The report should specifically address options to:

- identify a single funding source with maximum flexibility to support colonia programs;
- improve the flexibility of current funding sources to meet colonia resident needs;
- better fund colonia resident education and outreach by Department staff, including border field officers; and
- better fund administrative support, technical assistance, and capacity-building for non-profit organizations contracted to implement colonia programs.

This requirement should not be construed so as to prevent the Department from proposing colonia funding reforms to the Legislature for the upcoming legislative session.

9.4 Require the Department to improve its management and coordination of the Colonia Self-Help Centers.

The Department should work on behalf of colonia residents to ensure that local governments and non-profit operating organizations are cooperating to meet the needs of the residents. The Department must also improve its efforts to settle differences among contracted entities, to process contracts in a timely manner, and to implement other Department programs through the centers.

Impact

The impact of these recommendations is to improve the performance of the Department in meeting the needs of colonia residents already committed to land ownership. The Colonia Advisory Committee, the needs assessment, and the action plan would help the Department use strategic planning to develop effective colonia policies. The funding report and the self-help center improvements would help the Department to resolve the most pressing short-term issues for the implementation of current programs.

Fiscal Implication

The recommendations would have no immediate fiscal impact. The Department can implement the recommendations with existing resources. Future funding improvements could result in additional expenditures for colonia initiatives, but this impact could not be estimated for this report.

[1] Tex. Govt. Code Ann. ch. 2306, sec. 2306.587(a) (Vernon Supplement 1999): "The department shall contract for the operation of a self-help center with a local non-profit organization, local community action agency, or local housing authority that has demonstrated the ability to carry out the functions of a self-help center under this subchapter."

Issue 10

The Department Does Not Make Information About Community Resources and Affordable Housing Easily Accessible to the Public.

Summary

Key Recommendations

- Require the Texas Department of Housing and Community Affairs to establish a central housing and community services clearinghouse, and clarify the Department's statutory role as an information provider.
- Require the Health and Human Services Commission to include the Department's programs in Texas Information and Referral Network resources.
- Require the Board to adopt, by rule, policies and procedures to ensure agency compliance with the Public Information Act.

Key Findings

- The Department has two information offices, but does not function as a clearinghouse for information about affordable housing and community resources.
- The lack of a single source of integrated, user-friendly information may result in public unawareness and confusion about housing and community programs.
- The Department's programs are not included in the Texas Information and Referral Network.
- The agency has shown reluctance to make information available to the public.

Conclusion

Finding user-friendly information about affordable housing and community resources can be confusing and difficult. Despite its role as the lead housing agency, the Department does not have a central office that functions as a clearinghouse of information. In addition, the Department's programs are not included in resources that direct the public to state agency social services. Finally, the agency has shown reluctance to release public information.

The Sunset review identified ways to improve the Department's role as an information provider. These recommendations would help inform the public about affordable housing and community resources, improve coordination with health and human services programs, and ensure that the agency makes any of its own records readily available to the public, as intended under the Public Information Act.

Support

Current Situation: **The Department has two information offices, but does not function as a clearinghouse for information about affordable housing and community resources.**

- Two similar but separate Department programs, located in different divisions, provide a limited amount of information and technical assistance to individuals and local entities upon request. The text box, *TDHCA Information Offices*, provides details about these two programs.

- The Department does not act as a clearinghouse of information about affordable housing and community resources, despite its role as the lead housing agency and its duty to serve the public, local communities, and housing providers.

TDHCA Information Offices

The Housing Resource Center (HRC), part of the Office of Strategic Planning and Housing Resources, provides information and technical assistance on local housing needs, programs, and available funding sources. HRC responds to requests from individuals and organizations, such as local governments, community-based organizations, non-profit housing sponsors, and housing contractors.

Located in the Community Affairs Division, the Local Government Services Office develops and provides training, manuals, and technical assistance to local government officials to keep them up-to-date with state and federal programs. Publications include a guide to state laws, an operating manual for rural fire prevention districts, financial manuals, and personnel management materials.

Problem: **The lack of a single source of integrated, user-friendly information may result in public unawareness and confusion about housing and community programs.**

- The agency does not maintain a central location to provide information to the public. Although the Department's two information offices have similar responsibilities, no formal or informal connection exists between them.

- The Department does not maintain an easily-accessible information source on all existing affordable housing resources in communities. People who want to buy or develop affordable housing, or individuals and communities with development needs, have difficulty locating sources of information about loans, grants, and other forms of assistance. Various federal, state, and local agencies have a large number of complicated programs. Without a single source to compile and provide integrated information, the system can be very confusing.

The agency does not maintain a central location to provide information to the public.

- The agency chooses to defer information requests to the many communities that independently administer housing and other related programs, missing an opportunity to establish itself as a statewide information resource. For example, the agency told a member of the public that it was unable to provide information about housing projects in Houston. Instead, the agency referred this person to the Texas Star Mortgage Company, which referred her back to the Department.[1] The Department has also referred people to the Texas Low-Income Housing Information Service, a non-profit research and information organization.

- While the Department's website provides valuable information about many of its programs, certain improvements could make the site more user-friendly. For example, the agency does not prominently list available resources on its website. Instead, users must access reports by searching programs or funding sources, rather than by searching by community.

  The Local Government Services Office plans to make its manuals available online, but currently reprints the manuals every few years to provide communities with updates. By making these manuals available online, the agency could continually update the information at a lower cost, and provide communities with more timely information.

The agency is missing an opportunity to establish itself as a statewide information resource.

- Although the agency collects a mass of data to prepare more than 20 separate planning documents, it does not consolidate this information and make it available in a user-friendly format. For example, a member of the public who wants performance information for all housing assistance programs must either sort through raw, technical data, or read at least five different agency documents to comprehend the complete picture.

Problem: The Department's programs are not included in the Texas Information and Referral Network.

- The Health and Human Services Commission's Texas Information and Referral Network (I&R Network) develops, coordinates, and publicizes a statewide network that provides local and state access points for health and human services information in Texas. In particular, the I&R Network produces comprehensive reference guides and directories listing various agencies' social services that complement housing programs, such as health care and job training.
- Although Department employees serve on a few interagency committees that attempt to link housing programs with the needs of the elderly and people with mental illness, this staff-level collaboration has not been standardized and included in the formal systems that make information available to the public.
- Housing programs administered by local agencies may be included in some I&R Network directories, but the Department's programs are not listed. Thus, the Department can refer people to other state and local programs by accessing the I&R Network; but other state and local entities cannot easily refer people to the Department, and the public cannot find information on the Department's programs using this valuable resource. For example, using the I&R Network's resource, *Health and Human Services in Texas : A Reference Guide*,[2] an online search for "housing" shows only programs at the Department of Aging, the Department of Human Services, the

Using the I&R Network, an online search for "housing" shows programs at four HHS agencies, but does not list any TDHCA programs.

Department of Mental Health and Mental Retardation, and the Commission for the Blind.

<u>Problem:</u> **The agency has shown reluctance to make information available to the public.**

Despite the Public Information Act's policy of open government, the agency has maintained a culture of confidentiality.

- Despite the policy of open government behind the Public Information Act, the agency has maintained a culture of confidentiality. For example, several individuals and groups indicated they were contacted by agency staff after they had made information requests, and were asked why they wanted certain information.
- The Department has also failed to respond promptly and completely to information requests by public citizens, interest groups, and legislators. While in some cases the Department did not have the information, in many cases the Department responded slowly and provided the information in a format that was difficult to understand or use.

  A review of the agency's public information log for fiscal years 1998 and 1999 shows that the Department often took the maximum time allowed under the Public Information Act to respond to even simple requests. In one instance, the Department took seven working days to respond to a request for a copy of its public information log.

Recommendation

Change in Statute

10.1 Require the Texas Department of Housing and Community Affairs to establish a central housing and community services clearinghouse, and clarify the Department's statutory role as an information provider.

The Department should create a central information office by merging the Housing Resource Center with the Local Government Services office. This office should act as a clearinghouse to provide easy-to-understand information to the public, local communities, housing providers, and other interested parties. This merger would help to integrate the Department's housing finance and community support services functions, as discussed in Issue 1.

This office would be responsible for compiling the agency's numerous reports into an integrated form. This should reflect information collected and work completed to develop the strategic plan required by Issue 3, and should include, at a minimum, information about program performance, incomes of people served, funding amounts, allocation decisions, and regional impact. The office should also maintain a resource listing all existing affordable housing resources in communities. The information should be readily available in hard copies and in a user-friendly format on the Department's website. The agency should use the Texas Department of Economic Development's website as a model for organizing information on its site. Finally, the office should make its manuals available online, including those currently printed by Local Government Services.

10.2 Require the Health and Human Services Commission to include the Department's programs in Texas Information and Referral Network resources.

The Health and Human Services Commission (HHSC) should include information about the Department's housing and community affairs programs in its I&R Network Resources, including Health and Human Services in Texas : A Reference Guide. The Department must provide HHSC with any necessary information or data. By becoming part of the I&R Network, other agencies would be able to refer clients to housing and community programs to complement other support services and encourage greater self-sufficiency. In addition, the I&R Network is responsible for ensuring that telephone directories throughout the state clearly present this information, easing customer access to services.

10.3 Require the Board to adopt, by rule, policies and procedures to ensure agency compliance with the Public Information Act.

This recommendation would ensure that the Department upholds its duties under Public Information Act. As part of this recommendation, the agency should train its employees on Public Information Act requirements, and the Executive Director must ensure that the staff implements these policies and procedures. This recommendation should prevent the Department from violating the Public Information Act, and shield it from potential lawsuits. Although the agency has a staff-level standard operating procedure in place, adopting rules at the Board level would emphasize the importance of open government, allow for public input, and clarify Department policy.

Impact

The intent of these recommendations is to provide the public with timely and meaningful information about housing and community resources.

Fiscal Implication

To compile integrated reports and improve its response to information requests, the Department should hire a web administrator. The Department may save a minimal amount of money by providing online updates of its manuals, and should use this savings and existing resources to help implement these recommendations. The cost to the State for the webmaster's salary and necessary equipment is shown in the chart below.

Fiscal Year	Costs to the General Revenue Fund	Change in FTEs From FY 2001
2002	$64,500	+1
2003	$64,500	+1
2004	$64,500	+1
2005	$64,500	+1
2006	$64,500	+1

[1] Letter from Senator Frank Madla, Chairman, Texas Senate Committee on Intergovernmental Relations, to Daisy Stiner, Executive Director, Texas Department of Housing and Community Affairs, February 9, 2000.

[2] *Health and Human Services in Texas: A Reference Guide,* on the Health and Human Services Commission website, available at www.hhsc.state.tx.us/tirn/refguide.htm; INTERNET.

Issue 11

Regulation of Manufactured Housing is Not Logically Located at the Department.

Summary

Key Recommendations

- Transfer responsibility for the regulation of manufactured housing to the Texas Department of Licensing and Regulation.

Key Findings

- The regulation of manufactured housing does not fit well with the overall mission or structure of the Department.
- The Division is the only licensing and regulatory function at the Department.
- Requiring TDHCA to administer a regulatory program creates administrative inefficiencies.
- TDLR is the State's umbrella agency for regulatory and licensing functions and performs these same regulatory functions for more than 16 businesses and industries.

Conclusion

The Manufactured Housing Division is not logically located at the agency and should be transferred back to TDLR. Little focus or attention is given to the program by the Department's Board, and is the only regulatory program in an agency that concentrates on housing finance and community development. TDLR routinely performs these functions for a large number of industries, including the manufacture of very similar modular housing. With the proper structure and safeguards, the regulation of manufactured housing could be returned to TDLR, and operate as a regulatory program within the State's umbrella agency for licensing and regulation.

Support

Current Situation: The Department administers the Texas Manufactured Housing Standards Act.

- The Manufactured Housing Division at the Department regulates the manufactured housing industry in Texas by licensing installers, issuing manufactured home titles, conducting installation inspections, and responding to and resolving consumer complaints during the home's initial warranty period. The Division has 87.5 FTE, eight field offices, and an annual budget of approximately $4.8 million. See text box, *Manufactured Housing Division Functions*, for a more detailed description of its activities. Although not explicitly required in statute, the Division relies on a 16-member advisory committee to review proposed rule changes.

- The manufactured housing regulatory function was transferred to TDHCA from the Department of Licensing and Regulation in 1995, due to performance concerns related primarily to installation inspection backlogs.

Problem: The regulation of manufactured housing does not fit well with the overall mission or structure of the Department.

- The Department primarily focuses on providing community development assistance, ensuring availability of affordable housing, and improving housing conditions in the state. Manufactured housing regulation is the only regulatory or licensing function currently at the Department.

- Transferring responsibility for Manufactured Housing from the Department of Licensing and Regulation to the Agency in 1995 created an oversight problem, as the Board's statutory authority is explicitly targeted to housing finance functions. The Board spends most of its time dealing with the Department's housing finance programs, with little focus or attention on the regulation of manufactured housing. Manufactured housing concerns are predominantly handled at the staff level, and generally only involve the Board for final approval of rule changes.

- Requiring the agency to regulate manufactured housing creates a potential conflict of interest because the agency is regulating a market that may be eligible for program funds. As manufactured housing becomes more of a viable option

Manufactured Housing Division Functions

Titling
Issues and cancels manufactured home titles, maintains a state titling data base, records tax and mortgage liens, releases liens, processes title searches, and documents creditor-lender's security interest.

Licensing
Licenses manufacturers, retailers, installers, brokers, salvage/rebuilders, and salespersons.

Customer Service
Provides assistance and information for questions and problems related to manufactured homes in the state.

Enforcement
Tracking and investigation of consumer complaints, monitoring manufacturers resolution of consumer complaints, initiating class-action cases when a problem is wide-spread, performing post-production monitoring of manufactured homes produced or installed in Texas, establishing installation standards and requirements, and installation inspections.

Resolution
Investigates and takes action against violators of the Texas Act, Department rules, and HUD regulations/rules governing manufactured housing.

for meeting the needs of low-income people, the agency may be funding programs that ultimately purchase manufactured housing. The agency would act as a consumer of products that it regulates, creating the appearance of impropriety.

- Due to confusion over its policy and regulatory role, the agency has been slow to implement legislation relating to improving consumer protections for buyers of manufactured housing. For example, legislation was enacted last session prohibiting retailers from selling, or representing for sale, any real estate in conjunction with the sale of a manufactured home, except as authorized by the Department. The agency claims that this new requirement is not being enforced because responsibility for enforcement authority is unclear. The agency has requested an Attorney General's opinion for clarification, further delaying implementation. Retailers are confused and do not know how to comply with the law because the agency has not provided the technical support or procedures to implement the rule.

Problem: Requiring TDHCA to administer a regulatory program creates administrative inefficiencies.

- Requirements for licensing and regulation are very different from the administrative needs for housing finance, community affairs, and community development. Manufactured housing is the only program that involves processing titles, tracking consumer complaints, implementing dispute resolution, and issuing licenses. The Department's other programs primarily require administrative structures related to contractor selection, payment, and monitoring.

- These regulatory and licensing functions require the agency to lease and staff field offices it would not need for its other programs. Currently, the Department has eight field offices housing 40 staff, that cost $49,131 to lease during the 1999 fiscal year.

Regulation of manufactured housing does not fit well within the Department.

- The current administrative structure has been ineffective at keeping up with workload demands. The Department has only been able to inspect 21 percent of new home installations, even though the law requires 25 percent. The agency has been authorized to hire nine additional inspectors to help with the backlog which, to date, have not all been filled.

- The agency has not tried innovative approaches such as outsourcing to help alleviate the problem. For example, the agency has not been effective in contracting with local governments to conduct inspections in incorporated areas. The agency only contracts with 33 cities and three counties, representing approximately 353 inspections annually. Correct installation helps to ensure public safety and increases the durability and longevity of manufactured homes.

Comparison: TDLR is the State's umbrella agency for regulatory and licensing functions and performs these same regulatory functions for more than 16 businesses and industries.

- TDLR has become a regulatory umbrella agency for the licensing, certification, and enforcement of several regulatory statutes involving diverse businesses, industries, general trades, and occupations. Additionally, the 72nd Legislature envisioned placing other industries under TDLR jurisdiction as those industries become regulated or as the agencies now regulating them undergo Sunset Review.[1]
- TDLR currently regulates 16 types of businesses, industries, trades, and occupations and is organized functionally to issue licenses, conduct inspections, and investigate complaints. For example, TDLR's Complaint Division handles complaints for all the industries regulated. This allows the agency to operate more efficiently because each area can standardize its processes and each program does not need separate administrative functions.

TDLR routinely performs the types of activities required for regulating manufactured housing.

- TDLR regulates industrial housing and buildings. Industrialized housing involves residential or commercial structures that are constructed in one or more modules, or modular components built at a location other than the permanent site, and installed on a permanent foundation system. Despite the similarities, the Texas Industrialized Housing and Building Act specifically excludes manufactured housing from the definition of industrialized housing.[2]
- The regulation and licensing requirements of manufactured housing and industrialized housing are nearly identical. The primary distinction is that industrialized housing is required to be installed on a permanent foundation, whereas manufactured housing does not have this requirement. Both types of housing require plant inspection (or designation of third party inspectors), installation inspections, licensing of installers, continuing education, fee collection, administrative sanctions, and dwelling registration.
- In fiscal year 1999 TDLR performed almost 30,000 inspections and completed more than 2,300 complaint investigations. Further, during the current biennium, the agency is expected to issue approximately 111,100 licenses, certifications, and registrations; and administer approximately 6,000 exams.[3]
- The field office function for TDLR is handled through automated call centers and contract staff who conduct inspections and complaint investigations. The agency has a statewide system of inspectors and investigators who handle cases from many of the areas regulated. In addition, the agency is transitioning most of its services to use electronic commerce.

Recommendation

Change in Statute

11.1 Transfer responsibility for the regulation of manufactured housing to the Texas Department of Licensing and Regulation.

11.2 Establish an Advisory Board to TDLR for the Manufactured Housing Program.

Currently, the Department of Licensing and Regulation is governed by a six-member Commission appointed by the Governor. The Commission appoints the Executive Director, develops policy direction for the agency, sets fees, assesses administrative penalties, and approves the agency's budget. The Manufactured Housing Program would be integrated into the current management and field office structure of TDLR. To ensure the unique considerations of manufactured housing are considered by the TDLR Board during policy development, an advisory board should be established for the regulation of manufactured housing. The Advisory Board should be modeled with similar representation to the current manufactured housing advisory committee at TDHCA, but should not include ex officio members. Advisory Board appointments should comply with the conflict of interest provisions that apply to the TDLR Board and its advisory committees.

When placed at TDLR, the program should have specific safeguards that clearly identify the resources used to support the program. Associated costs would be clearly delineated so that funding intended for the program is used by TDLR for that purpose.

Management Action

11.3 Require TDHCA and TDLR to formulate a transition plan for transfer of the regulation of the manufactured housing, with a timetable for implementation.

This recommendation would ensure a successful transition for the manufactured housing program from the Department of Housing and Affairs to the Department of Licensing and Regulation. The plan should determine administrative costs and appropriately allocate the costs between the two agencies. The plan should include computer integration to address any information technology or data management issues. A timetable for merging field offices and licensing and regulatory duties should be established. An interagency contract for temporary sharing of administrative services should also be contemplated.

Impact

These recommendations are intended to return the regulation of manufactured housing back to the agency where it more logically belongs. During its time within the Department, some of the problems that led to its transfer have been resolved. However, new problems have occurred and the program's integration into the Department has not been fully realized. Moving it back to TDLR, with certain structural safeguards, like the Advisory Board, should allow the Manufactured Housing Program to operate as a more effective regulatory program.

Fiscal Implication

Consolidating the licensing and regulation functions of manufactured housing with other divisions at the Department would result in a fiscal savings, through administrative efficiency. This would be achieved through fewer management positions, functional grouping of departmental activities, consolidation of field offices (lease savings), common use of field staff, use of TDLR administrative systems, and possible outsourcing of some functions, such as inspections. Any savings generated through administrative efficiency could be redirected into inspection resources.

[1] Governor's Special Committee on Organization of State Agencies, *Special Report*, 1988; and Texas Performance Review, *Breaking the Mold, New Ways to Govern Texas* (Austin, Tex: Texas Comptroller of Public Accounts, 1991).

[2] Texas Civil Statutes, Article 5221f-l Section 1 (1) "The term shall not mean or apply to (i) housing constructed of sectional or panalized systems not utilizing modular components; or (ii) any ready built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location."

[3] Legislative Budget Board, *Fiscal Size-Up 2000-01*.

Issue 12

Texas Has a Continuing Need for the Services Provided Through the Texas Department of Housing and Community Affairs.

Summary

Key Recommendations

- Continue the Department for a two-year "probationary" period, and require the Sunset Commission to re-evaluate the agency and its efforts, to ensure that needed changes have been implemented before the legislative session in 2003.

Key Findings

- Texas has a continuing need for affordable housing and community support services.
- Sunset found no benefit from having any other federal, state, local, or private entity perform the functions of the Department.
- Considerable problems exist in how the Board and the Department function, and how services are currently delivered.
- While organizational structures vary, most states use one of two models to manage the programs found in the Department.

Conclusion

The Texas Department of Housing and Community Affairs' mission — to provide funds for affordable housing and community support services — is important to Texans. The rise in poverty, along with a growing shortage of affordable rental housing, has created a housing crisis for many lower income Texans. Long-term projections indicate that future population characteristics will create an even greater demand for affordable and subsidized housing than there is today and the affordable housing crisis will continue and expand.

The Sunset review evaluated the continuing need for a single agency to fund statewide affordable housing and community support services. The review assessed whether the agency's functions could be successfully transferred to another agency and looked at how other states provide similar services. The review found that, although the Department should continue, concerns identified precluded a recommendation for the usual 12-year extension.

Support

<u>Need for Agency Functions:</u> Texas has a continuing need for affordable housing and community support services.

In Texas, 43 percent of renters cannot afford fair market rent for a two-bedroom unit.

- The State of Texas is one of the fastest growing states in the country, and one of the fastest growing segments of the population is lower income persons and families. While the last few years have seen growth in real wages at all levels, these increases have not been enough to counteract a long pattern of stagnant and declining wages for low-wage workers. Declining wages, in turn, have put housing out of reach for many workers. In Texas, 43 percent of renters are unable to afford fair market rent for a two-bedroom unit.[1]

  Despite a strong national and state economy, the number of people in the U.S. living in extreme poverty rose by an estimated 500,000 from 1995 to 1997, according to the U.S. Census Bureau. This rise in poverty, along with a growing shortage of affordable rental housing, has created a housing crisis for many lower income Texans.

- Today, Texas has a shortage of affordable housing. This is caused by the private sector's concentration of development, both single-family and multi-family development, in larger metropolitan areas, targeted to higher income individuals and families. The growth of metropolitan areas, as well as the lack of new construction during the late 1980s and early 1990s, creates a demand for housing at all income levels in Texas.

Texas risks losing over 20,000 affordable housing units over the next few years.

- The gap between the number of affordable housing units and the number of people needing them continues to increase as affordable housing units are not preserved. Nationwide, between 1973 and 1993, 2.2 million low-rent units disappeared from the market as units were either abandoned, converted into more expensive units, or became unaffordable because of rent increases.[2] Texas risks losing thousands of affordable housing units as affordability contract periods expire and as units deteriorate. The State risks losing over 20,000 affordable housing units subsidized by government programs over the next few years.

- More than 392,000 Texas residents live in 1,436 colonias along the State's border with Mexico. Future projections indicate the population may reach as high as 700,000 residents by the year 2010. The Texas Water Development Board estimates that at least 130,000 border residents do not have water and wastewater services and will not receive such services through its Economically Distressed Areas Program.[3]

<u>Need for Agency Structure:</u> **Sunset found no benefit from having any other federal, state, local, or private entity perform the functions of the Department.**

- The Department directed $415.5 million in fiscal year 1999 to affordable housing, community development, and community affairs activities. Approximately 90 percent of the Department's funds come in the form of federal block grants, payments, and financing authority. The remaining 10 percent comes from a variety of sources including general revenue and fees. The Department is primarily a funding agency that distributes program funds to local providers that include units of local government, non-profit and for-profit organizations, community-based organizations, private sector organizations, real estate developers, and local lenders.

The Department is primarily a funding agency that distributes funds to local service providers.

- Much of the State's need related to affordable housing and community support services is provided directly at the local level. Of the more than $416 million that the U.S. Department of Housing and Urban Development (HUD) gave Texas in fiscal year 1999, 69 percent, or about $288 million, went directly to the local level. This included funding for 65 cities, counties, local housing authorities, and community housing development organizations across the state. HUD awarded the remaining 31 percent to the Department to address the statewide needs not otherwise covered by local entities.

Much of the State's need related to housing and community support services is provided directly at the local level.

- Local housing finance corporations also address the need for affordable housing in the State. Housing finance corporations, established in federal statute, receive two-thirds of the private activity bond issues for single-family housing and compete on a statewide basis for multi-family bonds. The Department's activities related to these bonds is to primarily serve areas of the state without local housing finance corporations.

- In addition to serving a statewide role to address the needs of areas not served by local entities, the Department serves as the statewide administrator of several federal programs, such as the Low Income Housing Tax Credit (LIHTC) Program and the Community Services Block Grant. The LIHTC Program could be administered by another agency since it is merely an allocation function, but the process benefits from the underwriting expertise at the Department. Additionally, the program is a key strategic resource for the agency in its development of affordable housing.

  The Community Services Block Grant could be administered by the Health and Human Services Commission or another HHS agency, but requiring the Department to administer the grant is consistent with the idea behind the original merger of the programs in 1991. The Department is set up to focus on the important relationship

The Department seeks to address the needs of areas not served by local entities.

between housing programs and complementary programs at other agencies, such as health care and job training. These services, when paired with affordable housing, increase the likelihood a person will achieve self-sufficiency, and eventually move up the continuum of housing services into home ownership.

Problem: Considerable problems exist in how the Board and Department function, and how services are currently delivered.

The Department's current board structure is not adequate for the broad mission of the agency.

- The Department's current board structure is not adequate for the mission of the agency. A majority of the Board members have professional expertise related to the housing industry, which lessens their focus on the Department's other programs and creates potential conflicts of interest. In addition, the narrow professional representation on the Board produces unintended biases regarding the State's housing priorities.
- The Department does not have a user-friendly public input process. The public does not receive important hearing materials nor have an opportunity for meaningful participation. The unfriendly atmosphere at Board meetings discourages public participation and erodes confidence in the Board and agency staff. Citizens feel that their views do not matter because the Board appears to have already made its decisions, or worse, that they will face retaliation if they do participate.

The Department does not have an accurate assessment of the State's housing and community development needs and resources.

- The Department does not have an accurate assessment of the State's housing and community development needs and resources. As a result, it cannot ensure its funding decisions meet the State's most pressing needs or that its funds are not going to local areas with other significant resources. Legislative mandates requiring the Department to fund services to needier Texans have not resulted in a change in the Department's overall philosophy, or its funding practices.
- The Department's allocation process for Low Income Housing Tax Credits does not ensure the State is receiving the best value for its resource. The Department does not maximize the allocation of credits across the state and the evaluation criteria do not reward the highest quality projects or projects that best meet the State's objectives.
- Although federal and state laws prohibit housing discrimination in the State's housing-related programs, the Department does not actively ensure that its programs provide fair access to housing. Developers using state-issued funds may be engaging in unlawful practices. Sunset staff found evidence that some tax credit developers' practices may discriminate against certain low income tenants, and

the lack of any action by the Department to discourage or stop these practices subjects the agency to possible litigation.

- The State does not have a policy for preserving at-risk projects. Texas could lose nearly 13 percent of its subsidized rental housing units over the next five years. Many of these units house extremely low-income, disabled, and elderly Texans. Thousands of tenants could be left without a home if the units are not kept affordable.
- The State may not be receiving the best product for its money by allocating funds to projects that have a greater risk of failure. The Department does not sufficiently consider developer's compliance histories in its allocation decisions.

Comparison: While organizational structures vary, most states use one of two models to manage the programs found in the Department.

- Some states manage housing finance, community affairs, and community development programs through a single agency, like the State of Texas does.
- Other states use a housing finance agency or community development authority to manage tax credit, bond finance, and home buyer assistance programs, and also use one or more separate agencies to manage community affairs and community development programs. Some housing programs, like HOME and housing trust funds, are evenly distributed between housing finance and community development agencies.

Many states have chosen to integrate housing and community support services programs.

Recommendation

Change in Statute

12.1 Continue the Department for a two-year "probationary" period, and require the Sunset Commission to re-evaluate the agency and its efforts, to ensure that needed changes have been implemented before the legislative session in 2003.

The following criteria should be used to decide whether TDHCA has successfully implemented the recommendations included in this report.

- Establishment of a functional governing body that values public input and allows Board members to develop the expertise necessary to make informed decisions about and ensure accountability of the Department and its programs.

- Effective development and implementation of a needs assessment and associated fund allocation process that:
  - ensures the State's most pressing needs are identified and met,
  - incorporates input from local entities,
  - maximizes the objective of preserving the State's existing affordable housing stock,
  - ensures the State receives the best value for its resources, and
  - maximizes the State's objectives for its housing and community support services.
- Development of policies and procedures that clearly define the appropriate roles of the Board members and agency staff.
- Establishment of compliance procedures that actively ensure the Department's programs provide fair access to housing.
- A system that ensures developers with historical compliance issues do not receive continued funding.

The Department should be required to report to the Sunset Commission by September 1, 2002 on the status of these recommendations as part of the re-evaluation of the agency during the next interim.

Impact

This recommendation would continue the Department of Housing and Community Affairs as an independent agency, responsible for funding affordable housing and community support services.

Fiscal Implication

If the Legislature continues the current functions of TDHCA, using the existing organizational structure, the Department's average annual appropriation of $193 million would continue to be required for the operation of the agency.

[1] Texas Department of Housing and Community Affairs, *1999 State of Texas Low Income Housing Plan and Annual Report* (Austin, Tex., January 1999).

[2] Ibid.

[3] Calculated from data in Texas Water Development Board, *Economically Distressed Areas Program (EDAP) Status Report,* December 31, 1999, and *Water and Wastewater Needs Survey of Economically Distressed Areas*, December 1996; available from http://www.twdb.state.tx.us/colonias/index.htm; INTERNET. Some of the 130,000 residents may be served through other water and wastewater service programs offered by the Department, the U.S. Department of Agriculture, and the North American Development Bank.

Issue 13

No Clear Need was Found for Maintaining the Statutory Link Between the State and the Texas State Affordable Housing Corporation.

Summary

Key Recommendations

- Allow the Corporation to operate independent of the State as a private non-profit corporation by deleting the statutory ties between the State and the Corporation.

Key Findings

- The State gains little advantage from the Corporation's statutory standing and the Corporation could continue to operate programs that have been historically successful without statutory authority.

Conclusion

In its five years of existence, the Corporation has primarily made a number of down payment assistance loans and a very limited number of home improvement and single- and multi-family loans. The Corporation's role has been to provide financing for affordable housing in areas (particularly rural areas and areas outside major metropolitan areas) that are currently not being served by other organizations or lenders. None of these current programs require a statutory link to the State. Given its historical activity, Sunset staff found no compelling reason to maintain the Corporation's statutory ties to the State. Removing the statutory standing of the Corporation would not impact its ability to compete for the most numerous funds available in the state to fund affordable housing. As a result, the review concluded that statutory authority for the Corporation should be eliminated, allowing the Corporation to operate as any non-profit housing provider in the state.

Just before the finalization of this review, the Corporation indicated it plans to request authority from the Bond Review Board to issue bonds for multi-family and single-family loans. To issue these bonds, the Corporation would need to maintain statutory authority. The staff of the Sunset Commission expresses no opinion concerning whether the Corporation will be able to obtain authority to issue bonds; nor whether the issuance of bonds would provide sufficient income for the ongoing operation of the Corporation, and the fulfillment of its mission. This review of the need for the Corporation's continued statutory link was based on the Corporation's performance and activities over the last several years, not on a recently developed direction the Corporation is pursuing.

Support

<u>Current Situation:</u> The Texas State Affordable Housing Corporation is a State-mandated, non-profit corporation directed to serve the housing needs of low income Texans.

- The Texas State Affordable Housing Corporation (the Corporation) was established by the Texas Department of Housing and Community Affairs (the Department) in 1994 to purchase Resolution Trust Corporation properties and El Cenizo colonia contracts. Since that time, the Legislature has modified the Corporation's purpose several times, primarily to function as a non-profit mortgage company to meet the housing needs of lower income residents in Texas.

The Corporation operated as a division of TDHCA from its inception in 1994 until 1997.

- The Corporation operated as a division of the Department and was staffed by employees of the Department until September 1, 1997, when the Legislature separated the Corporation from the Department. During this period, the Corporation's Board was the same as the Department's Board. The conversion from Department administration to independent administration was finalized in August 1998 when the new Board was appointed and the Executive Director of the Department stepped down as the ex officio president. Effective September 1, 1999, the requirement that the Executive Director of the Department also be the President of the Corporation was removed. The current President, who had been Interim President since September 1998, was named on January 28, 2000.

- The Corporation differs from other non-profit organizations in that it has specific statutory requirements on the way it must conduct its business. The current statute requires the Corporation to primarily serve low, very low, and extremely low income Texans. Additionally, the Corporation must provide single-family first lien home loans only to families who earn less than 60 percent of the median income for the State or the area median income. The Corporation is also prohibited from competing with private lenders in market segments that the private lending industry is already sufficiently serving.

- The chart, *Texas State Affordable Housing Corporation Loan Performance*, shows the number and the amount of loans closed to date for each of the Corporation's major programs. As indicated in the chart, the majority of the Corporation's performance has related to administration of the Department's down payment assistance program, in which the Corporation made about 2,400 loans on the average of $5,400 each. In addition, the corporation has closed four single-family and four multi-family home loans, and 61 home improvement loans. Altogether, the Corporation has made loans with a total value of $13.6 million. The Corporation has received approximately $23.2 million from the Department to fund this activity.

Problem: The State gains little advantage from the Corporation's statutory standing and the Corporation could continue to operate programs that have been historically successful without statutory authority.

Texas State Affordable Housing Corporation Performance 1995 - 2000

Program	Total # Loans/ Amount	Average Amount Per Loan
Single-Family Home Loans	4 $172,173	$43,043
Multi-Family Housing Loans	4 *(161 units)* $5,456,300	N/A
Home Improvement Loans	61 $878,054	$14,394
Contract For Deed Conversion	14 $159,322	$11,380
Down Payment Assistance Program*	2,393 $12.9 million	$5,403
TOTAL	2,476 $13.6 million	

* Includes Subsidized Home Purchase Loan Program.

- Removing the statutory standing of the Corporation would not impact its ability to compete for the most numerous funds available in the State to fund affordable housing. Historically, most of the Corporation's activities have been funded through federal grants, such as HOME, or other funds, such as the Housing Trust fund, received from the Department. These funds were awarded directly to the Corporation when it was under Department administration. Under the current independent administration, the Corporation competes for these funds like any other non-profit housing provider. Without its statutory standing, the Corporation would still be able to apply and access federal and state funds to assist single- and multi-family lending.

- Other Corporation activities have been financed through lines of credit with commercial lenders which can be arranged absent the current statutory standing of the Corporation. Maintaining the existing lines of credit would allow the Corporation to continue to operate its program which assists low income individuals not currently served by existing lenders in getting home loans.

- The remaining functions of the Corporation would not be affected by changes in the Corporation's statutory standing. The Corporation no longer administers the Department's down payment assistance program and the Corporation is returning its loan servicing function to the Department. The Department no longer contracts with the Corporation for master servicing of the Department's single-family bond loan program.

- Under the current statutory arrangement, the Corporation represents a potential liability to the State since it is perceived as an entity of the State but the Legislature cannot hold the Corporation accountable through the appropriations process. Although the statute is clear the State has no liability for the Corporation's operations, if the projects funded by the Corporation fail, some implied responsibility may fall to the State to provide a remedy.

Recommendation

Change in Statute

13.1 Allow the Texas State Affordable Housing Corporation to operate independently of the State by eliminating the statutory authority and restrictions on the Corporation.

This recommendation would eliminate the Corporation's statutory authorization, leaving the Corporation able to operate independent of the State like other non-profit affordable housing organizations. This recommendation would not abolish the Corporation, but would permit the Corporation to compete with other non-profit organizations in the state, much like it does now, without strict limitations on its ability to serve a range of people. This would focus all State efforts to address affordable housing needs with the TDHCA.

Management Action

13.2 Require the Texas State Affordable Housing Corporation, with the assistance of the State Auditor's Office, to determine and return the appropriate amounts related to investments the State has made in the Corporation.

This recommendation would require the Corporation to refund state transfers of property and loans to the Department. Over the course of the Corporation's existence, the Department has given the Corporation seed money, loans, and properties. Before reimbursing the State, the Corporation should have the State Auditor's Office review and certify the amounts to be transferred.

Impact

The intent of this recommendation is to permit the Corporation to operate independent of the State. This recommendation would not abolish the Corporation, but would allow it to operate, if it so chooses, as any other independent non-profit organization. Under the existing statutory authority, the Corporation has indicated it is moving ahead to issue bonds for multi-family and single-family loans and loan programs. Numerous obstacles must be overcome for the Corporation to issue bonds, including but not limited to: approval by the Office of the Attorney General, approval by the Bond Review Board, compliance with the Internal Revenue Code, and issues concerning the tax-exempt status of any bonds issued by the Corporation.

The Sunset staff expresses no opinion concerning whether the Corporation will be able to issue bonds; nor whether the issuance of bonds will provide income that can be used for the operation of the Corporation, and the fulfillment of the Corporation's mission. Staff's evaluation of the need for the Corporation's continued statutory link was based on its actual performance and activities, not on an uncertain future business plan.

Fiscal Implication

The Corporation would be required to refund appropriate investments the State has made in the Corporation. These funds could be transferred to the Department's Housing Trust Fund to provide more housing and community development for underserved residents of Texas. Estimates range from $900,000 to more than $4 million, but the exact amount would be determined by the State Auditor.

Issue 14

Homeless Services Need a Single Point of Accountability and More Visibility.

Summary

Key Recommendations

- Charge the Texas Department of Housing and Community Affairs with primary responsibility for addressing homelessness at the state level.
- Make the Texas Interagency Council for the Homeless an advisory committee to the Texas Department of Housing and Community Affairs.

Key Findings

- The need to serve homeless people through coordinated services remains important to the State.
- No single agency has the primary responsibility for addressing homelessness at the state level.
- The Council lacks the necessary authority and visibility to directly impact homelessness.

Conclusion

Although the Texas economy has grown, many Texans are homeless, and the State has a continuing need to coordinate its numerous and fragmented homeless services. The Texas Interagency Council for the Homeless performs an important information-sharing function and has helped to establish a central information resource. However, because the State has no single point of accountability for homelessness and because many Council members lack necessary authority and visibility, the Council has had limited success directly impacting the problems of homelessness.

The Sunset review identified the Texas Department of Housing and Community Affairs as the most appropriate agency to have primary responsibility for homelessness. Attaching the Council to the Department as an advisory committee and requiring stricter membership requirements should provide the committee with a forum for policy recommendations, increase its visibility, and encourage more active member participation. These changes should strengthen the State's ability to meet homeless needs through the various agencies that serve the homeless population.

Support

About 200,000 people in Texas are homeless.

The Council mainly functions as an information-sharing group, with a non-profit organization fulfilling many of its statutory duties.

Need for Council Functions: The need to serve homeless people through coordinated services remains important to the State.

- While the growing economy has benefited many Texans, the Texas Interagency Council for the Homeless (the Council) estimates that about 200,000 people, or 1 percent of the State's population, are homeless.[1] Estimates also show that over 125,000 schoolage children in Texas experience homelessness during the course of a year.[2] About 25 percent of homeless people in Texas suffer from a serious mental illness, and more than 65,000 persons with disabilities did not have a regular means of shelter in 1999.[3] National figures indicate that women make up 19 percent of the homeless population, and that veterans comprise 30 to 40 percent.[4]
- Created in 1989 to coordinate the State's homeless resources and services, the Council consists of representatives from all state agencies that affect the homeless either directly or indirectly. While homeless people have primary housing needs, they also often need support services such as health care, education, and employment assistance. The chart on page 154, *Homeless-Related Programs at State Agencies*, details major state agency programs. A 1994 study concluded that an interagency body, such as the Council, could improve client services by integrating and defragmenting systems of care.[5]

Problem: No single agency has the primary responsibility for addressing homelessness at the state level.

- The Council mainly functions as an information-sharing group for agencies whose members regularly communicate with each other and participate at meetings. While sharing information is an important function, advocates have criticized the Council for not going further by establishing more interagency projects. Although the Council has statutory authority to start a transitional housing pilot program, member agencies have not provided funds, and no single agency holds the Council accountable for carrying out projects. For example, because the Council has no forum to recommend policy changes or projects, no member agency has taken a lead to adopt or implement the Council's draft policy statement on homelessness.
- The Council does not receive any money, and relies on administrative support from the Department of Housing and Community Affairs. The Texas Homeless Network, a non-profit organization, fulfills many of the Council's statutory duties through a contract with the Department. These duties include conducting a survey and evaluation

of needs and services, maintaining a homeless resource center, and developing guidelines for monitoring services.

<u>Problem:</u> The Council lacks the necessary authority and visibility to directly impact homelessness.

- About half of the members do not regularly participate in Council activities, often because they do not have responsibility in their agencies for homeless programs or related services, or lack the authority to make decisions or commit resources on their agencies' behalf. In a more extreme case, the Texas Department of Economic Development has not appointed a representative because it no longer has homeless-related programs.
- Many local homeless service providers are unaware of the Council's existence, mainly due to its lack of visibility. While TDHCA's website contains a few links to homelessness resources, the site contains no information about the Council. In addition, although the Council has held public hearings throughout the state, it is not subject to open meetings requirements such as providing notice and allowing for public testimony.
- Although TDHCA has two Council representatives, one from its Community Affairs Division and one from its Housing Finance Division, the Council plays only a minor role at the Department of Housing and Community Affairs. With the exception of federal programs explicitly aimed at the homeless population, the Department does not formally consider homeless needs in its housing programs.

Many members lack the authority to make decisions or commit agency resources, limiting the Council's impact on services.

Recommendation

Change in Statute

14.1 Charge the Texas Department of Housing and Community Affairs with primary responsibility for addressing homelessness at the state level.

14.2 Make the Texas Interagency Council for the Homeless an advisory committee to the Department.

Responsibility for addressing homelessness at the state level should be one of TDHCA's statutory purposes. As the State's lead agency for housing, the Department has authority for one of the most basic needs of homeless people. The Department also has the majority of homeless-related federal funding, including the Emergency Shelter Grants Program, and contracts with the Texas Homeless Network to fulfill Council duties.

The advisory committee structure complements the recommendations contained in Issues 1 and 12 of this report, and would help the Department identify and serve the needs of the extremely low-income homeless population.

The Council would continue to perform its current statutory duties, including ensuring that the Texas Homeless Network or another entity carries out those duties that the Council cannot perform. As an advisory committee, members would have the authority to recommend policy to the Department's Board. As explained in Issue 1 of this report, the Board must provide written justification for not accepting Council recommendations.

Attachment to the Department would provide the Council with a single point of accountability, and a forum to recommend policy changes and interagency projects. For example, the Council would continue to submit an annual progress report to member agencies, but would not develop a separate strategic plan. Instead, TDHCA, as the lead agency on homelessness, would incorporate the Council's recommendations to address homelessness in the Department's strategic plan. To help accomplish this, the Department should require state agency committee members to report a standard set of performance data on outcomes related to homelessness. Each agency should also continue to contribute resources to the Council.

These recommendations would also improve the Council's visibility, as the public would receive notice of and could comment on Council recommendations at the Department's Board meetings. The Council should continue its current practice of holding public hearings throughout the state, and TDHCA should provide notice of these hearings in the Texas Register, the Texas Homeless Network newsletter, and other appropriate sources such as local newspapers.

Finally, attaching the Council to the Department would necessitate removing the Council's separate Sunset date. The Council would undergo review as part of any future reviews of TDHCA.

14.3 Require Council members to have responsibility in their agencies for homeless programs or related services, and the authority to make decisions and commit resources, subject to the approval of their agency head, on their agencies' behalf.

This recommendation should improve the attendance and participation of Council members, allowing the Council to accomplish more collaboration and possibly increase its ability to access funds from member agencies to implement programs. Because the Texas Department of Economic Development no longer has homeless-related programs, it should be removed from the Council's membership.

Management Action

14.4 Require the Department to maintain information about the Council on its website, and require each member agency to have a link to this site.

The website should include information about the Council and homelessness in Texas, and should also provide links to other information sources, including member agency sites and local resources. The Department should look to the Virginia InterAgency Action Council for the Homeless website as a model.

Impact

The intent of these recommendations is to strengthen the Council by attaching it to the Department as an advisory committee and by requiring stricter membership requirements. The recommendations should provide the Council with a forum for policy recommendations, establish a single point of accountability, and encourage more active member participation. Increased visibility would ensure that the Council receives adequate public input to address homeless needs. The recommendations would also help the Department meet the needs of the extremely low-income homeless population. All of these should strengthen the State's ability to meet homeless needs through the various agencies that serve the homeless population.

Fiscal Implication

Changing the Council into an advisory committee to TDHCA should result in no fiscal impact to the State. TDHCA already provides the Council with administrative support. The Department should use existing program funds if it adopts Council recommendations to implement homeless-related projects, and other member agencies could also share costs, as appropriate.

[1] Telephone interview with Kathy Reid, Executive Director, Texas Homeless Network, Austin, Texas, March 9, 2000.

[2] The Office for the Education of Homeless Children and Youth website, available at www.tenet.edu/OEHCY/; INTERNET.

[3] "The State of Texas ACCESS Demonstration Project: No Wrong Door," report prepared by the Access to Community Care and Effective Services and Supports (ACCESS) Evaluation Components, Spring 1999.

[4] Ibid.

[5] U.S. Department of Health and Human Services, "Outcasts on Mainstreet: A Report of the Federal Task Force on Homelessness and Severe Mental Illness," (Washington, D.C., 1992), pp. 33-34.

Across-the-Board Recommendations

Texas Department of Housing and Community Affairs	
Recommendations	**Across-the-Board Provisions**
	A. GENERAL
Update	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Update	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Update	10. Require information to be maintained on complaints.
Already in Statute	11. Require development of an equal employment opportunity policy.

Texas Department of Housing and Community Affairs		
Recommendations	**Across-the-Board Provisions**	
	B. LICENSING	
Update	1.	Require standard time frames for licensees who are delinquent in renewal of licenses.
Update	2.	Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
Apply	3.	Authorize agencies to establish a procedure for licensing applicants who hold a license issues by another state.
Apply	4.	Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Update	5.	Authorize the staggered renewal of licenses.
Update	6.	Authorize agencies to use a full range of penalties.
Already in Statute	7.	Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Apply	8.	Require the policymaking body to adopt a system of continuing education.

Agency Information

Agency Information

Agency at a Glance

The Texas Department of Housing and Community Affairs (the Department) ensures availability of affordable housing, provides community assistance, and regulates the manufactured housing industry. The Legislature created the Department in 1991 by merging the Texas Department of Community Affairs, the Texas Housing Agency, and the Community Development Block Grant Program from the Texas Department of Commerce.

Mission Statement

To help Texans achieve an improved quality of life through the development of better communities.

The Department's major functions include:

- assisting low income individuals and families to obtain affordable housing by allocating or awarding funds to for-profit and non-profit organizations, local governments, lenders, and developers;
- providing funding for infrastructure (e.g., water, sewers, streets) to serve individuals and families in need;
- making grants to homeless shelters and for various services designed to address poverty issues;
- providing funding to repair or weatherize the homes of very low income people and to pay their utility bills when necessary; and
- regulating the manufactured housing industry.

The Department of Housing and Community Affairs ensures availability of affordable housing, provides community assistance, and regulates the manufactured housing industry.

Key Facts

- **Funding.** The Department operates with an annual budget of almost $193 million. Federal funds provide the majority of the agency's budget ($174.1 million, or 90 percent, in fiscal year 1999). Other sources provide the remaining 10 percent of revenue, including the State's contribution of $5.3 million, or 2.8 percent.
- **Staffing.** The Department has 370 employee positions. 327 people work in its Austin headquarters.
- **Affordable housing.** The agency helped 3,351 families purchase homes in fiscal year 1999 — 1,551 through mortgage loans, and 1,800 through down payment assistance.

On the Internet

Information about the Department, including the State of Texas Low Income Housing Plan and Annual Report, proposed rules, program applications, and information about other agency activities is available at www.tdhca.state.tx.us

- **Community development.** The Community Development Block Grant Program funded approximately 316 local infrastructure, planning, housing, and economic development projects in fiscal year 1999, serving 476,744 individuals.
- **Poor and homeless programs.** In fiscal year 1999, the Department's community services programs helped 715 people transition out of poverty.
- **Repair and energy assistance.** In fiscal year 1999, the agency weatherized 5,493 homes, and provided energy/utility assistance to 116,894 very low-income households.
- **Manufactured housing regulation.** Manufactured housing accounted for one-third of all new housing in Texas in fiscal year 1999, and the Department performed more than 10,400 routine installation inspections and resolved almost 2,200 complaints.

In 1991, the Department was created by merging the Texas Housing Agency and the Texas Department of Community Affairs.

Major Events in Agency History

1971 Texas Department of Community Affairs (TDCA) established to assist communities in achieving solutions to economic and social problems and to improve effectiveness of local government.

1979 Texas Housing Agency created to encourage private investment in low income residential housing and to provide for the acquisition, construction, and rehabilitation of low income housing through public financing and construction and mortgage loans.

1987 Several of TDCA's major functions transferred to the newly-created Texas Department of Commerce.

1991 Texas Department of Housing and Community Affairs created by merger of the Texas Housing Agency and the Texas Department of Community Affairs.

Community Development Block Grant Program transferred to the Department from the Texas Department of Commerce.

1992 Texas received its first allocation of federal HOME Investment Partnership Program funds.

Utility Assistance Program and Emergency Nutrition and Temporary Emergency Relief Program transferred to the Department from the Department of Human Services.

1995 Texas Manufactured Housing Program transferred from the Texas Department of Licensing and Regulation.

1996 Office of Colonia Initiatives established to manage a portion of its colonia programs and to coordinate border issue initiatives.

1999 The 76th Legislature mandated that the Department's Board, rather than the Governor, appoint its Executive Director.

Organization

Policy Body

The Department is governed by a Board of nine members, composed of three public members and six members who meet specific statutory requirements related to housing. The Governor appoints Board members and designates the Chair. Members serve staggered six-year terms, and may not serve more than two terms. Except for the representative of local government, a Board member may not hold another public office. The chart, *Governing Board*, identifies each Board member, their term of office, which Board position they represent, and their place of residence.

Governing Board

Name	Term	Representation	Residence
Donald R. Bethel, Chair	4/6/95 - 1/31/01	Realtors or Housing Developers	Lamesa
Margie Bingham	4/6/95 - 1/31/01	Local Government	Houston
Robert Brewer	2/10/97 - 1/31/03	Community-Based, Non-Profit Housing Organizations	San Angelo
C. Kent Conine	2/10/97 - 1/31/03	Housing Construction	Frisco
James A. Daross	4/25/97 - 1/31/03	Public Member	El Paso
Dr. Florita Bell Griffin	4/6/95 - 1/31/01	Public Member	College Station
Michael E. Jones	1/30/96 - 1/31/05	Public Member	Tyler
Lydia Saenz	2/15/99 - 1/31/05	Individuals and Families of Low or Very Low Income	Carrizo Springs
Marsha L. Williams	2/15/99 - 1/31/05	Lending Institutions	Dallas

The Board determines departmental policy for the Housing Finance Division by authorizing bonds, approving loans, reviewing the Division budget, adopting administrative rules, and other activities. The Board employs the Executive Director of the agency, with the approval of the Governor, to serve at the Board's pleasure. However, the Board has no explicit statutory oversight of the Community Affairs and Community Development Divisions, other than to adopt a goal for the Community Affairs Division to apply funds toward housing assistance for very low income people, and to define the Division's responsibilities.

Board members meet as a whole and in the following policy committees: Finance, Programs, Audit, and Manufactured Housing. Each committee consists of three Board members, including a committee chair, appointed by the Chair of the full Board. In January 2000, the Board voted to meet as a committee of the whole for Low Income Housing Tax Credits decisions.

Staff

The Executive Director oversees the Department's operations. The *Texas Department of Housing and Community Affairs Organization Chart*, shown on page 5, depicts the organization of the agency.

About 370 employees work for the Department.

The Department employs about 370 staff, most of whom work in its Austin headquarters. Approximately 37 staff work in manufactured housing field offices throughout the state, three work in the Office of Colonia Initiatives field offices, and three, supervised by Community Development Block Grant staff, work in the Department's technical assistance centers. The map on page 6, *Texas Department of Housing and Community Affairs Field Offices and Assistance Centers*, shows the locations of these field offices and centers.

A comparison of the agency's workforce composition to the minority civilian labor force over the past three years is shown in Appendix A, *Equal Opportunity Employment Statistics—Fiscal Years 1998-2000*. The Department has generally met or exceeded civilian labor force levels for most job categories.

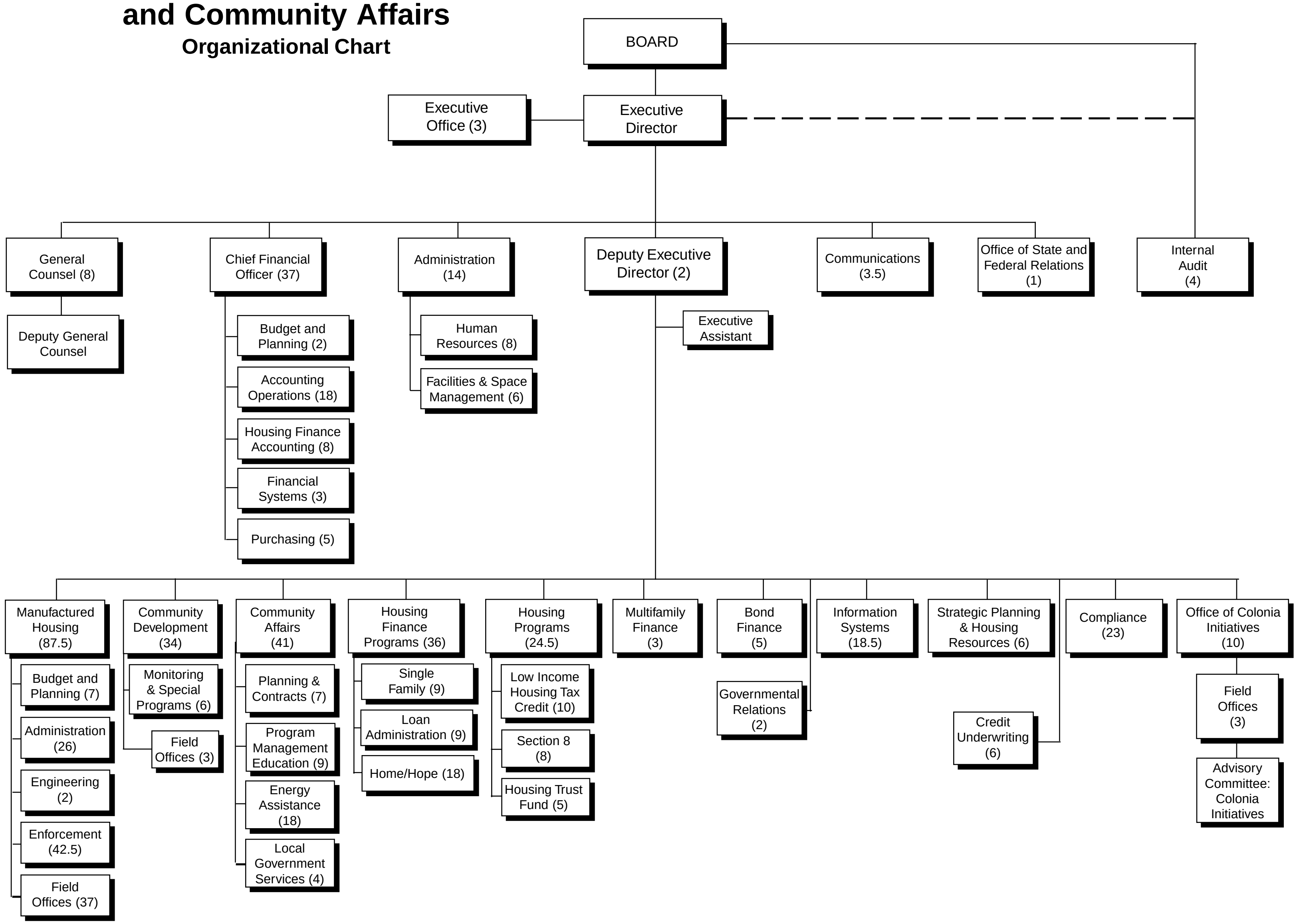
Funding

Revenues

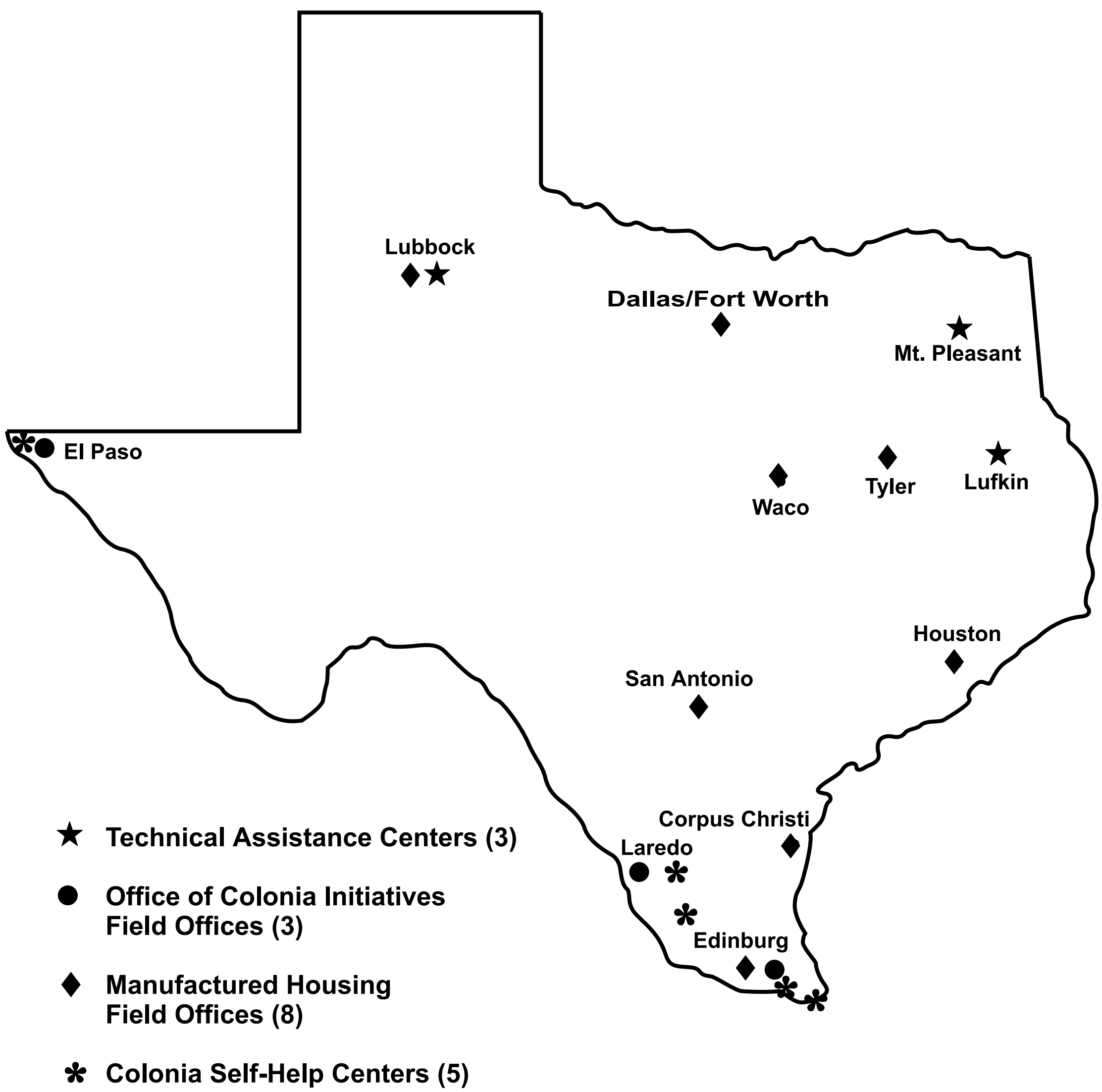
The Department received $192.9 million in appropriated funds in fiscal year 1999. The chart, *Sources of Revenue—Fiscal Year 1999*, identifies each source of funds for that fiscal year. Approximately 90 percent, or $174.1 million, of the Department's revenue came in the form of federal block grants and payments. The remaining 10 percent of revenue came

Texas Department of Housing and Community Affairs

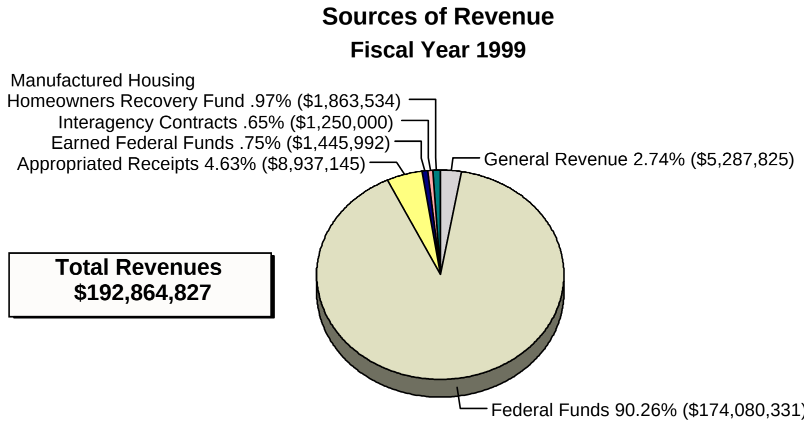
Organizational Chart



Texas Department of Housing and Community Affairs
Field Offices and Assistance Centers



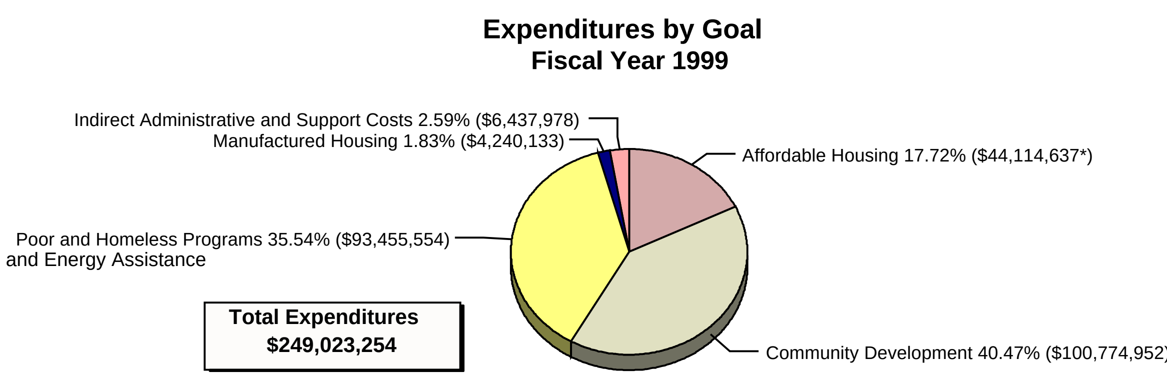
from five other sources: general revenue, appropriated receipts, earned federal funds, interagency contracts, and the Manufactured Housing Homeowner's Recovery Fund. The State's general revenue contribution to the entire budget amounted to $5.3 million, or 2.8 percent.



Expenditures

The Department's appropriations are divided between the goals and strategies outlined in its Strategic Plan and in the General Appropriations Act. The Department had five goals for fiscal year 1999: affordable housing, community development, poor and homeless programs, manufactured housing, and indirect administration and support.

The agency spent $249 million in fiscal year 1999. The pie chart, *Expenditures by Goal—Fiscal Year 1999*, provides a proportional snapshot of expenditures. Community development programs constituted 40 percent of the Department's expenditures, programs for poor and homeless persons made up 37 percent, and affordable housing programs represented 18 percent. The chart, *Expenditures by Strategy—Fiscal Year 1999*, provides detailed information on how the Department spent its appropriated funds.



*This does not include $165 million of non-appropriated affordable housing resources.

Not all funds distributed by the Department come from appropriated funds. The Low Income Housing Tax Credit Program does not involve the distribution of any funds by the Department. Instead, the Department issues about $25.2 million in annual tax credits that developers use to reduce their federal income tax liability over a period of 10 years. Two

Expenditures by Strategy Fiscal Year 1999	
Goal A: Affordable Housing	**$44,114,637**
Housing Trust Fund	$975,065
HOME Program	$31,343,651
Section 8 Rental Assistance	$7,876,029
Low Income Housing Tax Credit	$1,306,508[1]
Mortgage Revenue Bond Program - Single-Family	$1,541,499[2]
Mortgage Revenue Bond Program - Multi-Family	$291,801[3]
Monitoring	$786,084
Goal B: Community Development	**$100,774,952**
Train Local Officials	$251,668
Development Project Grants	$99,938,513
Colonia Service Centers	$584,771
Goal C: Poor and Homeless Programs	**$93,455,554**
Poor and Homeless Programs	$33,439,311
Energy Assistance Programs	$60,016,243
Goal D: Manufactured Housing	**$4,240,133**
Titling and Licensing	$685,261
Installations Inspections	$1,310,722
Enforcement	$2,244,150
Goal E: Indirect Administrative and Support Costs	**$6,437,978**
Central Administration	$4,934,486
Information Resource Technologies	$1,130,197
Operations/Support	$373,295
GRAND TOTAL	**$249,023,254**

[1] Does not include value of tax credits ($25.1 million annually).

[2] Does not include value of single-family bonds (approximately $118 million annually).

[3] Does not include value of multi-family bonds (approximately $21.9 million annually).

other programs, the Mortgage Revenue Bond Single-Family and Multi-Family programs, involve the Department's issuance of bonds. The Legislature does not appropriate these funds; rather, private sector investors provide loans by buying the Department's bonds. The Single-Family Bond Program allocated $118 million to lenders across the state for eligible first-time home buyer loans in fiscal year 1999. The Multi-Family Bond Program issued $25 million in bonds for multi-family projects across the state in fiscal year 1999. The federal government determines the amount of bond funds that each state can distribute based on a per-capita basis.

Appendix B shows the agency's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services. The agency exceeded state goals in all categories in fiscal year 1999.

Agency Operations

The Department's major programs described below fall into five main categories: affordable housing, community development, poor and homeless programs, repair and energy assistance, and manufactured housing regulation. These categories generally correspond with the Department's goals listed above, but some strategies have programs that serve several functions. Appendix C, *Guide to Agency Programs*, provides details about each agency program, such as funding information and who the program serves. Appendix D, *Income Designations*, explains the different income designations the Department uses to award program funds. To administer the majority of its programs, the Department works with various types of local organizations. Appendix E, *Local Housing and Community Affairs Organizations*, shows the structure of these local organizations.

Affordable Housing

The Department operates three general types of programs to help provide affordable housing for low income Texans: affordable housing construction and rehabilitation, rental assistance, and home purchasing assistance.

Affordable Housing Construction and Rehabilitation - Each of the Department's four programs for the construction and rehabilitation of affordable housing provides funds to developers to build housing. None of these programs involve the Department in the actual construction or development of affordable housing. Developers who receive funds from the Department must agree to set aside a certain percentage of their housing units for families at specific income levels.

The **Low Income Housing Tax Credits** (LIHTC) program provides federal tax credits to developers for the construction, rehabilitation, or acquisition of affordable rental units. Developers must apply through a competitive process to receive a tax credit allocation. Developers who receive tax credits generally sell them to investors who use credits to decrease their federal income tax liability. The developers then use the proceeds from the sale of tax credits to develop the affordable housing units.

Low Income Housing Tax Credit Program Facts
Fiscal Year 1999

- Allocated about $25.1 million in tax credits
- Produced 5,440 units of affordable housing

Housing units developed under the LIHTC program are both rent- and income-restricted. The incomes of low income families living in an LIHTC development cannot exceed a certain threshold, and rent cannot exceed 30 percent of their total income. The affordability restrictions for tax credit properties last 30 years.

The Department offers two **Multi-Family Bond** products for the construction, acquisition, or rehabilitation of low-income multi-family housing. These products are the Private Activity Multi-Family Mortgage Revenue Bonds and the 501(c)(3) Multi-Family Mortgage Revenue Bonds. Each bond issuance provides tax-exempt financing to non-profit or for-profit developers and owners of apartment complexes. The Department lends the bond money to developers who set aside a certain percentage of a property's rental units for low-income families. Private Activity Bonds are available to for-profit developers, and include a tax credit allocation to help the developer finance a project. The 501(c)(3) bonds are restricted to non-profit developers, and do not include a tax credit allocation. The text box, *Mortgage Revenue Bonds*, provides a more detailed discussion of mortgage revenue bonds at the Department.

The Department loans federal **HOME Rental Housing Development** funds to local organizations such as community housing development organizations and municipal governments for the construction, acquisition, or rehabilitation of affordable rental housing units. Those projects receiving HOME funds have rental and income restrictions.

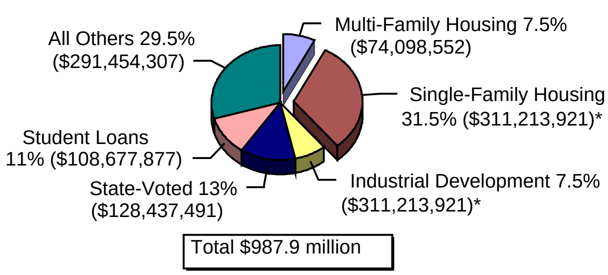
Multi-Family Bond Program Facts Calendar Year 1999

- The Legislature allocated $74 million statewide, or 7.5 percent, of the State's bond cap towards multi-family housing.
- The Department issued $25 million in tax-exempt bonds (under the bond cap) and taxable bonds, resulting in 490 units of affordable housing for very low income families.
- The Department does not receive a direct allocation of private activity bonds for multi-family use. The agency participates in the lottery allocation process administered by the Bond Review Board.

Mortgage Revenue Bonds

The Internal Revenue Code permits Texas to issue nearly $1 billion in Private Activity Bonds (based on a $50 per capita rate). The Legislature establishes how much to allocate to each acceptable purpose, including affordable housing, student loans, and industrial development.

Private Activity Bond Allocation Calendar Year 1999



*Of the $311 million for Single Family Housing, one-third is allocated to TDHCA and two-thirds goes to Local Finance Corporations.

For calendar year 1999, the Legislature apportioned $385 million for affordable housing. Of that amount, $311 million is available for single-family housing and $74 million for multi-family housing. Of the single-family allocation, $103 million goes to the Department for its First-Time Home Buyer Program, and $207 million goes to local housing finance corporations. For calendar year 2000, the Legislature increased the allocation for multi-family and reduced the allocation for single-family.

The **Housing Trust Fund Pre-Development Revolving Loan Fund** supports pre-development activities such as market studies, architectural fees, appraisals, and engineering fees. Developers planning to construct low income housing may apply for assistance through this program. The text box, *Housing Trust Fund*, provides more information about the Department's Housing Trust Fund.

Housing Trust Fund

The Housing Trust Fund's primary activity is to provide funding for the acquisition, development, and rehabilitation of affordable housing. Funding is provided to local governments, non-profit organizations, public housing authorities, community housing development organizations, and individuals. Additionally, the Housing Trust Fund provides funding for capacity building and predevelopment activities. The Housing Trust Fund has also funded home buyer education training through the agency's Housing Resource Center, and has provided $2.8 million to self-help housing developers through the Department's Owner-Builder ("Bootstrap") Loan Program.

Rental Assistance - For people whose circumstances hinder home ownership, the Department helps them find rental options to better meet their needs. The Department uses two U.S. Department of Housing and Urban Development (HUD) programs for this purpose: the Section 8 Voucher Program and HOME Tenant-Based Rental Assistance.

The **Section 8 Voucher** program provides the Department and local housing authorities with funding for rental assistance. In areas of the state with public housing authorities, people who need rental assistance may seek assistance directly from the public housing authority. However, many areas of the state do not have public housing authorities. In certain unserved areas, the Department steps in and provides the same rental assistance as public housing authorities. The State contracts with small, rural communities or local organizations such as community action agencies who administer the program and distribute the vouchers with minimal administrative overhead. The text box, *How Section 8 Vouchers Work*, provides an example of how the program works.

How Section 8 Vouchers Work

A family of four living in Hondo with an annual income of $11,000 could apply for HUD Section 8 rental assistance. Since Hondo is located in an area that does not have a public housing authority, the family would apply for assistance from another local service provider. The local organization would determine the family's eligibility and issue the family a voucher so the family could find a place to rent. Based on fair market rent, the family would contribute no more than about 40 percent of their income (adjusted monthly), or about $25 per month, toward the rent. The local organization would supply a Section 8 voucher to pay the difference between the family's contribution and the monthly rental cost. The Department's rent contribution would go directly to the landlord of the family's apartment.

Under the federal requirements of the HOME program, a large HUD program designed to meet various aspects of housing need, low , very low , and extremely low income Texans may apply for **Tenant-Based Rental Assistance**. The major difference between this program and Section 8 Vouchers is that the funds go directly to the tenant, rather than the landlord. The State competitively awards funds to local governments, housing authorities, community housing development organizations, or other non-profit or for-profit developers. These entities in turn provide rental assistance to the tenant for a maximum of two years (for more information on these entities, see Appendix E, *Local Housing and Community Affairs Organizations*). In addition to rental assistance, HUD requires recipients of Tenant-Based Rental Assistance to participate in education, job training, or other programs that lead to self-sufficiency.

Home Purchasing Assistance - For some Texans, home ownership is the best way for the State to assist in providing affordable housing. To achieve this purpose, the Department has several programs to aid individuals and families in owning a home of their own. Some of the Department's home buyer products assist people financially, while others provide people with the education needed to successfully buy and maintain their home.

First-Time Home Buyer Program Facts Fiscal Year 1999

- More than $118 million made available to about 40 qualifying lending institutions that loaned $92.9 of the $118 million to individuals and families
- Average First-Time Home Buyer loan was $69,671*
- Helped more than 1,551 families purchase homes*
- Served more moderate-income people than any of the Department's other housing finance programs

How the First-Time Home Buyer Program Works

In Beaumont, a family of four with good credit and an income of $34,550 could qualify for a low-interest loan. Once the family begins looking for a home, a real estate agent refers them to a lending institution offering the State's loan product.

* also includes loans originated from previous tax-exempt bond issues

The **First-Time Home Buyer Program** provides low-interest loans to qualified individuals and families, and is the most widely-used of the Department's programs that promote home ownership. Financed through mortgage revenue bonds, the Department can offer lower-than-market interest rates because of the tax-exempt interest rate it pays the bond holders. For example, in fiscal year 1999, the agency made loans available at 5.85 percent, while the statewide market interest rate hovered around 8.5 percent. For a more detailed discussion of mortgage revenue bonds at the Department, see the text box, *Mortgage Revenue Bonds*, on page 10.

In addition, the Department offers **Down Payment Assistance** to low and very low income people who cannot afford the full down payment and closing costs. Using federal HOME funds or bond funds, this program offers a secondary loan for the up-front costs associated with purchasing a home. In fiscal year 1999, the HOME program served approximately 1,800 families that received an average of $5,000 in loans for down payment and closing costs.

To help future and new home owners successfully attain and maintain their homes, the Legislature directed the Department to develop a statewide **Home Buyer Education Program** in 1997. The Department pooled various funding sources, including Single-Family Bond, Housing Trust Fund, HUD Counseling, and Freddie Mac funds to provide nearly $671,000 for this effort. In fiscal year 1999, the agency funded 25 existing home buyer education providers with grants up to $20,000 to provide comprehensive home buyer education statewide. The Department has developed a training program for non-profits on teaching subjects such as money and credit management skills. The State has offered several "Train the Trainer" seminars throughout the state and has certified 84 home buyer counselors thus far. Although this program is still in its infancy, the agency anticipates that about 100 potential home buyers will participate in each organization's educational program.

Designed to help Texans with special needs own homes, the **Texas Home of Your Own** (HOYO) pilot program provides home buyer education, down payment assistance, architectural barrier removal, and mortgage funding assistance for low, very low, and extremely low income people with disabilities. A partnership of state and local service providers, state government agencies, disability advocacy groups, community groups, and statewide lending institutions form the HOYO Coalition. In fiscal year 1999, the Department awarded the HOYO Coalition with $375,000 for down payment assistance and $500,000 for architectural barrier removal, which helped 26 households, most with very low incomes. This initiative has resulted in five HOYO offices being created in Austin, El Paso, Fort Worth, Houston, and McAllen.

The new **Owner-Builder ("Bootstrap") Loan Program** provides up to $25,000 in home loans to very low-income residents who provide at least 60 percent of the labor to build their houses. The Department will award funds to non-profit organizations to operate self-help home construction programs, which must include owner-builder training for the residents.

Community Development

Community Development Block Grants - The Department provides funding for infrastructure, planning, housing, and economic development projects in small cities and rural areas through a portion of the federal Community Development Block Grant (CDBG) Program. Cities with fewer than 50,000 residents and counties with fewer than 200,000 residents apply to the Department for CDBG funds because they are not eligible for direct federal assistance from the U.S. Department of Housing and Urban Development. In addition, the Department allocates approximately 15 percent of CDBG funds to the Texas Department of Economic Development for the Texas Capital Fund, which helps communities encourage the creation or retention of jobs through economic development projects.

The Community Development Block Grant Program provides communities with funding for infrastructure, planning, housing, and economic development projects.

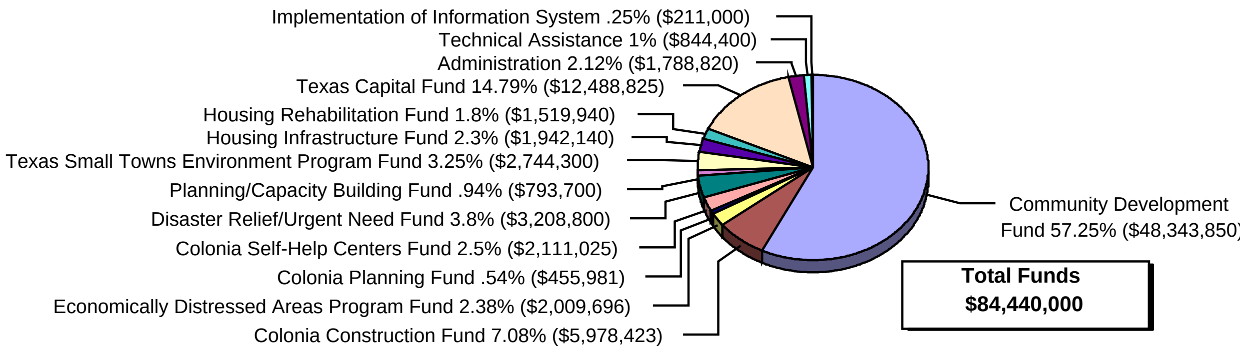
Within the CDBG program, six funds support infrastructure and housing projects.

The **Community Development Fund** supports a variety of community infrastructure projects, including water and sewer service improvements, drainage and flood control, street paving, and community centers. Twenty-four regional review committees, one for each state planning region, participate in the award process in conjunction with Department staff.

The **Colonia Construction Fund** and **Economically Distressed Areas Program Fund** allow colonia residents to connect their homes to water and wastewater systems built through the Texas Water Development Board's Economically Distressed Areas Program. Counties within 150 miles of the Texas-Mexico border, except Bexar County, may apply for these funds to address their water, sewer, and housing needs.

The **Housing Infrastructure Fund** supports various activities for development of new affordable housing projects, including public facilities improvements, engineering costs, and administrative costs.

Allocation of Community Development Block Grant Funds
Fiscal Year 1999



The **Small Town Environment Program (STEP) Fund** supports "self-help" water and wastewater service projects that rely on volunteer labor from community residents to reduce costs. To obtain a STEP award, cities and counties must demonstrate significant cost savings over conventional construction methods, and strong citizen commitment, to carry out the project.

The **Disaster Relief and Urgent Need Fund** provides emergency relief to communities suffering from a natural disaster or from urgent problems that pose an imminent threat to the life or health of community residents. The Department gives top priority to the restoration of basic needs, such as housing and water and sewer services.

Two CDBG program funds aid local governments with comprehensive planning and capacity building.

The **Planning and Capacity Building Fund** provides planning grants to local governments to identify community housing, infrastructure, and other needs, and to develop strategies to address the identified needs and build or improve local capacity.

The **Colonia Planning Fund** provides planning grants to counties within 150 miles of the Texas-Mexico border to identify and address housing and infrastructure needs for an individual colonia or for all colonias in a county.

Colonias - Three Department programs specifically address colonia needs.

The **Contract for Deed Conversion Program** allows colonia residents to convert land titles held under a contract for deed into traditional mortgages. Conversions allow residents to build equity through their monthly payments, substantially reduce the interest rate on their payments, and obtain title to the property before the final payment is made.

Contract for Deed Conversion Program Facts Fiscal Years 1998-1999

- $4.2 million spent to convert 369 contracts for deed
- An appropriations rider required the Department to spend at least $4 million to convert at least 400 contracts for deed (the Department has an identical rider for fiscal years 2000-2001)

The **Consumer Education Program** educates colonia residents, developers, and local officials on the rights of consumers who purchase land using a contract for deed. This program helps minimize the potential abuse of colonia residents by developers and reduce the spread of colonia settlements lacking adequate infrastructure.

Through the CDBG program, the Department funds five **Colonia Self-Help Centers** in Cameron/Willacy, Hidalgo, Starr, Webb and El Paso counties, and manages the centers in cooperation with county governments and non-profit organizations. A 10-member Colonia Resident Advisory Committee advises the Department on the needs of colonia residents. Services vary among the centers, and may include contract for deed conversions, consumer education on contracts for deed, self-help housing construction and rehabilitation, tool lending for self-help rehabilitation, right-of-way acquisition for streets and utility easements, and credit and debt counseling.

Information and Technical Assistance - Two Department programs provide information to individuals and local entities.

Funded solely with general revenue, the **Local Government Services** office develops and provides training, manuals, and technical assistance to local government officials to keep them up-to-date with state and federal programs. Publications include a guide to state laws for county officials, an operating manual for rural fire prevention districts, financial manuals, and personnel management materials. The

Local Government Services Facts Fiscal Year 1999

- Trained 2,010 city and county government officials
- Provided information and technical assistance to 383 cities and counties

Department targets assistance to the 1,002 cities and 95 counties in rural areas with populations under 10,000, but will assist any local entity upon request.

The **Housing Resource Center** (HRC) provides information and technical assistance on local housing needs, programs, and available funding sources. HRC responds to requests from individuals and organizations, such as local governments, community-based organizations, non-profit housing sponsors, and housing contractors. HRC receives its funding from appropriated receipts and bond administrative fees.

Poor and Homeless Programs

The Department administers four main programs to help local agencies provide services to Texans defined as poor or homeless.

The Department gives the majority of federal **Community Services Block Grants** to 51 community action agencies (CAAs) to support activities to eliminate poverty, promote self-sufficiency, and promote community revitalization. A few of the programs supported or directly funded by the grants include Meals on Wheels, transportation programs, and Head Start. Funded by the U.S. Department of Health and Human Services, the Department uses a formula based on poverty and population density to distribute these grants to CAAs that serve all 254 counties (for more information on CAAs, see Appendix E, *Local Housing and Community Affairs Organizations*). In addition, the agency uses about five percent of this grant to fund demonstration projects that address the incidence of poverty, assist migrant farm workers, and help individuals and families affected by a natural or man-made disaster.

Community Services Block Grants Facts Fiscal Year 1999

- 323,460 persons served
- $23,452,092 distributed

Administered at the federal level by the U.S. Department of Housing and Urban Development, the Department awards **Emergency Shelter Grants** through a competitive process to service providers and shelters for facility operation and renovation;

Emergency Shelter Grants Program Facts Fiscal Year 1999

- 161,738 persons served
- $5,319,025 distributed

services such as job training, drug abuse treatment, and education; and homelessness prevention such as rental assistance.

Created in 1983 in response to emergency food and energy needs, the **Emergency Nutrition and Temporary Relief Program** (ENTERP) provides emergency assistance, such as food and shelter, and short-term energy-related assistance to low, very low, and extremely low income persons. The Department serves Texans in all 254 counties by administering approximately 94 ENTERP contracts with counties, community action agencies, and other non-profit organizations. ENTERP uses general revenue to make allocations, based on each county's poverty and unemployment rates.

Emergency Nutrition and Temporary Relief Program Facts Fiscal Year 1999

- 161,738 persons served
- $5,319,025 distributed

Designed to coordinate statewide hunger-related efforts, the **Community Food and Nutrition Program** (CFNP) does not provide direct services. Through a contract with the Department, the Texas Association of Community Action Agencies uses these funds to expand child feeding programs, distribute surplus commodities and game donated by hunters, and publish a statewide newsletter that addresses hunger issues. The Department receives its CFNP grant from the U.S. Department of Health and Human Services through a formula allocation based on poverty. The agency distributed $196,978 through this program in fiscal year 1999.

Repair and Energy Assistance

The Department offers five programs to rehabilitate and improve housing for low-income families. Two of these programs provide for home repair. The other three promote energy efficiency and help reduce the utility bills of low income families through construction, weatherization, education, and bill payment assistance.

The **Owner-Occupied Housing Assistance** program assists low income homeowners in need of home repair. Under this program, the Department makes federal HOME funds available to local organizations such as community housing development organizations and public housing authorities (for more information on these local organizations, see Appendix E, *Local Housing and Community Affairs Organizations)*. Low income homeowners must contact participating local organizations to receive assistance. Owner-occupied housing assistance accounts for 40 percent of the Department's annual HOME expenditures. In fiscal year 1999, the Department granted $16.9 million to local organizations through this program.

The **Housing Rehabilitation** program provides Community Development Block Grants to cities and counties to fund loans or forgivable loans for owner-occupied and renter-occupied housing rehabilitation, with an emphasis on projects that benefit persons with disabilities. The program also supports new housing construction that is accessible to persons with disabilities.

The **Energy Efficient Housing** program funds local entities, such as municipalities, community housing development organizations, and public housing authorities, to construct or rehabilitate energy-efficient homes for low income families. Participating entities receive Housing Trust Fund money on a dollar-for-dollar match basis. The agency administers this program in conjunction with the General Services Commission's State Energy Conservation Office.

Weatherization Assistance helps lower the utility burdens of very low income households in every county by funding energy conservation measures such as caulking, weather-stripping, and repairing inefficient heating and cooling systems. The Department receives funds from the U.S. Department of Energy, the U.S. Department of Health and Human Services, and state Oil Overcharge Funds. The Department distributes these funds on a formula basis to 38 local service providers, such as community action agencies.

The **Comprehensive Energy Assistance** program helps very low income households pay energy bills and achieve energy self-sufficiency through co-payments, programs for the elderly and persons with disabilities, heating and cooling systems repair and replacement, and assistance during energy crises. Using a formula, the Department passes funding from the U.S. Department of Health and Human Services to 51 cities, counties, and Councils of Government that serve all 254 counties.

Manufactured Housing Facts
Fiscal Year 1999

Manufactured housing accounted for one-third of all new housing in Texas.

Division budget: $4,941,368
Full-time equivalent employees: 87.5*

Manufactured housing titles issued: 131,279
Average cost: $11.35

Licenses issued: 6,772

Routine installation inspections: 10,409
Average cost: $85.17

Complaints resolved: 2,187
Average cost: $1,407.50

Manufactured Housing Regulation

The Department's Manufactured Housing Division regulates the manufactured housing industry in Texas to protect public safety and the stability of the manufactured housing industry. Through its regulatory and licensing powers, the Division strives to ensure that manufactured homes are well constructed and properly installed. The Division's major functions include licensing installers, issuing manufactured home titles, inspecting installations, and responding to consumer complaints.

Texas began regulating the manufactured housing industry in 1969 with the passage of the Texas Manufactured Housing Standards Act, initially enforced by the Texas Department of Labor Statistics. Since then, several different agencies have performed industry regulation, including the Texas Department of Labor and Standards and the Texas Department of Licensing and Regulation. In 1995, the 74th Legislature transferred these regulatory functions to the Department.

Council Information

Corporation Information

Corporation at a Glance

The Texas State Affordable Housing Corporation (the Corporation) is a non-profit corporation created by the Legislature in 1995 to help serve the housing needs of low income residents of Texas. The Corporation operates under the name, Texas Star Mortgage, to provide single and multi-family loans to low-income Texans.

By law, the primary public purpose of the Corporation is to "facilitate the provision of housing and the making of affordable loans to individuals and families of low, very low, and extremely low income."[1] To accomplish this, the Corporation's major functions are:

- single and multi-family lending to low income people, and
- financial self-sufficiency through loan servicing and asset management.

The Corporation has established goals to achieve its mission, which are to:

- promote partnerships leveraging public and private resources for the creation, preservation, and redevelopment of affordable housing;
- increase lending and housing production in rural and underserved markets;
- develop loan products, financing options, and special programs not available through conventional lenders; and
- achieve and ensure corporation self-sufficiency.

Key Facts

- **Funding.** The Corporation operated on approximately $6.5 million in fiscal year 1999, $4.6 million of which is from a federal HOME grant.
- **Staffing.** In fiscal year 1999, the Corporation employed 13 people. In the current fiscal year, the Corporation has eliminated its Loan Servicing Division and now employs only seven people.

Mission Statement

The Texas State Affordable Housing Corporation is a State-mandated non-profit corporation committed to serving the housing needs of low, very low, and extremely low income Texans who are not afforded housing finance options through conventional lending channels.

Major Events in Corporation History

1994 Initially created by the Texas Department of Housing and Community Affairs (the Department) to convert contracts for deed to mortgages for residents of the El Cenizo colonia near Laredo, after the private realty company that developed the colonia filed for bankruptcy protection. Acquired more than 500 contracts for $500,000 that it still services today.

1995 Established in law and restructured to function like a non-profit mortgage bank, providing access to housing finance through conventional secondary market outlets, such as Federal National Mortgage Association (Fannie Mae) and Federal Housing Administration (FHA). Operated as a division of the Department and staffed by employees of the Department. In addition, the Corporation's Board was the same as the Department's Board.

1997 The Legislature separated the Corporation from the Department, including the appointment of a new Board of Directors. The Corporation was prevented, by law, from competing with local lenders, and required to transfer any funds generated from servicing loans to the Department's Housing Trust Fund.

1998 New Board appointed and the Executive Director of the Department stepped down as the ex officio president.

1999 Required by law to serve low, very low, and extremely low income residents of Texas, and reference to serving moderate income residents removed. Permitted to retain funds generated by the Corporation, rather than transfer them to the Department. Restrictions on competing with local mortgage companies lessened.

The Corporation was initially created by TDHCA and was later separated to function like a non-profit mortgage bank.

Organization

Policy Body

The Corporation is governed by a five-member Board, appointed by the Governor for indefinite terms. In December 1997, the four current Board members were appointed. In September of 1999, the Legislature altered the Board size and composition and the two Department Board members were removed; one seat has remained vacant since that time. Members may represent any of a number of for-profit and non-profit housing related industries, such as banks, mortgage companies, builders, development corporations, or financial advisors. The chart, *Governing Board*, lists the current members along with their role on the Board.

According to Corporation bylaws, the Board is charged with managing

Governing Board		
Board Member	**Representation**	**Residence**
Dawn Enoch Moore, Chair	Attorney, Title Company Owner	Dallas
Jerry Romero, Vice Chair	Federal Bank, Vice President	El Paso
Jeffery Baloutine	State Bank, Community Investment Officer	Houston
Donald Currie	Community Development Corporation, Executive Director	Brownsville
Vacant		

the Corporation's property, business, and affairs, and selecting the officers, including the President. Because the Texas State Affordable Housing Corporation is not a state agency, neither the Board nor the Corporation has the right or power to bind the State in any manner.[2] The Board usually meets monthly, and met 10 times in fiscal year 1999.

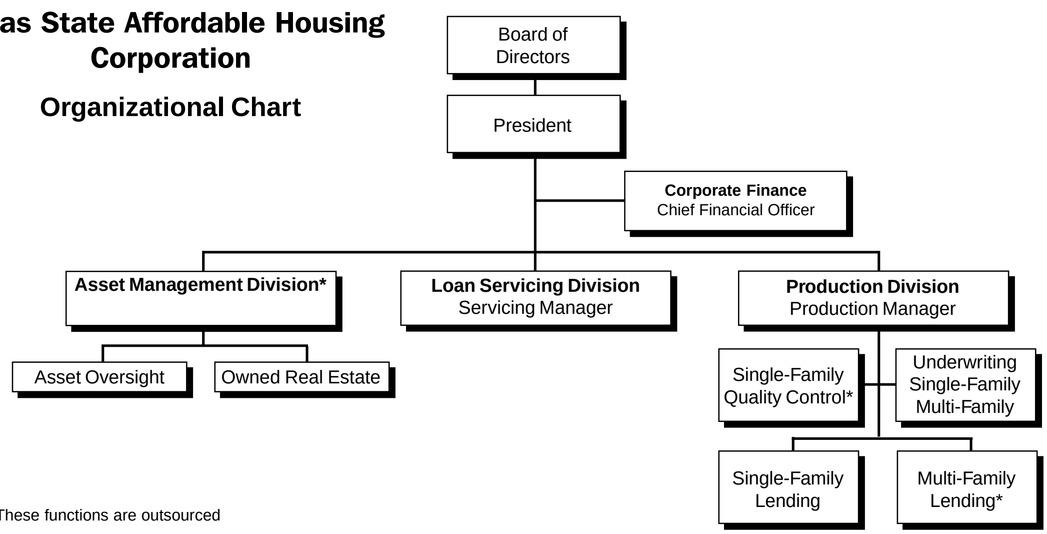
Staff

The Corporation's President oversees the operations of the Corporation, as shown in the *Texas State Affordable Housing Corporation Organizational Chart*. In fiscal year 1999, The Corporation employed 13 staff, including one person in the branch office in Rio Bravo, who works directly with the residents of El Cenizo.

Revenues

Texas State Affordable Housing Corporation

Organizational Chart



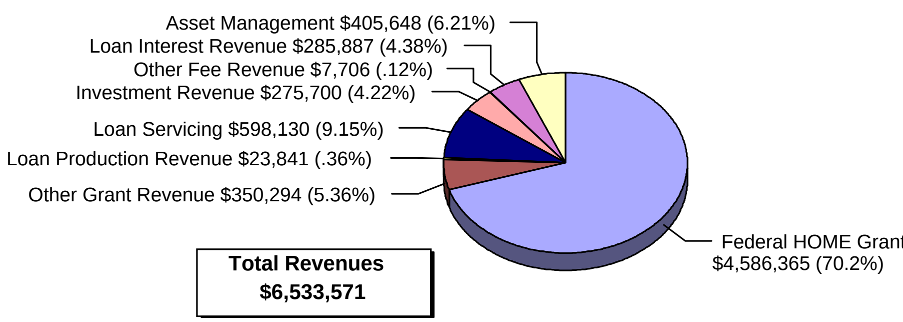
*These functions are outsourced

Funding

The Corporation generated $6.5 million in revenues in fiscal year 1999 to make loans for affordable housing and administer the Corporation.

For the purpose of administering the Corporation and making loans for affordable housing, the Corporation generated $6.5 million in revenues in fiscal year 1999, none of which is State-appropriated general revenue. The chart, *Sources of Revenue*, shows the funds available to the Corporation. The Corporation competes for federal HOME funds and state single-family home loan bond funds from the Department, like other non-profit organizations and lending institutions across the state. The Corporation has not received additional HOME funds since 1997.

Sources of Revenue
Fiscal Year 1999



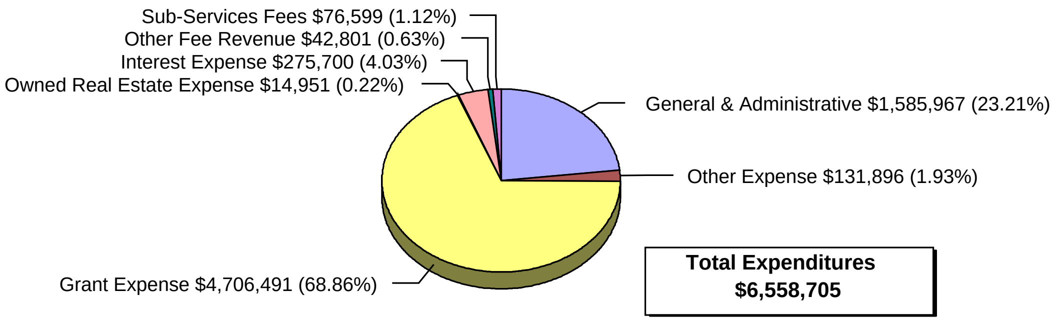
Although the Corporation has limited funds, it has additional resources to help it achieve its mission. For example, the Corporation has access to a $1 million line of credit from Bank of America. This renewable loan allows the Corporation to make loans without having large reserves. The Corporation makes a loan using its line of credit, which is repaid when the loan is sold to a nationwide mortgage company.

Expenditures

The chart, *Expenditures,* reflects the Corporation's expenditures for fiscal year 1999, nearly $6.6 million. The Corporation spent 69 percent of its total budget on loans to low income people. Administration accounted for 23 percent. The remaining 8 percent maintains the Corporation's fee and revenue generating activities, such as loan servicing and asset management.

The Corporation's two key functions are providing affordable housing for low income Texans and sustaining financial self-sufficiency. The Corporation operates through three divisions: Production, Loan Servicing, and Asset Management. The Production Division handles Single and Multi-Family Lending. The Loan Servicing and Asset Management Divisions exist to generate income to support the operations of the Corporation.

Expenditures
Fiscal Year 1999



Corporation Functions

Production Division

Single-Family Lending - The Corporation offers three single-family loan products: home loans, down payment assistance, and home improvement loans for low income Texans. Three categories of income comprise the low-income designation, based on the area median family income (AMFI). The chart, *Area Median Family Income Designations and Examples*, describes the income categories and income levels within each category. In areas of the state where the median income falls below the state average, to ensure more people are eligible for assistance, state averages are used, except where the grant program rules prohibit using the statewide median.

The Corporation's two key functions are providing affordable housing for low income Texans and sustaining financial self-sufficiency.

The most active of the three single-family loan products is the **Down Payment Assistance Program**, for families and individuals who earn less than 80 percent of the AMFI. The Corporation assumed operation of this Department program in 1996. Since then, the Corporation has provided approximately 2,400 zero interest, second lien loans of, on average, nearly $5,403 per family, including closing costs assistance. The Corporation distributes funds through local lenders across the state, who primarily pair the down payment assistance with the Department's single-

Area Median Family Income Designations and Examples[3]

Designation	Income Limit	Dallas*	State Average*
Extremely low income	0 to 30% AMFI	$17,450	$10,150
Very low income	30% to 60% AMFI	$34,920	$20,340
Low income	60% to 80% AMFI	$46,560	$27,100

*Based on a family of four at the upper limit of the designation

In May 1999, TDHCA reclaimed administration of the Down Payment Assistance Program.

family bond loans. However, in May 1999, the Department reclaimed administration of the Down Payment Assistance Program, and the Corporation is no longer involved in this activity.

The **Texas Home Improvement Loan Program** offers home owners whose income is less than 80 percent of the AMFI an opportunity to rehabilitate their homes. To date, the Corporation has made 61 loans, for a total of nearly $900,000. In addition, the Corporation has committed to 62 more loans for a total of almost $1.2 million. This is one of the highest demand programs at the Corporation, with applications for another 134 loans, for $2.8 million, in process.

For the **Purchase Money Mortgage Program**, the Corporation acts much like the 40 lenders that contract with the Department's Single-Family Lending Division as an originator of home loans. Most loans are made using the Corporation's revolving line of credit or Single-Family Loan Bond funds from the Department. Since the program's inception, the Corporation has closed four low income home loans, and is processing another 17.

Multi-Family Lending - Using funds from the Department HOME grant, the Corporation makes loans for the development of multi-family housing to non-profit and for-profit developers. To qualify for a loan, projects must include 20 percent of the units for families with incomes of less than 50 percent of the AMFI, or 40 percent of the units for families with incomes of 60 percent of the AMFI and below. To date, the Corporation has made loans in excess of $4.5 million to rehabilitate four multi-family properties.

The Corporation makes loans for the development of multi-family housing to non-profit and for-profit developers.

Loan Servicing Division

To generate income for operations, the Corporation contracts with the Department as the master servicer of three single-family bond issues, worth approximately $273 million in lendable proceeds.[4] For each bond issue, the Corporation purchased the right to service the bond issue loans from the Department. The Corporation then subcontracts with a nationwide mortgage company.

Since state bond loans are generally secured by federal home loan mortgage guarantors, such as such as Federal National Mortgage Association (Fannie Mae) or Government National Mortgage Association (Ginnie Mae), these guarantors pay the approximately $732,400 annually for servicing the bond issues. Of this amount paid, the Corporation receives approximately $96,800 and the subcontractor receives the remaining $635,600. However, so far, the Corporation has used the nearly $522,000 in revenues generated from the master servicing contract to pay off a loan to the subcontractor that the Corporation used to purchase the master servicing rights.

The Corporation estimates the number of loans serviced by May 2000 will be approximately 1,200 loans for the Department from previous bond issues. For this purpose, the Corporation has employed six FTEs. To service the loans, the Corporation receives fees of approximately $183 per loan from the interest charged on each loan.[5] However, in May 2000, the Corporation is proposing to return these loans to the Department because the cost to service the loans exceeds expectations and cost the Corporation approximately $661 per loan to administer. The Corporation estimates that if servicing activities are continued, the Corporation will realize a loss of approximately $615,000 annually on this servicing function because administration costs exceeded the fees.[6]

Through all its loan servicing efforts, the Corporation generated nearly $600,000 in fiscal year 1999. In addition to servicing fees from the loan insurers, the Corporation also receives income from assessing penalties or miscellaneous fees such as late payment or payoff fees. In fiscal year 1999, these additional fees equaled approximately $50,000.

Asset Oversight and Asset Administration Division

These functions provide another revenue-generating opportunity for the Corporation, and involves overseeing two remaining multi-family properties purchased with Department funds and granted to the Corporation. Since 1995, the Department has given six properties to the Corporation purchased from the Resolution Trust Corporation. Since that time, the Corporation has sold five of the properties for a total of approximately $2.67 million. While the Corporation reports that asset management is a significant source of fee income, $237,000 in fiscal year 1999, the Corporation has plans to sell the remaining two properties.

[1] Tex. Govt. Code Ann. ch. 2306, sec. 2306.553(b), (Vernon 1997).

[2] Tex. Govt. Code, Ann. ch 2306, sec. 2306.555(b)(5), (Vernon 1999).

[3] Texas Department of Housing and Community Affairs, *1999 State of Texas Low Income Housing Plan and Annual Report* (Austin, Tex., January 1999), Section 7.

[4] Telephone interview with Pam Morris, Director of Single Family Lending, Texas Department of Housing and Community Affairs, April 7, 2000.

[5] Electronic mail correspondence from Michael Sullivan to Sunset staff, March 17, 2000.

[6] Ibid.

Corporation Information

Council Information

Council at a Glance

Created in 1989 to coordinate the State's homeless resources and services, the Texas Interagency Council for the Homeless (the Council) consists of representatives from all state agencies that serve the homeless. The Council receives no funding and has no full-time staff, but receives clerical and advisory support from the Texas Department of Housing and Community Affairs (TDHCA). The Council occasionally holds public hearings in various parts of the state to gather information useful to its members in administering programs. In addition, the Texas Homeless Network, a non-profit organization, fulfills many of the Council's statutory duties through a contract with TDHCA.

Mission Statement

To help Texans achieve an improved quality of life through the development of better communities.

The Council's major functions include:

- evaluating and helping coordinate the delivery of services for the homeless in Texas;
- increasing the flow of information among separate providers and appropriate authorities;
- providing technical assistance to TDHCA in assessing the need for housing for people with special needs;
- developing, in cooperation with TDHCA and the Health and Human Services Commission, a strategic plan to address the needs of the homeless; and
- maintaining a central resource and information center for the homeless.

Key Facts

- **Number of homeless in Texas.** While estimates vary, the Council estimates that about 200,000 people, or 1 percent of the state's population, are homeless.[1]
- **Mental illness.** About 25 percent of homeless people in Texas suffer from a serious mental illness.[2]
- **People with disabilities.** More than 65,000 persons with disabilities did not have a regular means of shelter in 1999.[3]

Homeless Resources on the Internet

Information about homelessness, including facts, programs, and links, is available on TDHCA's website at www.tdhca.state.tx.us/au_links.htm#ca and on the Texas Homeless Network's website at www.thn.org/.

- **Women.** National figures indicate that women make up 19 percent of the homeless population. In Tarrant County, the percentage of women among the homeless population increased from 27 percent in 1991 to 48 percent in 1997. Estimates suggest that 30 to 50 percent of homeless women become so because of domestic violence, and 80 percent of the nation's homeless women have experienced some sort of violence.[4]
- **Children.** Estimates show that over 125,000 schoolage children in Texas experience homelessness during the course of a year.[5]
- **Veterans.** Estimates show that veterans comprise 30 to 40 percent of the nation's homeless population.[6]

MAJOR EVENTS IN COUNCIL HISTORY

1989 Interagency Council for Services for the Homeless created as a subcommittee to the Health and Human Services Coordinating Council.

1991 Legislature presented with *Moving Beyond the Gray Zone*, a report of recommendations regarding services for the homeless.

1993 Legislature provided with follow-up report to *Moving Beyond the Gray Zone*.

1995 Interagency Council for Services for the Homeless became Texas Interagency Council for the Homeless, supported by the Texas Department of Housing and Community Affairs; Council membership expanded.

1992 Initiated development of the Homeless Resource Center at the Texas Homeless Network with start-up funding from Department of Housing and Community Affairs, Department of Mental Health and Mental Retardation (TxMHMR), and the Texas Education Agency.

1996 TDHCA and TxMHMR collaboration and funding helped create the Valley Coalition for the Homeless to provide outreach, emergency shelter, enhanced services, case management, and subsidized housing.

1998 TDHCA, TxMHMR, and the Enterprise Foundation collaborated to provide technical assistance to Hidalgo and Nueces Counties to submit a Continuum of Care homeless application to HUD.

1999 Funding from TDHCA, TxMHMR, and the Enterprise Foundation provided Continuum of Care technical assistance workshops across the state.

Council Composition

The Council is not a policymaking body, nor does it have one. The Council is composed of 20 statutorily-required members representing state agencies and officials. Members serve at the pleasure of the appointing official or until termination of the member's employment with the represented entity. Council members annually elect a member to serve as presiding officer, and meet quarterly. The Council must also submit an annual progress report to the governing boards of member agencies. The chart, *Council Composition—Statutory Members*, identifies each member, which entity they represent, and their place of residence. The Council may also select and use advisors, and currently has nine advisory members from various state, federal, and local entities, as shown in the chart, *Council Composition—Advisory Members*.

Member Agency Programs

The Council consists of representatives from all state agencies that affect the homeless either directly or indirectly. The chart, *Homeless-Related Programs at State Agencies*, details major state agency programs.

Council Composition - Statutory Members		
Name	**Representation**	**Residence**
Greg Gibson, Chair	Texas Department of Mental Health and Mental Retardation	Austin
Eddie Fariss, Vice Chair	Department of Housing and Community Affairs (Community Affairs Division)	Austin
Ray Bryant	Department on Aging	Austin
David Calkins	Department of Criminal Justice	Austin
Robert Chavira	Department of Housing and Community Affairs (Housing Finance Division)	Austin
Tommy Cowan	Texas Education Agency	Austin
Liz Cruz-Garbutt	Department of Human Services	Austin
Michael Doyle	Service Provider/ Governor Appointee	North Richland Hills
Penny Finuf	Department of Health	Austin
Lance Hamilos	Rehabilitation Commission	Austin
Roy Kimble	Workforce Commission	Austin
Kathy Kramer	Health and Human Services Commission	Austin
Carolyn Lanier	Service Provider/Speaker of the House Appointee	Lubbock
Tracy Levins	Youth Commission	Austin
Robert Martindale	Service Provider/Lieutenant Governor Appointee	San Antonio
Anthony Moore	Veterans Commission	Austin
Morris Winn	Office of the Comptroller	Austin
Inocencio Vasquez	Department of Protective and Regulatory Services	Austin
Vacant	Commission on Alcohol and Drug Abuse	
Vacant	Department of Economic Development (Workforce Development Division)	

Council Composition - Advisory Members		
Name	**Representation**	**Residence**
Ron Ayer	Governor's Office of Budget and Planning	Austin
Diane Crosson	Texas Council on Family Violence	Austin
Ben Danford	U.S. Department of Housing and Urban Development	Fort Worth
Ann Denton	Enterprise Foundation	Austin
Charles D. Eldridge	U.S. Department of Housing and Urban Development	Dallas
Gayla Frazier	U.S. Department of Housing and Urban Development	Fort Worth
Barbara Wand James	Office for the Education of Homeless Children and Youth	Austin
Kathy Reid	Texas Homeless Network	Austin

Homeless-Related Programs at State Agencies

Client Benefits				Funding	
Program	**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals Served in FY 99**	**Funding Source**	**Funds Expended in FY 99**
Texas Department of Housing and Community Affairs					
Emergency Shelter Grants	Individuals and families who are homeless or at risk of homelessness	Facility maintenance and renovation; services such as job training, drug abuse treatment, and education; and homelessness prevention such as rental assistance	161,738	U.S. Department of Housing and Urban Development Emergency Shelter Grants Program	Services: $5,152,468 Administrative: $155,251
Emergency Nutrition/ Temporary Emergency Relief	Low, very low, and extremely low income persons	Emergency assistance such as food and shelter, and short-term energy-related assistance	56,618	General Revenue Fund, state Oil Overcharge Funds	Services: $2,005,574 Administrative: $85,643
Texas Department of Health (most recent data available from FY 1997)					
Medicaid programs (includes Acute Care, Family Planning, Vendor Drug, Medical Transportation, Texas Health Steps, and Medicare)	Income and age (limits based on family income and total assets): Pregnant women and infants < 185% federal poverty level (FPL) Parents of eligible children < 17% FPL 1 - 5 years < 133% FPL 6 - 14 years < 100% FPL 15 - 18 years < 17% FPL Residency: U.S. citizens and legal aliens	Services include newborn screening, outpatient hospital, ambulatory surgical center, emergency hospital, outpatient counseling for chemical dependency, school health, and tuberculosis clinic	Approximately 6,160,000	Some programs federally-funded Some programs require federal/state match	Services: $5,316,962,251 Administrative: $107,192,616

Homeless-Related Programs at State Agencies					
Client Benefits				**Funding**	
Program	**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals Served in FY 99**	**Funding Source**	**Funds Expended in FY 99**
Texas Department of Health (cont.)					
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)	Family income < 185% FPL Pregnant women and women of any age who have recently given birth Infants and children 0 - 5 years Diagnosis: nutritionally at risk	Immunizations, nutritional screening and counseling, breast feeding support, vouchers for supplemental foods including infant formula	683,585	Federal grant General revenue	Services: $425,227,524 Administrative: $8,307,188
HIV Medication Program	Family income < 200% FPL Residency: Texas Diagnosis: HIV infection	Medications including protease inhibitors and other antiretroviral and medication for opportunistic infections	6,138	Federal grant General revenue	Services: $14,539,843 Administrative: $184,339
Primary Health Care Program/Community Oriented Primary Care	Family income < 150% FPL Residency: Texas	Primary health care, population-based public health services	107,308	Federal grant General revenue	Services: $12,836,976 Administrative: $112,009
Texas Department of Human Services					
Family Violence Program	Funds family violence shelter centers to provide emergency shelter and support services to adult victims and their dependents Eligibility: must be a victim of family violence as defined by Chapter 51 of the Human Resources Code	Services include shelter, crisis call hotline, emergency medical care, counseling services, emergency transportation, legal assistance, educational arrangements and counseling for children, information about training for and seeking employment, and a referral system to existing community services	Sheltered 11,423 adult victims of family violence and their 15,066 children Provided 28,196 adult victims and 10,104 of their children with nonresidential services	Federal Family Violence Prevention and Services Grant Title XX General revenue	Services: $13,217,830 Administrative: $1,301,486

Homeless-Related Programs at State Agencies

Program	Population Served/ Eligibility Criteria	Benefit	Number of Individuals Served in FY 99	Funding Source	Funds Expended in FY 99
	Client Benefits			Funding	
Texas Department of Mental Health and Mental Retardation					
Projects for Assistance in Transition from Homelessness (PATH)	Individuals with serious mental illness and substance abuse disorders who are homeless or at imminent risk of becoming homeless	Intensive case management services	8,319	U.S. Department of Housing and Urban Development	Federal: $1,342,000 General revenue: $300,000 Local match: $1 million
Supportive Housing Program	People with severe and persistent mental disorders such as major depression, schizophrenia, or bipolar disorder, and a level of functioning of below 50	Supportive housing and services, such as case management, rental assistance, and move-in assistance, to assist homeless persons in the transition from homelessness and to enable them to live as independently as possible	5,398	U.S. Department of Housing and Urban Development	Approximately $15 million
Texas Rehabilitation Commission					
Vocational Rehabilitation	Individuals with disabilities that prevent them from going to work	Rehabilitation, job training, job placement	133,742	80% federal 20% state	Services: $121.1 million Administrative: $18.9 million

Homeless-Related Programs at State Agencies

Client Benefits				Funding	
Program	**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals Served in FY 99**	**Funding Source**	**Funds Expended in FY 99**
Texas Education Agency					
Stewart B. McKinney Education for Homeless Children and Youth	School-age children and youth and their families/ caregivers who are homeless or at risk of becoming homeless	Programs for local school districts to help homeless children enroll in, attend, and succeed in school State-level hotline to answer questions and resolve enrollment disputes Statewide training on homeless education related issues	Over 20,000 students received direct assistance through the program. An additional 15,000 received some sort of peripheral services.	U.S. Department of Housing and Urban Development TEA sends 100% of funds to Region 10 Education Service Center (Richardson), which manages the fiscal portion of the funds and subcontracts with the University of Texas at Austin, Charles A. Dana Center, to carry the programmatic aspects	Services: $2,121,638 Administrative: $261,138
Texas Youth Commission					
Independent Living Prepatory Program	Youths at least 16 years of age without homes to return to after serving n TYC facility GED completion Identified independent living need Completion of 80 to 150 hours of community service, independent living skills modules, specialized treatment counseling as required, and 30 to 120 days of consecutive employment Savings of $650 to $900 from employment	Subsidies for food, household items, rent, education, transportation, work-related clothing, and electricity	218	General revenue	$790,707

[1] Telephone interview with Kathy Reid, Executive Director, Texas Homeless Network, Austin, Texas, March 9, 2000.

[2] "The State of Texas ACCESS Demonstration Project: No Wrong Door," report prepared by the Access to Community Care and Effective Services and Supports (ACCESS) Evaluation Components, Spring 1999.

[3] Ibid.

[4] Ibid.

[5] The Office for the Education of Homeless Children and Youth website, available at www.tenet.edu/OEHCY/.

[6] Ibid.

APPENDICES

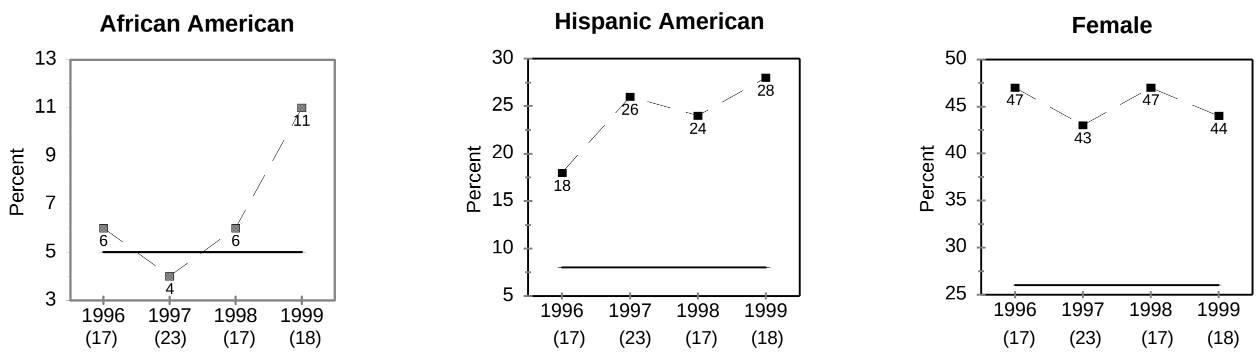
Appendix A

Equal Employment Opportunity Statistics

1996 to 1999

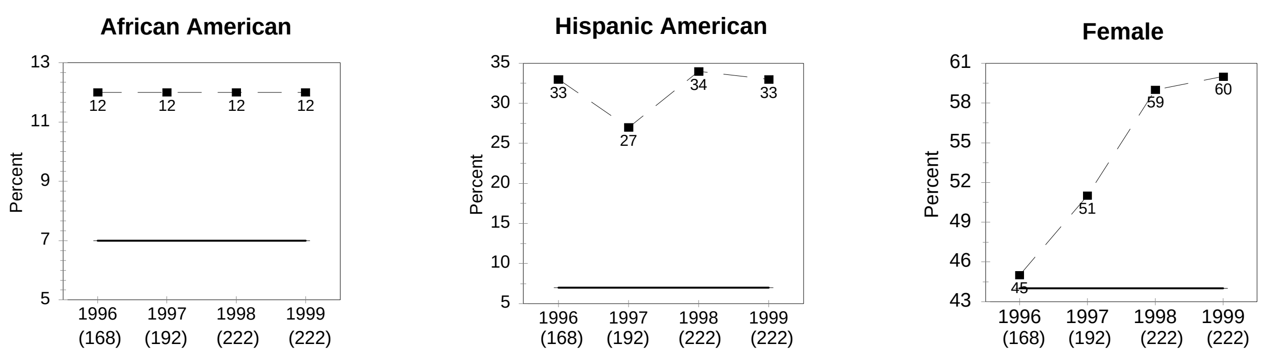
In accordance with the requirements of the Sunset Act,[1] the following material shows trend information for the agency's employment of minorities and females. The agency maintains and reports this information under guidelines established by the Texas Commission on Human Rights.[2] In the charts, the flat lines represent the percentages of the statewide civilian labor force that African Americans, Hispanic Americans, and females comprise in each job category. These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The dashed lines represent the agency's actual employment percentages in each job category from 1996 to 1999. Finally, the number in parentheses under each year shows the total number of positions in that year for each job category.

State Agency Administration



Except for 1997 for African Americans, the agency has exceeded the civilian labor force percentage for all three groups, and generally, by a wide margin.

Professional

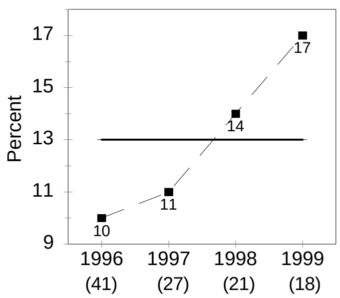


At the same time the number of professional personnel in the agency has climbed, the agency has significantly exceeded the civilian labor force percentages for each group.

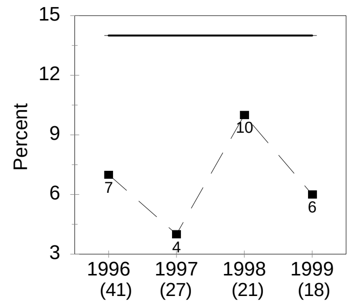
Appendix A

Technical

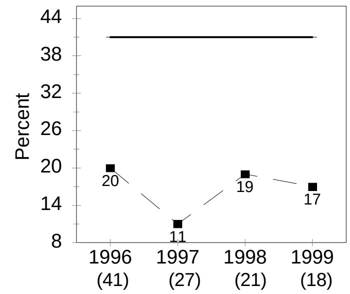
African American



Hispanic American



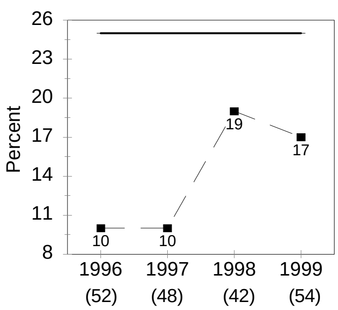
Female



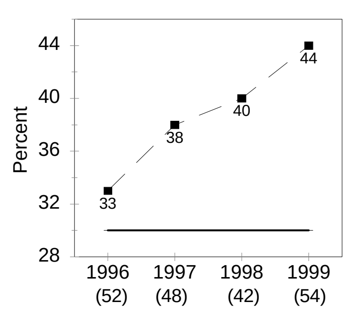
While the agency lags below the civilian labor force percentages for Hispanic Americans and Females, it has made improvements in the employment of African Americans.

Paraprofessional

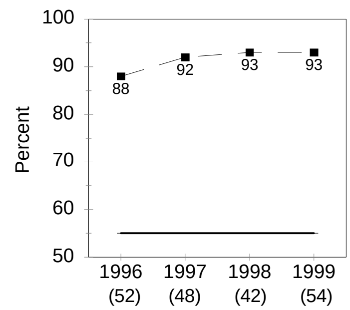
African American



Hispanic American



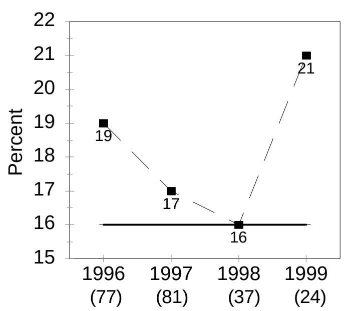
Female



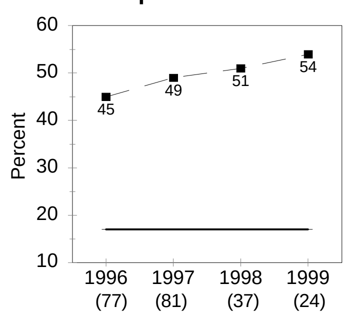
The agency has exceeded the civilian labor force percentages for Hispanic Americans and females, but despite improvements, still falls below this percentage for African Americans.

Administrative Support

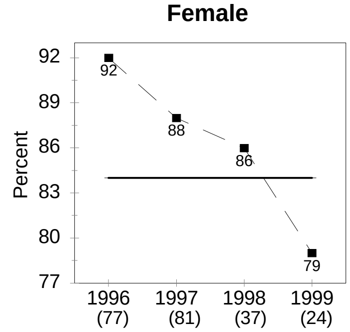
African American



Hispanic American



Female



The agency generally exceeds the percentages in this job category. The percentage for females has shown a consistent downward trend.

---

1 Tex. Govt. Code ch. 325, sec. 325.011(9)(A) (Vernon 1999).

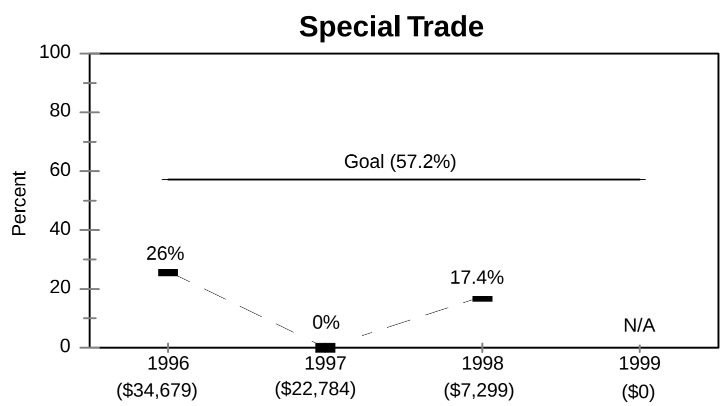
2 Tex. Labor Code ch. 21, sec. 21.501 (formerly required by rider in the General Appropriations Act).

Appendix B

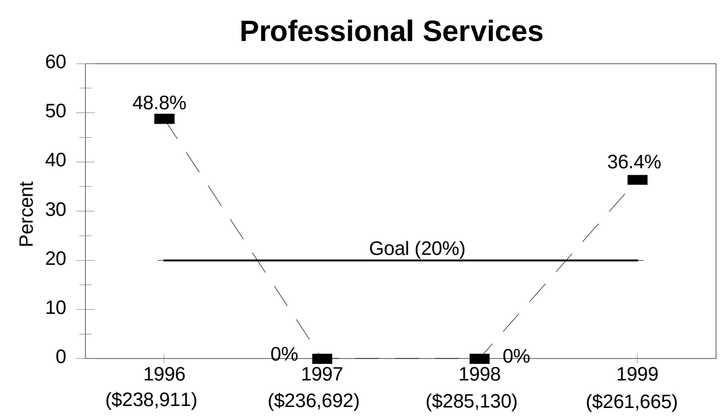
Historically Underutilized Businesses Statistics

1996 to 1999

The Legislature has encouraged state agencies to use Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. In accordance with the requirements of the Sunset Act,[1] the following material shows trend information for the agency's use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in the General Services Commission's enabling statute.[2] In the charts, the flat lines represent the goal for each purchasing category, as established by the General Services Commission. The dashed lines represent the agency's actual spending percentages in each purchasing category from 1996 to 1999. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category.

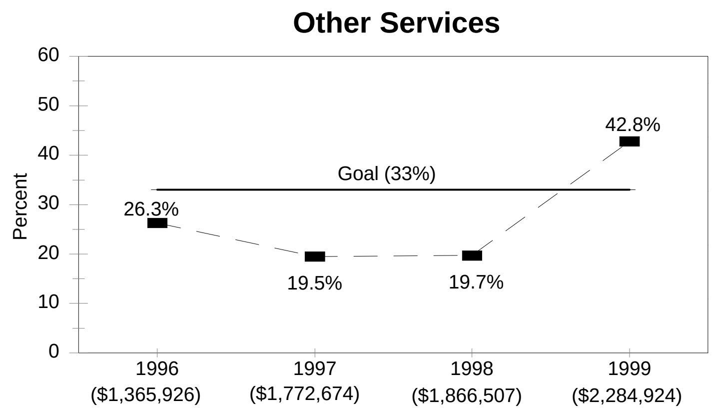


The agency fell below the state goal each year. The Department did not spend any money on HUBs in 1997, and did not spend any money on special trade in 1999. This is not a significant source of expenditures for the agency.

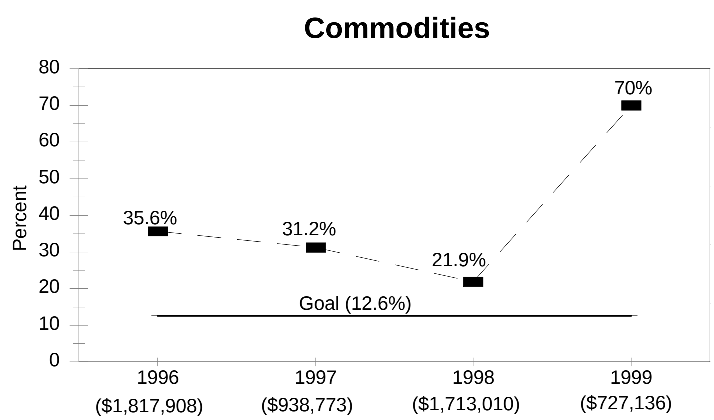


In 1996 and 1999, the agency exceeded the state goal, but did not purchase any professional services from HUBs in 1997 and 1998. In some instances, Professional Service providers to the Department exceeded the state cap and therefore were no longer qualified as HUBs in 1997 and 1998.

Appendix B



The agency fell below the state goal from 1996 to 1998, but made a significant increase in 1999, exceeding the goal.



The agency exceeded the state goal each year, and significantly increased its HUB spending in 1999.

[1] Tex. Govt. Code ch. 325, sec. 325.011(9)(B) (Vernon 1999).

[2] Tex. Govt. Code ch. 2161 (Vernon 1999). Some provisions were formerly required by rider in the General Appropriations Act.

Guide to Agency Programs

Client Benefits					Funding	
Program		**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals or Households Served in FY 99**	**Funding Source(s) and Method of Allocation**	**Funds Expended in FY 99**
Affordable Housing						
Low Income Housing Tax Credits		Income < 60% Area Median Family Income (AMFI)	Affordable multi-family housing for low income families	5,440 households	Internal Revenue Service-approved tax credits (tax incentives) to developers who agree to provide housing to qualified households	Services: $25,163,413 Administrative: $858,607 (source: fees)
Single-Family Bond Financed Lending	First-Time Home Buyer	Income < 115% AMFI	Home loans at a reduced interest rate, usually 1 to 2 points below the market rate	1,387	Mortgage Revenue Bonds Based on lender ability and past performance	Services: $96,524,604 Administrative Funds (Single-Family Lending and Bond Finance administration): $1,311,845 (source: bond fees)
	Down Payment Assistance	Income < 80% HUD AMFI	2nd lien loans	99	Mortgage Revenue Bonds First come, first served basis	$659,928

Appendix C

Guide to Agency Programs

Program		Population Served/ Eligibility Criteria	Benefit	Number of Individuals or Households Served in FY 99	Funding Source(s) and Method of Allocation	Funds Expended in FY 99
Client Benefits					**Funding**	
Multi-Family Bond Program	Private Activity Bond	Income < 60% AMFI	Affordable multi-family rental housing for low income families	490	Private activity bond funds subject to State's volume cap, taxable bond funds, low income housing tax credits (4%)	$21,914,000 in tax-exempt Private Activity Mortgage Revenue bonds and $3,031,000 in taxable MRBs. Approximately $8,814,000 in private equity will be invested due to the Department's authorization of approximately $11,985,250 in tax credits (4%) over a period of 10 years. However, proceeds from the syndication of tax credits do not pass through the Department, and are therefore not "expended."
	501 (c)(3) Bond	Income < 80% AMFI	Affordable multi-family rental housing for low income families	None	501 (c)(3) bond funds not subject to State volume cap Tax-exempt bond funds	
	Administrative Funds	N/A	N/A	N/A	Bond Fees	$330,800

Appendix C

Guide to Agency Programs

Client Benefits					Funding	
Program		**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals or Households Served in FY 99**	**Funding Source(s) and Method of Allocation**	**Funds Expended in FY 99**
Home Investment Partnership Program (HOME)	Tenant-Based Rental Assistance	Income < 80% AMFI	Provides tenants with rental subsidy not exceeding two years and security deposits; tenants also undertake educational programs and job training (educational programs and job training not a HOME program expense)	210	Annual U.S. Department of Housing and Urban Development (HUD) grant based on state per capita income, number of families below the federal poverty line, and age and availability of affordable housing stock	$1,829,402
	Home Buyer Assistance		Home loans for < $10,000 for down payment and closing costs	914		$9,446,913
	Owner-Occupied Housing Assistance		Funds to rehabilitate or reconstruct owner-occupied homes	400		$9,299,961
	Rental Housing Development		Funds available to acquire, rehabilitate, or construct rental housing	664		$7,839,438
	Interim Construction/ Homeowners Home Investment Partnership Development		Interim funds available to acquire property for single-family homeownership development and for land development	105		$1,307,572

Guide to Agency Programs

Program		Client Benefits: Population Served/ Eligibility Criteria	Client Benefits: Benefit	Client Benefits: Number of Individuals or Households Served in FY 99	Funding: Funding Source(s) and Method of Allocation	Funding: Funds Expended in FY 99
HOME (cont.)	Statewide Architectural Barrier Removal Pilot	People with disabilities who rent or own homes and income < 80% AMFI	Modify home to accomodate disability	Not tracked as a separate activity (owner-occupied or rental housing funds may be used for this purpose)	Annual U.S. Department of Housing and Urban Development (HUD) grant based on state per capita income, number of families below the federal poverty line, and age and availability of affordable housing stock	N/A
	Administrative Funds	N/A	N/A	N/A		$1,801,895
Housing Trust Fund	Development	Income < 80% AMFI	Rehabilitation, construction, or acquisition of multi- and single-family residences	540 households	Appropriated receipts, general revenue, oil overcharge fund, local bond surplus funds, multi-family bond fees, earned capital trust fund interest, loan repayments	$337,022
	Housing Partnership			1,192 households		$9,930
	Pre-Development Revolving Loan Program	Non-profit organizations involved in housing development	Helps non-profits overcome cost barriers ot developing affordable housing	N/A		$285,000
	Capacity Building Activities		Improves the ability of non-profits to develop affordable housing			$12,940
	Administrative Funds	N/A	N/A	N/A		$251,962

Guide to Agency Programs

Client Benefits					Funding	
Program		**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals or Households Served in FY 99**	**Funding Source(s) and Method of Allocation**	**Funds Expended in FY 99**
Section 8 Voucher Program		People who live in small cities and rural communities with income < 50% AMFI	Rental assistance in the form of payments to landlords	2,069 households	HUD grant	Services: $7,450,802 Administrative: $445,374
Community Development						
Texas Community Development Program	Community Development Fund	Non-entitlement communities (cities with population < 50,000 and counties < 200,000)	Water and sewer service provision, housing, street improvements, land acquisition, community centers, and other infrastructure needs	208,355	HUD Community Development Block Grant (CDBG) program	$58,658,481
	Colonia Construction Fund	Non-entitlement communities within 150 miles of the Texas-Mexico border with eligible colonias as defined by state law	All Community Development Fund activities, with priority given to Economically Distressed Areas Program-funded water and sewer service connections and all first-time water and sewer projects	4,452	Portion of 10% colonia set-aside under CDBG program	$7,093,963
	Colonia Economically Distressed Areas Program (EDAP) Fund	Non-entitlement communities within 150 miles of the Texas-Mexico border with eligible colonias	Individual home hookups to EDAP-funded water & sewer systems	3,499		$395,879
	Colonia Planning Fund	Non-entitlement communities within 150 miles of the Texas-Mexico border with eligible colonias	Plans to identify and address housing and infrastucture needs in colonias	68,298		$338,670

Guide to Agency Programs

Client Benefits					Funding	
Program		Population Served/ Eligibility Criteria	Benefit	Number of Individuals or Households Served in FY 99	Funding Source(s) and Method of Allocation	Funds Expended in FY 99
Texas Community Development Program (cont.)	Colonia Self-Help Centers Fund (administered by the Office of Colonia Initatives)	Counties within 150 niles of the Texas-Mexico border eligible for a self-help center under state law or by TDHCA discretion	Centers provide a variety of services to colonia residents, including housing rehabilitation, tool lending, and contract for deed conversion	1,825	2.5% set-aside for colonia self-help centers under CDBG program	$2,645,850
	Disaster Relief/Urgent Need Fund	Non-entitlement communities	Emergency relief in case of a natural disaster or an imminent threat to the life or health of residents	183,272	CDBG program	$5,845,274
	Housing Infrastructure Fund	Non-entitlement communities	Infrastructure to support new housing construction	1,573	CDBG program	$873,018
	Housing Rehabilitation Fund	Non-entitlement communities	Rehabilitation or new construction of housing, primarily for disabled persons	357	CDBG program	$1,466,304
	Planning and Capacity Building Fund	Non-entitlement communities	Planning grants to help identify and address local needs	65,707	CDBG program	$647,042
	Small Town Environment Program (STEP)	Non-entitlement communities	Self-help water and sewer projects using volunteer labor	4,593	CDBG program	$1,791,920
	Texas Capital Fund (administered by Texas Department of Economic Development)	Non-entitlement communities	Infrastructure and real estate improvements in support of businesses willing to create/retain jobs	2,372	CDBG program	$19,488,155

Guide to Agency Programs

Client Benefits					Funding	
Program		Population Served/ Eligibility Criteria	Benefit	Number of Individuals or Households Served in FY 99	Funding Source(s) and Method of Allocation	Funds Expended in FY 99
Texas Community Development Program (cont.)	*Young v. Cuomo*	Specific cities included in *Young v. Cuomo* lawsuit regarding fair housing	Bring public housing authority areas up to same standards as other areas within the cities	None	CDBG program	$2,482,802
	Administrative Funds (GR and Federal)				CDBG program	$3,713,527
Office of Colonia Initiatives (OCI)	Contract for Deed Conversion Program	Colonia Residents living within 150 miles of Texas-Mexico border who own property under a contract for deed and with incomes < 60% AMFI and below	Provide a means for colonia residents to convert their contract for deed into a conventional mortgage through contracts with non-profit organizations, direct negotiations with developers, or individual conversions	347 contracts identified for conversion and 141 converted	$3,180,156 from HOME program, $1,192,301 from 1994B Junior Lien Funds, $403,000 from the 2.5% CDBG set-aside for colonia self-help centers	$942,162
	Consumer Education Program	Colonia residents living in counties designated by TDHCA that are within 200 miles of the Texas-Mexico border, < 25% state AMFI, and > 25% state unemployment rate	Education for colonia residents, local governments, and land developers about buyer's rights and seller's responsibilities when residential land is sold under a contract for deed in one of the designated counties	3,649 individuals received consumer education in FY 99, of which 3,583 were colonia residents from Hidalgo, Starr, Cameron, and El Paso counties	A portion of the 1% colonia set-aside in the CDBG program, and OCI general revenue	$37,900 for consumer education workshops and technical assistance $11,300 for consumer education workshop literature and materials (videos, training manuals, participant manuals, and posters)

Guide to Agency Programs

Client Benefits					Funding	
Program		**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals or Households Served in FY 99**	**Funding Source(s) and Method of Allocation**	**Funds Expended in FY 99**
OCI (cont.)	Owner-Builder (Bootstrap) Loan Program	Very low income residents with incomes < 60% AMFI (statewide)	Provides up to $25,000 in loans to very low-income residents willing to contribute at least 60% of the labor to build their own homes	None (new program as of 76th legislative session)	Housing Trust Fund ($2.8 million), U.S. Department of Agriculture Rural Development, and any other housing funds available to TDHCA	None (first awards made in March 2000)
	Administrative Funds	N/A	N/A	N/A	CDBG, HOME, and Housing Finance	$620,372
Information and Technical Assistance						
Local Government		Local government officials Targeted assistance to the 1,097 cities and counties in rural areas with populations under 10,000	Training, manuals, and technical assistance for local government officials and local governments to help them keep up-to-date with state and federal programs	Trained 2,010 city and county government officials Provided information and technical assistance to 383 cities and/or counties with populations under 10,000	General Revenue Fund	Administrative: $276,631
Housing Resource Center		Individuals and organizations such as local goverments, commuity-based organizations, non-profit housing sponsors, and housing contractors	Provides information and technical assistance on local housing needs, programs, and available funding sources	830 information requests that required more than 15 minutes of research	Appropriated receipts and bond administrative fees	$394,617

Appendix C

Guide to Agency Programs

Client Benefits				Funding	
Program	**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals or Households Served in FY 99**	**Funding Source(s) and Method of Allocation**	**Funds Expended in FY 99**
Poor and Homeless Programs					
Community Services Block Grant	Individuals and families living in poverty, migrant/ seasonal farm workers, individuals and families needing assistance due to a natural or man-made disaster, and demonstration project participants	Administrative support for activities that eliminate poverty, promote self-sufficiency, and promote community revitalization; emergency assistance; activities addressing the incidence of poverty; and enhanced contractor performance	323,460 persons served	U.S. Department of Health and Human Services Community Services Block Grant Federal formula based on State's poverty population	Services: $23,452,092 Administrative: $927,337
Emergency Shelter Grants	Individuals and families who are homeless or at-risk of homelessness	Facility maintenance and renovation; services such as job training, drug abuse treatment, and education; and homelessness prevention such as rental assistance	161,738 persons served	U.S. Department of Housing and Urban Development Emergency Shelter Grants Program Federal formula	Services: $5,152,468 Administrative: $155,251
Emergency Nutrition/Temporary Emergency Relief	Low-, very low-, and extremely low-income persons	Emergency assistance such as food and shelter, and short-term energy-related assistance	56,618 persons served	General Revenue Fund, state Oil Overcharge Funds	Services: $2,005,574 Administrative: $85,643

Guide to Agency Programs

Client Benefits				Funding	
Program	**Population Served/ Eligibility Criteria**	**Benefit**	**Number of Individuals or Households Served in FY 99**	**Funding Source(s) and Method of Allocation**	**Funds Expended in FY 99**
Community Food and Nutrition	Programs that coordinate statewide hunger-related efforts	Expand child feeding programs, distribute surplus commodities and game donated by hunters, and publish a statewide newsletter that addresses hunger issues	645,707 pounds of meat delivered	U.S. Department of Health and Human Services Formula based on poverty	$196,978
Repair and Energy Assistance					
Weatherization Assistance	Very low-income ($\leq$ 125% poverty) who can reduce their energy burden through energy efficiency measures Priority for elderly, persons with disabilities, families with children under age six, and households with lowest income and highest energy costs	Energy conservaton meausres, such as attic, wall & floor insulation, caulking, weather-stripping, and repair/replacement of inefficient heating or cooling systems	5,493 homes weatherized	U.S. Department of Weatherization Assistance Program for Low-Income Persons, U.S. Department of Health and Human Services Low Income Home Energy Assistance Program, and state Oil Overcharge Funds Federal allocations based on formula using county poverty population, weather, etc.	Services: $9,797,952 Administrative: $143,211

Appendix C

Guide to Agency Programs					
Client Benefits				Funding	
Program	Population Served/ Eligibility Criteria	Benefit	Number of Individuals or Households Served in FY 99	Funding Source(s) and Method of Allocation	Funds Expended in FY 99
Comprehensive Energy Assistance	Very low-income households (≤ 125% poverty) Priority for elderly, persons with disabilities, families with children under age six, and households with lowest income and highest energy costs	Co-payments, heating and cooling systems repair and replacement, and assistance during energy crises	116,894 households assisted	U.S. Department of Health and Human Services Low Income Home Energy Assistance Federal formula based on county poverty population, weather, etc.	Services: $46,244,071 Administrative: $975,892
Manufactured Housing Regulation					
Manufactured Housing	Consumers of manufactured housing	Promotes safety of consumers of manufactured houses through industry regulation	Routine home installation inspections: 10,409 Non-routine inspections: 1,709 Titles issued for homes: 131,279 Licenses issued: 6,772	General revenue, appropriated receipts, federal fees, and the Home Owners' Recovery Fund	Titling: $695,411 Inspections: $1,193,913 Enforcement: $2,225,261 Indirect: $464,646 Total: $4,579,241

Appendix C

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Affordable Housing						
Low Income Housing Tax Credits		204	Tax credits to developers for construction, rehabilitation, or acquisition of affordable housing 54 open contracts	Competitive allocation round	Department issues IRS forms authorizing developers' use of tax credits. Developers sell tax credits to syndicators for $.85 to $.75 per tax credit dollar.	30 years
Single-Family Bond Financed Lending	First-Time Home Buyer	71 lenders participating	71 lenders across the state	Noncompetitive invitation to lenders	Portions of the bond proceeds committed to multiple lenders across the state	N/A (9 year recapture)
	Down Payment Assistance	71 lenders participating	71 lenders across the state	Noncompetitive invitation to lenders	First come, first served	N/A
Multi-Family Bond Program	Private Activity Bond	53 pre-applications and 3 applications	Loans to for-profit and non-profit developers for construction, acquisition, and/or rehabilitation of low income multi-family housing 14 active bond issuances		Lottery administered by Bond Review Board, TDHCA Board approval, and Bond Review Board approval	Department loans bond funds to developers
	501(c)(3) Bond	1	Loans to non-profit developers for construction, acquisition, and or rehabilitation of low income multi-family housing 4 active bond issuances		Non-profit organization solicits bonds, TDHCA Board approval, and Bond Review Board approval	Department loans bond funds to developers

Appendix C

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Home Investment Partnership Program (HOME)	Tenant-Based Rental Assistance	9	Funds awarded to locaities such as local government, public housing authorities, community housing development organizations, other non- or for-profit housing developers, and area non-profit organizations	Applicants respond to the agency's Notice of Funds Available, and the Department makes awards to qualifying applicants with preference to applicants in regions of the state that do not already receive HOME funds directly from HUD	Grants and loans to localities such as local government, public housing authorities, community housing development organizations, other non- or for-profit housing developers, and area non-profit organizations	Duration of grant period
	Home Buyer Assistance	47				
	Owner-Occupied Housing Assistance	119				
	Rental Housing Development	26				
	Interim Construction/ Homeowners Home Investment Partnership Development	6				
	Statewide Architectural Barrier Removal Pilot	N/A				

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Housing Trust Fund	Development	30	Provision of funds to local organizations for the development of affordable housing for qualified families	Competitive application round or request for proposal	Repayable loans and grants	20 years
	Housing Partnership	19	Provision of funds to local organizations for the development of affordable housing for qualified families 12 active contracts			
	Pre-Development Revolving Loan Program	None	Provision of funds to local organizations for the development of affordable housing for qualified families No active contracts			
	Capacity Building Activities					
Section 8 Voucher Program		3,045	39 contracts with local governments and 6 with community action agencies to administer the program and distribute vouchers	Contracts awarded to local governments and community action agencies with certified recipients in the area	Local program operators receive rental vouchers based on the amount of funding	For the duration of payment

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Community Development						
Texas Community Development Program	Community Development Fund	660	Awards to local governments who contract with service providers and consultants 896 open contracts	Biennial competition with regional award process (projects jointly scored by TDHCA and a Regional Review Committee for each council of government region)	Grants for two-year contract with local government Funds available anytime within two years after local government submits appropriate document for reimbursement	Regional coordinator conducts site visit before funds are awarded. TDHCA staff monitor each project after 75% of funds are drawn.
	Colonia Construction Fund	25	Awards to local governments who contract with service providers and consultants 58 open contracts	Annual competition among eligible communities		
	Colonia Economically Distressed Areas Program (EDAP) Fund	2	Awards to local governments who contract with service providers and consultants 8 open contracts	Direct awards as needed among eligible communities		
	Colonia Planning Fund	5	Awards to local governments who contract with service providers and consultants 17 open contracts	Annual competition among eligible communities		

Appendix C

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Texas Community Development Program (cont.)	Colonia Self-Help Centers Fund (administered by the Office of Colonia Initatives)	5 counties specified by state law to receive concentrated attention	Awards to eligible counties who contract with non-profit organizations to operate the centers and provide services	Biennial contract for each operating organization chosen by an eligible county	Grants for two-year contract with local government Funds available anytime within two years after local government submits appropriate document for reimbursement	Regional coordinator conducts site visit before funds are awarded. TDHCA staff monitor each project after 75% of funds are drawn.
	Disaster Relief/ Urgent Need Fund	31	Awards to local governments if they meet disaster relief or urgent need requirements 73 open contracts	Direct awards as needed (statewide)		
	Housing Infrastructure Fund	16	Awards to local governments who contract with service providers and consultants 10 open contracts	Annual statewide competition		
	Housing Rehabilitation Fund	11	Awards to local governments who contract with service providers and consultants 28 open contracts	Biennial statewide competition	Grants for two-year contract with local government Funds available anytime within two years after local government submits appropriate document for reimbursement Local government must use funds for housing rehabilitation loans/forgivable loans	

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Texas Community Development Program (cont.)	Planning and Capacity Building Fund	79	Awards to local governments who contract with professional planners and consultants 106 open contracts	Biennial statewide competition	Grants for two-year contract with local government Funds available anytime within two years after local government submits appropriate document for reimbursement	Regional coordinator conducts site visit before funds are awarded. TDHCA staff monitor each project after 75% of funds are drawn.
	Small Town Environment Program (STEP)	9	Awards to local governments who contract with service providers, consultants, and volunteers 24 open contracts	Direct awards as needed (statewide)		
	Texas Capital Fund (administered by the Texas Department of Economic Development)	48	Awards to local governments who contract with professional planners and consultants who provide assistance to businesses 191 open contracts	Quarterly statewide competition for 3-year contracts		
	Young v. Cuomo	None	Awards to local governments who contract with service providers and consultants 29 open contracts	Direct awards to any of the specific cities included in lawsuit		

Appendix C

Guide to Agency Programs

Contracting

Program		Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Office of Colonia Initiatives (OCI)	Contract for Deed Conversion Program	Over 500 applicants identified, of which 347 residents are committed	Three border field representatives and one headquarter staff provide Department services throughout Texas-Mexico Border region	13 contracts with local governments and for- and non-profit organizations (including self-help centers) to convert contracts for deed	Notices of Funding Available, Requests for Propsal, and individual applications by colonia residents, approved by TDHCA Board	Funds availabale once agreements reached between a developer, a for- or non-profit organization, unit of local government, and individuals
	Consumer Education Program	6 applications for contract for deed consumer education program Notice of Funding Available and 1 application for technical assistance Notice of Funding Available	2 contracts with non-profits currently active, and 3 border field representatives also implement workshops as needed	Direct awards allocated to eligible applicants	Available funding drawn by contractors as needed	
	Owner-Builder (Bootstrap) Loan Program	None (new program)	Contracts with non-profit state-certified organizations and colonia self-help centers	Annual statewide competition in which 2/3 of funds reserved for economically distressed areas	Loans available once housing recipient is approved for the loan and signs contract	
Information and Technical Assistance						
Local Government		N/A	N/A - responds to requests from local government officials	N/A	N/A	N/A
Housing Resource Center		N/A	N/A	N/A - responds to requests	N/A	N/A

Guide to Agency Programs

Contracting

Program	Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Poor and Homeless Programs					
Community Services Block Grant	51 Community Action Plans 24 applications	51 eligible entities or community action agencies, which include 4 cities, 2 counties, 2 councils of government, and 43 private non-profit organizations 20 contractors, including 9 demonstration projects	Eligible entities designated by Governor	Advance payment Formula based on poverty and population density	Department monitors contracts and provides technical assistance. Contractors submit monthly and quarterly reports, annual Community Action Plan, and Community Needs Assessment at least once every five years.
Emergency Shelter Grants	123	72 units of general local government and private non-profit organizations, including homeless shelters and other service providers	Competitive application process Available funds reserved by planning region based on poverty	Advance payment grants	Department monitors contracts, conducts at least one extensive, on-site review per year for each contractor, and provides technical assistance

Appendix C

Guide to Agency Programs

Contracting

Program	Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Emergency Nutrition/Temporary Emergency Relief	94 applications of Service Delivery Plans	94 contracts with counties, community action agencies, and other non-profit organizations	Funds obligated to each county based on formula If a county declines funds or fails to designate a non-profit organization to administer these funds, the Department identifies an eligible organization	General revenue advance payment based on service delivery plan; oil overcharge is reimbursement only Formula based on poverty and unemployment	Department monitors contracts and provides technical assistance. On-site monitoring for contractors with other community services programs. Desk monitoring for others.
Community Food and Nutrition	1	One contract with Texas Association of Community Action Agencies	Sole source contract	Advance payment grants	Department monitors contracts, conducts at least one extensive, on-site review per year for each contractor,and provides technical assistance
Repair and Energy Assistance					
Weatherization Assistance	112,719	38 contracts with non-profit organizations (most are community action agencies, and some are units of local government or councils of government)	Renewal of contractors based on performance (contractors originally designated when program began)	Advance payment Formula based on county poverty population, weather, etc.	Department monitors contracts and provides technical assistance, including at least one site visit per year. Contractors submit monthly reports.

Guide to Agency Programs

Contracting

Program	Number of Applicants in FY 1999	Method of Service Delivery and Number of Active Contracts	Method of Contract Procurement	Method of Payment to Contractor	Compliance Requirements
Comprehensive Energy Assistance	118,803	51 contracts with cities, counties, and councils of government	Renewal of contractors based on performance (contractors originally designated when program began)	Advance payment Formula based on county poverty population, weather, etc.	Department monitors contracts and provides technical assistance, including at least one site visit per year, plus monthly reports
Manufactured Housing Regulation					
Manufactured Housing	N/A	87.5 FTEs in 9 offices	N/A	N/A	N/A

Appendix D

Income Designations*			
Statewide Average Area Median Family Income (AMFI) Family of Four	**Income Level Designation**	**Income Limit**	**Percentage of Poverty Rate**
$13,740	Extremely low	< 30% AMFI	82%
$27,480	Very low	30 to < 60% AMFI	164%
$36,640	Low	60 to < 80% AMFI	219%

* These income limits apply to all U.S. Department of Housing and Urban Development-funded programs, the Multi-Family Bond Program, and the Low Income Housing Tax Credit Program. Only one Department program, the First-Time Home Buyer Program, uses income levels other than these. This program also serves moderate income households, defined as those earning between 80 percent and 115 percent AMFI. In addition, to be eligible for agency programs funded by the U.S. Department of Health and Human Services, families must earn less than 125 percent of the poverty rate, which is $20,875 for a family of four.

Appendix E

Local Housing and Community Affairs Organizations				
Entity	**Function**	**Authority**	**Funds**	**Geographic Distribution**
Public Housing Authorities	Governmental entities that may develop or own low income housing, also may administer Section 8 programs for U.S. Department of Housing and Urban Development (HUD).	State authorized	HUD public housing funds and Section 8. Also eligible to apply for HOME, Housing Trust Fund (HTF), and Low Income Housing Tax Credits (LIHTC).	Approximately 421 serve many cities and counties.
Housing Finance Corporations	Receive a portion of the Private Activity Bond Cap for Texas to make single- and multi-family loans.	State statute	May issue Single-Family and Multi-Family Private Activity Bonds and 501(c)(3) Bonds. Also eligible to apply for HOME, HTF, and LIHTC.	Nearly 76, mostly in metropolitan areas.
Community Housing Development Organizations (CHDOs)	State-or locally-designated non-profit organizations that demonstrate the capacity to carry out HOME projects.	Federally authorized		163 statewide, mostly concentrated around metropolitan areas.
Community Development Corporations (CDCs)	Community-based, non-profit organizations that may engage in developing affordable housing, economic development, or other activities that benefit the community (many CDCs are also CHDOs).	Non-profit corporation Board of Directors	HOME, HTF, Single-Family and Multi-Family Private Activity Bonds. Also eligible to apply for or adminster Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP), 501(c)(3) Bonds, LIHTC, and Emergency Shelter Grant Program (ESGP).	Approximately 332, in most metropolitan areas and some rural locations.

Appendix E

Local Housing and Community Affairs Organizations				
Entity	**Function**	**Authority**	**Funds**	**Geographic Distribution**
Community Service Agencies (includes community action agencies, or CAAs)	Organizations that provide a wide variety of services to low-income individuals, including employment assistance, emergency food or health care assistance, and child development programs (some CAAs are also CHDOs). Most are private non-profits, but a few are part of public entities such as municipalities, counties, and councils of government.	Governed by board consisting of one-third elected officials, one-third representatives of the poor in the area served, and one-third members of business, labor, religion, education, or other community groups.	Community Services Block Grants, WAP, and CEAP. Also eligible to apply for HOME, HTF, Section 8, 501(c)(3) Bonds, LIHTC, and ESGP.	51 agencies serve 254 counties.
Councils of Government (COGs)	Voluntary associations of local governments to coordinate comprehensive planning and provide a regional approach to problem solving. COGs have taken on responsibilities for planning and delivery of services such as aging, employment and training, criminal justice, economic development emergency communications, environmental quality, and transportation.	Initially created by federal law, formed under Texas law. COGs are considered political subdivisions of the state but have no regulatory powers or other authority possessed by cities, counties, or other local governments. COGs are also referred to as regional planning commissions.	Community Development Block Grants, CEAP, and WAP. Also eligible to apply for funding for certain activities from HTF.	24 COGs serve 2,029 cities, counties, and other local governments such as school districts, soil and water conserva-tion districts, and other special districts.

Appendix F

Staff Review Activities

The Sunset staff engaged in the following activities during the review of the Texas Department of Housing and Community Affairs (TDHCA), the Texas State Affordable Housing Corporation (TSAHC), and the Texas Interagency Council on the Homeless (TICH).

- Worked extensively with TDHCA and TSAHC executive management and staff from the agency's major programs.
- Met with TDHCA and TSAHC Governing Board members and TICH members.
- Attended public meetings of the TDHCA and TSAHC Governing Boards and public meetings of TICH and reviewed past minutes of meetings.
- Worked with the Governor's Office, Lt. Governor's Office, Speaker's Office, State Auditor's Office, Legislative Budget Board, legislative committees, and key legislators' staff.
- Interviewed state officials from the Office of the Secretary of State, State Auditor's Office, Health and Human Services Commission, Department of Licensing and Regulation, Commission on Human Rights, and Water Development Board.
- Reviewed reports by the Governor's Office, State Comptroller of Public Accounts, Office of the Attorney General, State Auditor's Office, Legislative Budget Board, Department of Insurance, Water Development Board, and U.S. Department of Housing and Urban Development.
- Visited with officials from the U.S. Department of Housing and Urban Development regarding federal funding, policies, initiatives, and compliance issues related to housing and community development.
- Conducted interviews and solicited written comments from state and local interest groups regarding their ideas and opinions about the State's role in housing and community support services.
- Met with city and county elected officials and staff, non-profit organizations, housing developers, lenders, advocates, property mangers, syndicators, councils of government, water supply corporations, community development corporations, community development consultants, colonia self-help center staff and residents, homeless shelters, food banks, domestic violence shelters, public and private community action agencies, mental health providers, local homeless coalitions, and manufactured housing builders, retailers, and installers. Meetings occurred in Midland, Dallas, Fort Worth, San Antonio, Houston, Temple, Brownsville, McAllen, San Juan, Harlingen, Edinburg, Mission, Weslaco, Laredo, El Cenizo, Rio Bravo, and Lexington.
- Attended several conferences to visit with attendees and presenters about the State's role in housing and community support services.
- Researched the structure of agencies in other states with common functions.
- Reviewed agency documents and reports, state and federal statutes, legislative reports, Attorney General opinions, previous legislation, literature on housing and community support services, other states' information, and information available on the Internet.

Texas Department of Housing and Community Affairs

Report Prepared By:

John Hawkins - Project Manager

Katrina Daniel
Lisa Mogil
Michelle Furmanski
Marcelo Guevara
Jeremy Mazur
Barbara Hunley

Texas State Affordable Housing Corporation

Report Prepared By:

Katrina Daniel - Project Manager

Texas Interagency Council for the Homeless

Report Prepared By:

Lisa Mogil - Project Manager

Ginny McKay - Project Supervisor

Joey Longley
Director

Sunset Advisory Commission
P.O. Box 13066
Robert E. Johnson Bldg.
6th Floor, 1501 N. Congress Ave.
Austin, Texas 78711
http://www.sunset.state.tx.us

(512) 463-1300
FAX (512) 463-0705