



# ORCA GOVERNING BOARD MEETING

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April 2-3, 2009

AUSTIN, TEXAS

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**OFFICE OF RURAL COMMUNITY AFFAIRS  
GOVERNING BOARD MEETING**

**April 2, 2009**

**Omni Austin Hotel at Southpark**

**4140 Governor's Row**

**Room E**

**Austin, Texas 78744**

**11:00 AM**

**NOTICE: Three sub-committees will meet on April 2, 2009 to review respective agenda items with ORCA staff. The sub-committees and respective meeting times are: Community Development – 10:00 AM  
Finance and Disaster Recovery-- 10:00 AM  
Rural Health – 10:00 AM**

**The public is welcome to attend the sub-committee meetings which will also be held in room E.**

**The Board will discuss, consider and take appropriate action only on agenda items A (1), (2) & (3) beginning promptly at 11:00 AM on April 2, 2009. After agenda item A (3) the Board will recess until 1:00 PM. Any agenda item not heard or completed on April 2<sup>nd</sup> may be considered on April 3<sup>rd</sup> beginning at 8:30 AM.**

**A. CALL TO ORDER BY THE CHAIR (11:00 AM)**

1. Roll call and certification of a quorum.
2. Executive Session – The board will enter into Executive Session Pursuant to Section 551.074(a) (1) Government Code, to deliberate the appointment, employment, evaluation, compensation, reassignment, duties, discipline, or dismissal of the Executive Director.
3. Action, if any, in open session on items discussed in the Executive Session.

**AFTER THE EXECUTIVE SESSION THE BOARD WILL RECESS AND RECONVENE THE MEETING AT 1:00 PM TO CONSIDER THE AGENDA ITEMS BELOW:**

4. Consider approval of the minutes of the February 5, 2009 meeting.

## B. PUBLIC COMMENT

1. The Board will provide interested persons the opportunity to offer public comment on any matter within the jurisdiction of the agency and, if time permits, may offer this more than once. The Board may limit the time of each speaker to three minutes or less and exclude repetitious comments.

## C. EXECUTIVE DIRECTOR

1. Hear report from internal auditor on the status of external and internal audits performed during 2006, 2007 and 2008.
2. Hear update on activities related to the Texas Rural Foundation including a sub-committee report from Remelle Farrar.
3. Hear update on legislative activities related to ORCA in the 81<sup>st</sup> Legislative Session.

## D. TEXAS CAPITAL FUND PROGRAM (TCF)

1. Hear report on TCF activities.

## E. FINANCE

1. Hear an update on the agency's Fiscal Year 2009 Operating Budget.

## F. STATE OFFICE OF RURAL HEALTH PROGRAM (SORH)

1. Hear a report on the status of collection efforts by the OAG and ORCA staff related to grants and awards made by the agency.
2. Hear report of the FLEX evaluation for program year 2008.

## G. TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TxCDBG)

1. Hear an update on disaster declarations and applications received and approved under the Disaster Relief Fund.

2. Consider Proposed Use of Deobligated Funds / Program Income funds. (Action needed)
3. Hear report on the HUD CDBG Neighborhood Stabilization Program.
4. Reports from management on the status of open contracts.
5. Consider approval of a proposed amendment to the TxCDBG Action Plan for the supplemental funds to be received under the ARRA of 2009 (i.e., the “stimulus CDBG funds”). (Action needed)
6. Consider approval of a proposed amendment to ORCA TxCDBG programs found in Title 10 Part 6 Chapter 255 of the Texas Administrative Code related to the appeals process contingent upon enactment of HB 1079. (Action needed)

#### H. DISASTER RECOVERY DIVISION

1. Hear update on the status of the Action Plan for disaster discovery for Hurricane Ike/Dolly.
2. Hear disaster recovery status report on CDBG non-housing Round 1 & 2 supplemental disaster funding.
3. Consider transferring \$1,000,000 from Rita II Disaster Recovery Funding unobligated administrative funds to Rita II program funds. (Action needed)
4. Hear report on the contracted services with engineering firm HNTB.
5. Consider an extension to the HNTB contract with an associated increase in the contract amount. (Action needed)

#### I. OLD BUSINESS AND OTHER ITEMS

1. Consider setting the date and location for future meetings.

#### J. EXECUTIVE SESSION

THE BOARD MAY GO INTO CLOSED SESSION ON ANY ITEM LISTED ON THE AGENDA WHERE AUTHORIZED BY THE TEXAS OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE.

1. Executive Session Pursuant to Section 551.071 Government Code to consult

with the Board's attorney concerning contemplated litigation, and all matters identified in the agenda in which the Board members seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas and pursuant to Section 551.074(a)(1) Government Code, for purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, compensation, reassignment, duties, discipline, or dismissal of the Executive Director.

2. Action, if any, in open session on items discussed in the Executive Session.

## K. ADJOURN

AGENDA ITEMS MAY NOT NECESSARILY BE CONSIDERED IN THE ORDER THAT THEY APPEAR. TIME SPECIFIC ITEMS ARE SO NOTED ON THE AGENDA.

Persons with disabilities, who plan to attend this meeting and are in need of a reasonable accommodation in order to observe or participate, should contact Sandy Seng at 512-936-6706 at least four (4) working days prior to the meeting.

To access this agenda and details on each agenda item in the Board book, please visit our website at [www.orca.state.tx.us](http://www.orca.state.tx.us).

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**OFFICE OF RURAL COMMUNITY AFFAIRS  
GOVERNING BOARD MEETING**

February 5-6, 2009  
Omni Austin Hotel at Southpark  
4140 Governor's Row, Omni Room D  
Austin, Texas 78744  
1:15 PM

The Office of Rural Community Affairs Governing Board meeting convened at the Omni Austin Hotel at Southpark, 4140 Governor's Row, Omni Room D, Austin, Texas at 1:15 PM on February 5, 2009.

Chairman Klussmann adjourned the meeting at 5:40 PM that same day.

**Governing Board Members in Attendance**

**Present**

Wallace Klussmann, Chairman  
David Alders, Vice-Chairman  
Mackie Bobo, Secretary  
Dora Alcalá  
Charles Butts  
Charles Graham  
Patrick Wallace  
Drew Deberry for TDA Commissioner Todd Staples  
Woody Anderson

**Not Present**

Joaquin L. Rodriguez  
Remelle Farrar

**Others Registered in Attendance**

<b>Last Name</b>	<b>First Name</b>	<b>Organization Represented</b>
Gallego	Pete	State Representative, District 74
Rhodes	Rick	Texas Department of Agriculture
Nicholes	Lesley	Texas Department of Agriculture
Young	Karl	Texas Department of Agriculture
Inabinet	Michael	HNTB
Slimp	Robert	HNTB
Owens	Brian	Governor's Office
Screen	Jimmy	Shaw Environmental & Infrastructure Group

**Agenda Item A**

1. Chairman Klussmann called the meeting to order at 1:15 PM and asked Dr. Mackie Bobo, Secretary, to call the roll. A quorum was present.

**Agenda Item C**

2. Mr. Charlie Stone, ORCA Executive Director, made a presentation of an authentic flag flown over the Capitol and with a plaque in recognition of retired ORCA employee, Gina Garcia, for her 30 years of dedicated service to the state of Texas.

Dr. Mackie Bobo made the motion that the ORCA Governing Board moves that Gina Garcia be recognized for her contributions and dedication to the agency and state of Texas. In addition, the Governing Board of the Office of Rural Community Affairs extends its sincere appreciation for her many years of public service. Mr. Charles Butts seconded the motion. The motion passed unanimously.

1. The Honorable Pete Gallego, member of the Texas House of Representatives, District 74, performed the swearing in of the newly appointed member of the ORCA Board. The oath of office was administered to Ms. Dora G. Alcalá.

**Agenda Item A**

2. Chairman Klussmann called for a motion to approve the minutes from the December 11-12, 2008 Board Meeting. The minutes were approved as published.

**Agenda Item D**

2. Mr. Karl Young, Finance Programs Coordinator, Texas Capital Fund, Texas Department of Agriculture, presented to the Board the recommendation to authorize publication of the adoption of the currently proposed rules for the 2009 Texas Capital Fund Downtown Revitalization and Main Street Programs in the *Texas Register*. Mr. David Alders made the motion to authorize the publication of the adoption of the currently proposed rules in the *Texas Register*. Dr. Mackie Bobo seconded the motion. Mr. Drew Deberry abstained. The motion passed.
1. Mr. Karl Young, Finance Programs Coordinator, Texas Capital Fund, Texas Department of Agriculture, gave an overview to the Board of the 2008 Texas Capital Fund Programs' awards. Mr. Rick Rhodes, Assistant Commissioner, Texas Department of Agriculture, for Rural Economic Development, made comment that TDA is very careful in distributing those funds and they are also being very sensitive to the needs of the communities. No action required.

**Agenda Item B**

1. Chairman Klussmann opened the meeting to public comment. None present.

Chairman Klussmann closed the public comment period at 1:51 PM.

**Agenda Item C**

3. Mr. Charlie Stone, ORCA Executive Director, delivered to the Board a follow-up on the Texas Rural Foundation's (TRF) next steps reported from the December 11 & 12, 2008 Board meeting. After discussion, the main focus is the need of an Executive Director for the TRF program. The proposal is to re-post a current vacant position, the Director of Outreach and Special Programs (OSP), to include a Rural Foundation work related background to get the TRF program up and operational.

Mr. Charles Butts made the motion to authorize Mr. Charlie Stone, ORCA Executive Director, to re-post the Director of OSP position to include Texas Rural Foundation duties. Ms. Dora Alcalá seconded the motion. The motion passed unanimously.

4. Mr. Charlie Stone, ORCA Executive Director, requested that no action be taken regarding the purposed rule relating to Debarment in the TxCDBG Program. No action taken.

#### **Agenda Item E**

1. Ms. Sharon Page, ORCA Chief Financial Officer, presented an update to the ORCA Board on the agency's Fiscal Year 2009 Operating Budget and presented the recommendation to the ORCA Board to approve the return of the \$1,000,000 set aside for the Engineering Services contract back to the Deobligated and Program Income available balance. Dr. Mackie Bobo made the motion to approve the return of the \$1,000,000 back to the Deobligated and Program income available balance. Mr. David Alders seconded the motion. The motion passed unanimously.

#### **Agenda Item F**

1. Ms. Theresa Cruz, ORCA Director of the State Office of Rural Health and Compliance Division, reported to the Board the approval by the State Review Committee for the funding of two awards for the Rural Health Demonstration Project using TxCDBG funds. The first is a \$235,500 award to Washington County to renovate a building for use as a health center and the second is a \$264,500 award to the City of Tenaha for construction of a dental facility. Mr. Pat Wallace expressed his appreciation to the ORCA Board members for the support received in allowing the Office of Rural Health to make these first two awards to the benefit of Health Care in Rural Texas using TxCDBG funds. No action required.
2. Ms. Theresa Cruz, ORCA Director of the State Office of Rural Health and Compliance Division, presented an update on collection efforts by ORCA and the Office of the Attorney General related to grants and awards made by the agency. No action required.
3. Ms. Theresa Cruz, ORCA Director of the State Office of Rural Health and Compliance Division, presented to the Board the recommendation to adopt the proposed changes that were presented to the ORCA Board during the October 2008 meeting that relate to the ORCA State Office of Rural Health Physician Assistant Loan Repayment Program found in Title 10 Part 6 Chapter 257, Sect. 257.101 of the Texas Administrative Code.

Mr. David Alders made the motion to adopt the approved proposed changes. Dr. Mackie Bobo seconded the motion. The motion passed unanimously.

Chairman Klussmann called for a break. The time was 3:00 PM. Chairman Klussmann called the meeting to order at 3:20 PM.

#### **Agenda Item H**

2. Ms. Heather Lagrone, ORCA Disaster Recovery Division Manager, reported to the Board the contracted services with HNTB, a nationally recognized engineering firm, to provide technical assistance and assist communities in prioritizing projects for Hurricane Ike disaster recovery assistance. Mr. Michael Inabinet, Deputy Program Manager of HNTB, discussed the progress of their services. No action required.

1. Ms. Oralia Cardenas, ORCA Director of the Disaster Recovery Division, presented an update on the status of the proposed Action Plan for Disaster Recovery. No action required.
3. Ms. Oralia Cardenas, ORCA Director of the Disaster Recovery Division, presented to the Board a status report on the Supplemental CDBG Disaster Recovery Funds for Round 1 (Rita) and Round 2 (Rita) – Non-Housing and Infrastructure Funds. No action required.

#### **Agenda Item G**

2. Mr. Charlie Stone, ORCA Executive Director, requested that no action be taken regarding the proposed amendments to the TxCDBG Program found in Title 10 Part 6 Chapter 255 of the Texas Administrative Code. No action taken.
1. Mr. Mark Wyatt, ORCA Director of Texas Community Development Block Grant Program (TxCDBG), presented to the Board an update on the Disaster Relief Fund. Staff anticipates recommending at a future Board meeting the use of any existing Deobligated Funds and/or Program Income for the Disaster Relief Fund to build up a reserve. No action required.
3. Mr. Mark Wyatt, ORCA Director of Texas Community Development Block Grant Program (TxCDBG), presented to the Board the recommendation to adopt the amendments as proposed that were presented to the ORCA Board during the December 2008 meeting that are found in Title 10 Chapter 255 of the Texas Administrative Code as it relates to the 2009 Texas CDBG Action Plan.

Dr. Mackie Bobo made the motion to adopt the amendments as proposed under Title 10 Chapter 255 of the Texas Administrative Code and to authorize staff to provide notification to the *Texas Register*, provided no comments in opposition are received by the due date. Ms. Dora Alcalá seconded the motion. The motion passed unanimously.

4. Mr. Mark Wyatt, ORCA Director of Texas Community Development Block Grant Program (TxCDBG), presented to the Board a report on the HUD's Neighborhood Stabilization Program. No action required.

#### **Agenda Item I**

1. Chairman Klussmann discussed future ORCA Board meeting locations and dates. The next meeting will be April 2&3, 2009 and will be held in Austin at the same location as present meeting, Omni Austin Hotel at Southpark.

#### **Agenda Item J**

The ORCA Board did not enter into Executive Session.

#### **Agenda Item K**

Chairman Klussmann adjourned the meeting at 5:40 PM on Thursday, February 5, 2008.

NONE AT THE TIME OF THIS  
POSTING

**SUMMARY**  
**A Follow Up On Internal and External Audits**  
**By the Internal Auditor**  
Presented by Charlie Stone\*

**DISCUSSION**

As part of the Internal Audit Plan, follow up audits have been completed by the Board's internal auditor, PMB Helin Donovan. The following audits of the agency have been reviewed:

- Texas State Auditor's Office Audit Report on Hurricane Recovery Funds dated October 2007
- State Comptroller's Post Payment Audit dated February 29, 2008
- KPMG LLP FY 2008 Statewide Single Audit Report date March 2009
- Internal Management Audit dated September 2007
- A report for an Audit of the Rural Health Division of the Office of Rural Community Affairs dated December 2007
- IT Security Review Audit dated August 2008
- A report for a Follow-Up Audit of the Contract Management Division of the Office Rural Community Affairs dated May 2008

Don McPhee and Tadd Lanham from PMB Helin Donovan will be at the meeting to discuss their report and answer any questions from the Board.

**RECOMMENDATION**

No action needed. For information only.

**RURAL DEFINITION**

N/A for this agenda item.

**\*Should a Board member have questions concerning this agenda item, please contact Charlie Stone at 512-936-6704 or [cstone@orca.state.tx.us](mailto:cstone@orca.state.tx.us)**

**A Follow-Up Internal Audit Report  
Of Internal Audits of the  
Office of Rural Community Affairs**

March 15, 2009

Dear Board of Directors and Management of  
The Office of Rural Community Affairs:

PMB Helin Donovan reviewed the implementation status of recommendations made in audit reports for internal audits performed during 2007 and 2008. A summary of the status of recommendations as of March 15, 2009 is presented in Schedule A which is attached to this letter. Schedule A provides a summary of recommendations presented in following audit reports:

- Internal Management Audit dated September 2007
- A report for an Audit of the Rural Health Division of the Office of Rural Community Affairs dated December 2007
- IT Security Review Audit dated August 2008
- A report for a Follow-Up Audit of the Contract Management Division of the Office Rural Community Affairs dated May 2008

**Conclusion (as of March 15, 2009)**

- *Internal Management Audit dated September 2007*
  - ORCA has implemented three of the five recommendations presented in this audit report, a fourth recommendation is partially implemented and ORCA's response to the fifth recommendation is in progress.
- *A report for an Audit of the Rural Health Division of the Office of Rural Community Affairs dated December 2007*
  - ORCA has partially implemented the four recommendations presented in this audit report.
- *IT Security Review Audit dated August 2008*
  - ORCA has partially implemented one of the two recommendations presented in this audit report and their response to the second recommendation is in progress.
- *A report for a Follow-Up Audit of the Contract Management Division of the Office Rural Community Affairs dated May 2008*
  - ORCA has implemented three of the six recommendations presented in this audit report and their responses to the remaining three recommendations are in progress.

## Methodology

Our methodology for performing follow-up audits consists of conducting interviews, obtaining and analyzing available documentation, and performing selected tests and other procedures as appropriate. For this follow up, we:

- Obtained and reviewed copies of the Audit reports for the years 2008 and 2007;
- Discussed the audit issues and the implementation of audit recommendations with ORCA management;
- Performed procedures to confirm the results of our interviews; and,
- Documented the status of recommendation implementation.

## Other Information

Our internal audit procedures were conducted in accordance with generally accepted government auditing standards and the Standards for the Professional Practice of Internal Auditing.



**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

*Internal Management Audit Report dated September 2007*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
We recommend ORCA develop and implement processes and procedures to address the repeated weaknesses reported during the HUD Audit of 2006.	Implemented	As documented in the Follow-up Internal Audit report dated May 22, 2008, ORCA has implemented the recommendations from the 2006 HUD audit. Additionally, as documented in letters from HUD to ORCA, HUD staff has accepted ORCA's procedures and plans. Agency management believes this finding is remediated and does not plan further action.
We recommend ORCA explore the feasibility of streamlining the CDBG grant awarding process by eliminating the reviewing boards that may not provide a significant benefit to the current process.	Implemented	ORCA has explored the feasibility of streamlining the CDBG grant awarding process but provisions in HB2542 and subsequent updates to the Texas Administrative Code require ORCA to continue the State Review Committee process. House Bill 1079 filed for the current session includes language that abolishes the State Review Committee. Additionally, management eliminated the need for a second Regional Review Committee scoring meeting and updated the 2009 CDBG Action Plan to reflect this change.
We recommend ORCA develop and implement financial processes to improve the significant HUD performance measures of Ratio of Unexpended funds to Grant and the Ratio Expended Last 12 Months to Grant.	Implemented	ORCA management implemented enhancements to expenditure oversight, tracking, and processes to improve significant HUD performance measures. Specific steps taken include adding project implementation timelines to community development contracts, monitoring projects and expenditures during staff meetings, modifying the 2009 action plan to make STEP a two year contract, and tracking and reporting on contracts through the CDBG contract tracking system.

**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
We recommend ORCA place into service a reporting process to address issues related to old grants with unexpended funds or numerous grant extensions.	Implemented	ORCA created a Project Resolution Specialist position in late 2008 with responsibility for resolving issues related to old grants. ORCA management is also performing detailed tracking of aging projects by fund and contract age and is monitoring project closure. This information will be presented during the April 2009 board meeting. Finally, ORCA developed formal guidance and procedures to address issues related to closing Housing Infrastructure Fund (HIF) contracts.
We recommend ORCA construct a reporting framework to provide better visibility of the overall activity of the Rural Health programs.	In Progress	ORCA management developed a summary Monthly Management Report in early 2009 to capture and report key information from both Oracle and the MIP accounting system. The management report includes a summary of Rural Health program activities derived from data such as new awards, cumulative activity, de-obligated awards, prior year grant payments, and current grant payments. The report also presents management's discussion and analysis of key program activities. Program Management plans to use this Monthly Management Report going forward, but the reporting framework is not yet finalized and approved by ORCA executive management.

*A report for an Audit of the Rural Health Division of the Office of Rural Community Affairs dated December 2007*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
We recommend Rural Health Division expand the Rural Health Division's Program Manual to include detailed procedures and internal controls in order to manage the various rural health programs.	Partially Implemented	ORCA management has a Rural Health Division's Program Manual (SORH Manual) that includes process descriptions that are supported by various system

**SCHEDULE A**  
**Status of the ORCA’s Implementation of Prior Audit Recommendations**

Recommendation	Implementation Status	Auditor Comments
<p>PMBHD recommends the Rural Health Division enhance the processes, procedures and controls to manage the Rural AED Program. Specifically:</p> <ul style="list-style-type: none"> <li>• The financial reports containing collection of payments (revenue), expenditures and encumbrances should be reconciled to the Oracle database, Excel worksheets and vendor’s invoices at least monthly.</li> <li>• The Oracle System should have information regarding the payment by ORCA for the device.</li> <li>• ORCA should have a more substantive verification of the delivery of the equipment.</li> <li>• The de-obligation of training funds should be performed more timely to prevent rollover of funds into the next year.</li> </ul>	<p>Partially Implemented</p>	<p>screenshots and instructions. The manual includes descriptions of processes and controls for applications, awards and contract execution, payments, and closeout. However, management does not have a process in place to keep the manual current and the manual has not been updated to reflect the procedures and controls for the Rural AED or Texas Health Service Corps programs, including management’s monthly reconciliation processes.</p> <p>ORCA management implemented several steps identified in the audit report. While ORCA continues to initiate the payment in Oracle based on notification of delivery by the vendor, management also implemented operational procedures to independently verify delivery with the grantee. Additionally, management implemented dates within the AED contracts to enforce the deadline for documentation submission verifying training and requesting carry forwards. Finally, management implemented informal reconciliation processes to ensure all devices charged for (disbursements) were actually delivered.</p> <p>Management’s action plans also call for written procedures to be included in the State Office of Rural Health (SORH) manual and implemented for the current and future years’ AED programs. While many procedures have been placed in operation, the SORH manual does not reflect specific processes, procedures and controls to manage the Rural AED Program.</p>

**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

PMBHD recommends the Rural Health Division develop and implement processes and procedures to manage and monitor the Texas Health Service Corps Program from the last recipient draw to the end of the recipient's service obligation to the community. The Rural Health Division should also monitor the recipient's status to ensure the recipient performs the obligation in a complete and timely manner.

Partially  
Implemented

Management developed and implemented the Service Obligation Verification Form for the Texas Health Service Corps Program. This form is used to monitor status for each year the physician is serving the obligation.

Management's action plans also call for written processes to be included in the SORH Operations manual. However, the SORH manual does not reflect specific processes, procedures and controls to manage the Texas Health Service Corps Program.

PMBHD recommends the Rural Health Division reconcile the information between the Oracle database, the Excel worksheets and the Financials reports on a monthly basis. Furthermore, PMBHD recommends the Rural Health Division develop and implement processes and procedures to manage contracts from the last recipient draw to the end of the recipient's service obligation to the community. Finally, we recommend the Rural Health Division closely monitor recipient status to ensure recipients perform all obligations in a complete and timely manner.

Partially  
Implemented

Management now performs informal monthly reconciliation of payments in Oracle to data in Excel spreadsheets and financial reports. Additionally, program staff personnel perform several operational procedures to manage contracts and monitor the recipient's service obligation to the community. These steps include tracking students in school, residency, those serving obligations; verifying residency; and verifying service obligations.

Management's action plans also call for written procedures to be included in the SORH manual. While most Rural Health Division procedures are now included in the operations manual, the manual does not describe the processes used by management to reconcile the information between the Oracle database, the Excel worksheets and Financial reports on a monthly basis.

**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

*IT Security Review Audit dated August 2008*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
PMB recommends ORCA approve and implement their IT security risk management policy.	In Process	IT management developed draft information security risk management policies that address a broad range of information security and operations areas. However, these draft policies have not yet been fully reviewed and approved by the new Director of Information Technology or the Executive Director and have not been formally adopted by ORCA.
PMB recommends ORCA update and complete the IT portion of the Business Continuity Plan and Disaster Recovery Plan.	Partially Implemented	The IS Team updated the IT portion of the Business Continuity Plan and Disaster Recovery Plan. However, the plan has not yet been tested by management to evaluate its effectiveness. Also, the overall Risk Manual that includes the agency's Business Continuity Plan has not been formally adopted.

*A Report for a Follow-Up Audit of the Contract Management Division of the Office Rural Community Affairs dated May 2008*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
ORCA should periodically obtain, review, and reconcile reports from the Texas Department of Agriculture (TDA) to ORCA's records.	Implemented	ORCA implemented a reconciliation process with TDA in early March 2009. Additionally, ORCA management documented monthly reconciliation procedures that describe the roles and responsibilities of both ORCA and TDA staff. ORCA communicated these procedures to TDA management on March 5, 2009.
ORCA should reconcile the disbursement activity between IDIS, the Oracle system, and ORCA's accounting system (MIP). The drawing of funds would be included in this reconciliation.	In Progress	ORCA is in the process of replacing the Oracle grants management system with a new web-based Rural Grants Management System (RGMS). The integration between MIP, IDIS, and RGMS is included

**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
		in the scope of the implementation project. As a result, ORCA management expects this reconciliation control to be placed in operation during the upcoming implementation project.
ORCA should develop standard reports to be monitored and used by executive management and the Board in order to manage open projects.	Implemented	Management has made a wide variety of reports available to the Board in order to manage open projects. During 2008, the reports included detailed listings of new awards, open projects, disbursements, closed projects, and detailed reports on particular funds. In March 2009, ORCA management finalized its reporting standard to include the aging report (presented in pie chart and list format) and the open contracts compared to all contracts awarded that year (presented in chart and detailed numbers / percentages). CDBG management intends to use this standard for the April 2009 and future Board meetings unless the Board or Executive Director provides further guidance or requests changes to the standard.
ORCA's Rural Health Division should develop a report of all open projects regardless of their status.	Implemented	ORCA's Rural Health Division implemented a process to report open projects, regardless of their status, from the Oracle grants management system. The report includes a listing of all rural health contracts that are not closed, de-obligated or terminated.
ORCA's Rural Health Division should keep better track of the beneficiary of the grant by requiring a periodic report from the beneficiary representing compliance with the contractual agreement.	Implemented	ORCA developed and implemented a Request for Disbursement Form for the Texas Health Service Corps Program. This form includes the grantee's certification of the terms and conditions outlined in the Contract for Texas Health Services Corps Program.

**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
ORCA's Compliance Division should develop reports that represent the overall monitoring activity for the reporting period.	In Progress	Management is in the process of developing reports that will provide relevant information regarding contracts ready for monitoring, those that are being monitored, and any resulting material or non-routine findings for the agency.

**A Follow-Up Internal Audit Report  
Of External Audits of the  
Office of Rural Community Affairs**

March 15, 2009

Dear Board of Directors and Management of  
The Office of Rural Community Affairs:

PMB Helin Donovan reviewed the implementation status of recommendations resulting from external audits performed on the operations of the Office of Rural Community Affairs (ORCA) during fiscal years 2008, 2007, and 2006. Schedule A summarizes the status of implementation activities for each of the following external reports as of March 10, 2009:

- Texas State Auditor's Office Audit Report on Hurricane Recovery Funds dated October 2007
- State Comptroller's Post Payment Audit dated February 29, 2008
- KPMG LLP FY 2008 Statewide Single Audit Report date March 2009

The scope of our follow-up included determining the status of open recommendations resulting from audits performed in 2006 and 2007 as well as the status of corrective actions for recommendations reported during audits performed in 2008. (We performed an earlier follow-up for audits conducted in 2006-07 and presented our findings in a report dated May 22, 2008.)

**Conclusion**

ORCA has implemented the recommendations of the above external audits with the exception of one recommendation from the Texas State Auditor's Office. ORCA is currently in the process of implementing a new rural grants management system (RGMS) and will be designing and implementing integration and reconciliation controls during this project in accordance with the Texas State Auditor's recommendations. The status of recommendations is summarized in Schedule A.

**Methodology**

Our methodology for performing follow-up audits consists of conducting interviews, obtaining and analyzing available documentation, and performing selected tests and other procedures as appropriate. For this follow up, we:

- Obtained and inspected copies of Audit reports (including follow-ups) for the years 2006, 2007, and 2008;
- Discussed the audit issues and the implementation of audit recommendations with ORCA management;
- Performed procedures to confirm the results of our interviews; and,
- Documented the status of recommendation implementation.

**Other Information**

Our internal audit procedures were conducted in accordance with generally accepted government auditing standards and the Standards for the Professional Practice of Internal Auditing.



**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

*Texas State Auditor's Office Audit Report on Hurricane Recovery Funds dated October 2007*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
ORCA needs to reconcile information in its accounting system to information in its grants management system.	In progress	ORCA is in the process of replacing the Oracle grants management system with a new web-based rural grants management system (RGMS). The integration and between the MIP accounting application and RGMS are included in the scope of this project. ORCA management expects accounting and grants management system reconciliation controls to be placed in operation during the 2009 implementation.

**Note:** All other recommendations reported as part of this audit were implemented as described in PMBHD's letter dated May 22, 2008.

*State Comptroller's Post Payment Audit dated February 29, 2008*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
The Office must review its procedures to ensure that properly completed service verification forms are obtained for its employees and all resulting data entry from these forms properly matches the information provided. It is the Office's responsibility to verify lifetime service credit data and to ensure payments are correct for all employees.	Implemented	On September 1, 2007, ORCA assumed its Human Resources (HR) responsibilities and implemented a process to verify new employees' state service. Additionally, ORCA HR management audited existing HR files to ensure that proper state service verification has been obtained for current employees. While ORCA management has identified a few employees for which ORCA still requires additional information, procedures to address this recommendation have been placed in operation.

**SCHEDULE A**  
**Status of the ORCA's Implementation of Prior Audit Recommendations**

<p>The Office should review the controls over expenditure processing and segregate each task to the extent possible to ensure that no individual is able to process payments without oversight. See Fiscal Policies and Procedures (FPP) B.005 that explains how agencies can reduce risks to state funds by using the new accounting and payment controls in USAS. If the Office determines that it is willing to accept the risk associated with maintaining current security levels, it must implement detective controls to ensure that any inappropriate activity is discovered.</p>	<p>Implemented</p>	<p>As noted in management's response to the State Comptroller, the Agency's Finance Team Lead implemented a preventive control change to the D02 profile in USAS that was recommended by the Comptroller's office. This system control prevents an individual user from entering/changing a transaction and releasing the transaction. ORCA also has internal procedures that do not allow a single individual to create, change, and approve a hardcopy voucher.</p>
<p>The Office should monitor its payments to ensure that no duplicate payments are made.</p>	<p>Implemented</p>	<p>As noted in management's response to the State Comptroller, ORCA management modified internal procedures to help prevent duplicate payments to vendors. The process now includes an email based communication mechanism shared by the two grant staff responsible for payment processing. Staff personnel use the email system to verify that electronic payment requests submitted by field offices have not been previously paid.</p>

*KPMG LLP FY 2008 Statewide Single Audit Report dated March 2009*

<b>Recommendation</b>	<b>Implementation Status</b>	<b>Auditor Comments</b>
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**Note:** No recommendations pertaining to ORCA were reported as part of this audit.

# **SUMMARY**

## **Texas Rural Foundation**

Presented by Charlie Stone\*

### **DISCUSSION**

At the last Board meeting a report was given on the next steps for the Texas Rural Foundation (TRF) but after extensive discussion, it was determined that there is an overriding and critical need for a dedicated staff person to help with the development of the TRF. The position should be more than administrative in nature and must be a higher level position with the knowledge and skills to get the TRF “off dead center” through the recruitment and training of TRF Board members and establish goals and fundraising events. The decision by the Board was to authorize the Executive Director to re-post a current vacant position, the Director of Outreach and Special Programs (OSP), to include a Rural Foundation work related background to get the TRF program up and operational.

The posting has been completed and at the time of the development of this brief, interviews were being scheduled. A verbal report on the outcome of the interviews should be available at the Board meeting.

Board member Remelle Farrar will also provide an update to the Board on any activities related to future fundraising activities by the TRF.

### **RECOMMENDATION**

No action needed – for informational purposes only.

### **RURAL DEFINITION**

N/A for this agenda item.

**\*Should a Board member have questions concerning this agenda item, please contact Charlie Stone at 512-936-6704, or [cstone@orca.state.tx.us](mailto:cstone@orca.state.tx.us).**



GOVERNOR RICK PERRY  
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ORCA GOVERNING BOARD  
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## Legislative update 3/20/2009

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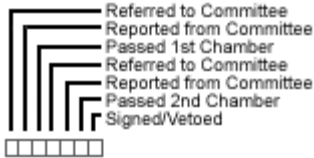
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Charles S. (Charlie) Stone  
ORCA Executive Director

FIELD OFFICES


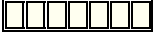


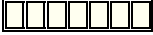


Bedias: 936-395-2456    La Grange: 979-968-6764    Rusk: 903-683-4251  
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Kountze: 409-246-8547    Nacogdoches: 936-560-4188    Vernon: 940-553-3556

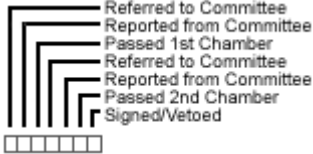




## House bills

HB 6 	<u>Eiland</u>	Relating to supplemental appropriations to pay for damages and disruptions suffered by state agencies and institutions of higher education caused by natural disasters.
<b>Bill History:</b> 03-11-09 H Committee action pending House Appropriations		
HB 377 	<u>Miller, Sid</u>	Relating to the creation and funding of the Texas Rural Job Development Fund.
<b>Bill History:</b> 03-10-09 H Committee action pending House Agriculture and Livestock		
HB 492 	<u>Zerwas</u>	Relating to the expansion of faith- and community-based health and human services and social services initiatives.
<b>Bill History:</b> 03-17-09 H Meeting set for 8:00 a.m., e2.012 House Public Health		
HB 885 	<u>Naishtat</u>	Relating to the creation of the individual development account program to provide savings incentives and opportunities for eligible persons to pursue home ownership, postsecondary education, and business development.
<b>Bill History:</b> 03-17-09 H Meeting set for 8:00 A.M., E2.028 House Agriculture and Livestock		
HB 1079 	<u>Kolkhorst</u>	Relating to the appellate process for the community development block grant program.
<b>Bill History:</b> 02-24-09 H Introduced and referred to committee on House Agriculture and Livestock		
HB 1684 	<u>Brown, Betty</u>	Relating to the creation and administration of the rural veterinarian loan repayment program.
<b>Companions:</b> <u>SB 1667</u> Estes (Identical) 3-10-09 S Filed		
<b>Bill History:</b> 03-17-09 H Meeting set for 8:00 A.M., E2.028 House Agriculture and Livestock		
HB 1715 	<u>Gonzalez Toureilles</u>	Relating to the establishment of the Texas Rural Development Fund and to the establishment, operation, and funding of certain programs for rural economic development.
<b>Companions:</b> <u>SB 684</u> Lucio (Identical) 3-16-09 S Voted favorably from committee as substituted Senate Agriculture and Rural Affairs		
<b>Bill History:</b> 03-03-09 H Introduced and referred to committee on House Agriculture and Livestock		
HB 1918 	<u>Darby</u>	Relating to changing the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs.
<b>Bill History:</b> 03-05-09 H Introduced and referred to committee on House Agriculture and Livestock		

<u>HB 2239</u> 	<u>Hamilton</u>	Relating to transferring the Office of Rural Community Affairs to the Department of Agriculture and abolishing the board of the office.
<b>Bill History:</b> 03-09-09 H Introduced and referred to committee on House Agriculture and Livestock		
<u>HB 3172</u> 	<u>Davis, Yvonne</u>	Relating to the administration of money provided to the state by the United States Department of Housing and Urban Development.
<b>Bill History:</b> 03-10-09 H Filed		
<u>HB 3219</u> 	<u>Chavez</u>	Relating to the creation and operation of a council to increase state efforts to offer service-enriched housing through increased coordination of housing and health services.
<b>Companions:</b> <u>SB 1878</u> Nelson (Identical) 3-11-09 S Filed		
<b>Bill History:</b> 03-10-09 H Filed		
<u>HB 3241</u> 	<u>Martinez</u>	Relating to economic development in the state by creating economic development opportunities in counties that contain colonias and by developing the workforce by increasing adult literacy rates.
<b>Bill History:</b> 03-10-09 H Filed		
<u>HB 3540</u> 	<u>Davis, Yvonne</u>	Relating to the provision of housing, weatherization and energy assistance to persons who are elderly, homeless or with disabilities through the establishment of the Texas Housing Independence Campaign.
<b>Bill History:</b> 03-11-09 H Filed		
<u>HB 4046</u> 	<u>McReynolds</u>	Relating to the creation of nonprofit health corporations with assistance from the Texas Rural Foundation.
<b>Bill History:</b> 03-12-09 H Filed		
<u>HB 4094</u> 	<u>Davis, Yvonne</u>	Relating to state and municipal actions to ensure compliance with fair housing requirements.
<b>Companions:</b> <u>SB 1943</u> West (Identical) 3-12-09 S Filed		
<b>Bill History:</b> 03-13-09 H Filed		



## Senate bills

SB 684 	<u>Lucio</u>	Relating to the establishment of the Texas Rural Development Fund and to the establishment, operation, and funding of certain programs for rural economic development.
<b>Companions:</b>		<b>HB 1715</b> Gonzalez Toureilles (Identical) 3- 3-09 H Introduced and referred to committee on House Agriculture and Livestock
<b>Bill History:</b>		03-16-09 S Voted favorably from committee as substituted Senate Agriculture and Rural Affairs
SB 1667 	<u>Estes</u>	Relating to the creation and administration of the rural veterinarian loan repayment program.
<b>Companions:</b>		<b>HB 1684</b> Brown, Betty (Identical) 3-17-09 H Meeting set for 8:00 A.M., E2.028, House Agriculture and Livestock
<b>Bill History:</b>		03-10-09 S Filed
SB 1878 	<u>Nelson</u>	Relating to the creation and operation of a council to increase state efforts to offer service-enriched housing through increased coordination of housing and health services.
<b>Companions:</b>		<b>HB 3219</b> Chavez (Identical) 3-10-09 H Filed
<b>Bill History:</b>		03-11-09 S Filed
SB 1943 	<u>West</u>	Relating to state and municipal actions to ensure compliance with fair housing requirements.
<b>Companions:</b>		<b>HB 4094</b> Davis, Yvonne (Identical) 3-13-09 H Filed
<b>Bill History:</b>		03-12-09 S Filed
SB 2029 	<u>Watson</u>	Relating to issuance of qualified energy conservation bonds.
<b>Bill History:</b>		03-12-09 S Filed
SB 2169 	<u>Ellis</u>	Relating to the establishment of a smart growth policy work group and the development of a smart growth policy for this state.
<b>Bill History:</b>		03-13-09 S Filed



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SB 2287



Lucio

Relating to the creation of the small municipality and rural area housing development fund.

**Bill History:** 03-13-09 S Filed

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SB 2288



Lucio

Relating to the provision of affordable housing in this state.

**Bill History:** 03-13-09 S Filed

# House bills



## HB 6 by Representative Eiland

Relating to supplemental appropriations to pay for damages and disruptions suffered by state agencies and institutions of higher education caused by natural disasters.

Bill History			
House	Description of Action	Date	Stat
H	Filed	3- 5-09	
H	Introduced and referred to committee on <a href="#">House Appropriations</a>	3- 5-09	
H	Meeting set for 8:00 a.m., E1.030 -- House Appropriations	3-11-09	
H	Committee action pending <a href="#">House Appropriations</a>	3-11-09	



HB 6 appropriates to ORCA \$305,734 out of the economic stabilization fund for the two-year period beginning on the effective date of this Act (see below) for the purpose of paying for, or reimbursing payments made for, costs incurred by the agencies or institutions associated with damages or disruptions caused by natural disasters that occurred before the effective date of this Act during the state fiscal biennium that began September 1, 2007.

The bill requires the agencies and institutions receiving appropriations made by this Act to allocate the appropriations to the appropriate General Appropriations Act strategies.

The bill takes effect only if it receives a two-thirds vote of the members present in each house as required by Section 49-g, Article III, Texas Constitution.

### Effective date

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house. If this Act does not receive the vote necessary for immediate effect, then except as otherwise provided by this Act, this Act takes effect on the 91st day after the last day of the legislative session.

**HB 377 by Rep. Sid Miller**  
**Relating to the creation and funding of the Texas Rural Job Development Fund.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	12-8-08	
H	Introduced and referred to committee on <a href="#">House Appropriations</a>	2-17-09	
H	Rereferred to Committee on <a href="#">House Agriculture and Livestock</a>	2-18-09	
H	Meeting set for 8:00 A.M., e2.028 -- <a href="#">House Agriculture and Livestock</a>	3-10-09	
H	Committee action pending <a href="#">House Agriculture and Livestock</a>	3-10-09	

The bill modifies provisions related to the Texas Enterprise Fund (TEF) by adding a new subsection that authorizes the TEF to be used to make one or more grants to the Office of Rural Community Affairs (office) to implement the office's powers and duties relating to rural job development. The bill specifies that the following provisions do not apply to a TEF grant to the office:



- eligibility to receive a TEF grant;
- pre-award agreements;
- withholding TEF grant funds based on performance;
- consultation among the Governor, Lieutenant Governor, and Speaker of the House of Representatives;
- annual progress reports; and
- prorated repayment based on partial attainment of performance targets.

The bill sets forth the purpose of the Texas Rural Job Development Fund stating that the purpose is to:

- promote rural employment opportunities, including economic development projects that will stimulate job creation or assist in job retention;
- foster regional collaboration for the development of rural employment opportunities;
- enhance leadership capacity and civic participation in rural Texas in an inclusive manner;
- facilitate wealth creation and retention in rural communities to decrease long-term dependency on state and federal resources;
- assist in the development of a highly skilled and productive workforce in rural communities;
- assist the workers in rural areas of this state in obtaining education, skills training, and labor market information to enhance their employability, earnings, and standard of living; and
- assist rural communities in this state by providing economic incentive programs for job creation, attraction, and expansion.

The bill establishes the Texas Rural Job Development Fund as an account in the general revenue fund and provides that the account is composed of:

- legislative appropriations;
- money received from the Texas Enterprise Fund;
- gifts, grants, donations, and matching funds received; and
- other money required by law to be deposited in the account.

The bill authorizes the office to solicit and accept gifts, grants, and donations of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of the Texas Rural Job Development Fund.

The bill requires income from money in the account to be credited to the account and specifies that the money in the development fund may be used only for the purposes of this subchapter.

The bill requires the office to offer incentives in the form of grants and loans to entrepreneurs and businesses creating or retaining jobs in a rural community.

The bill requires the executive committee (sic) of the Office of Rural Community Affairs to adopt rules for the program not later than March 1, 2010. The bill provides that implementation of the program is contingent on appropriation of funding by the legislature.

**Effective date**

The bill would take effect immediately if it received a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act would take effect September 1, 2009.

**HB 492 by Rep. John Zerwas**  
**Relating to the expansion of faith- and community-based health and human services and social services initiatives.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	1- 6-09	
H	Introduced and referred to committee on <a href="#">House Human Services</a>	2-18-09	
H	Rereferred to Committee on <a href="#">House Public Health</a>	3- 2-09	
H	Meeting set for 8:00 a.m., e2.012 -- House Public Health	3-17-09	



HB 492 requires the chief administrative officer of several state agencies, including ORCA, in consultation with the governor, to designate one employee from the agency to serve as a liaison for faith- and community-based organizations by December 1, 2009. The bill sets forth general duties of the liaisons and establishes an interagency coordinating group consisting of agency liaisons that is headed by the liaison from the Texas Health and Human Services Commission.

The bill requires a liaison to report:

- periodically to the chief administrative officer who designated the liaison;
- annually to the governor’s office of faith- and community-based initiatives;
- as necessary, to the administrative entity with which the commission contracts or awards a grant under the Renewing Our Communities Account created in this bill. That entity is the administrative entity designated as the State Commission on National and Community Service in accordance with the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.). For Texas, that entity is the One Star Foundation. Ms. Susan Weddington is President/CEO.

**Effective Date**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

## HB 885 by Naishtat

relating to the creation of the individual development account program to provide savings incentives and opportunities for eligible persons to pursue home ownership, postsecondary education, and business development.

Bill History			
House	Description of Action	Date	Stat
H	Filed	1-29-09	
H	Introduced and referred to committee on <a href="#">House Agriculture and Livestock</a>	2-23-09	
H	Meeting set for 8:00 A.M., E2.028 -- House Agriculture and Livestock	3-17-09	

**"Service provider"** means a person to whom a qualified expenditure from a participant's individual development account is made. The term includes:



- (A) a public or private institution of higher education;
- (B) a provider of occupational or vocational education, including a proprietary school;
- (C) a mortgage lender;
- (D) a title insurance company;
- (E) the lessor or vendor of office supplies or equipment or retail space, office space, or other business space; and
- (F) any other provider of goods or services used for the start of a business.

**"Sponsoring organization"** has the meaning assigned to "qualified entity" by Section 404(7), Assets for Independence Act. The term "qualified entity" means

- one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;
- a State or local government agency, or a tribal government, submitting an application under section 405 jointly with an organization described in clause (i); or
- an entity that-
  - is-
    - a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA); or
    - an organization designated as a community development financial institution by the Secretary of the Treasury (or the Community Development Financial Institutions Fund); and
  - can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

The bill authorizes the ORCA board (board) by rule to develop and implement a program under which:

- individual development accounts are facilitated and administered by



- sponsoring organizations for eligible individuals and households to provide those individuals and households with an opportunity to accumulate assets and to facilitate and mobilize savings;
- sponsoring organizations are provided grant funds for use in administering the program and matching qualified expenditures made by program participants; and
  - at least 85 percent of the grant funds described by Subdivision (2) must be used by the sponsoring organization for matching qualified expenditures.

The bill requires the office to contract with sponsoring organizations to facilitate the establishment of and to administer the individual development accounts in accordance with the rules adopted by the board. The board's rules must include guidelines for contract monitoring, reporting, termination, and recapture of state funds.

The bill requires the board, in adopting rules, to state the selection criteria for sponsoring organizations and give priority to organizations that:

- serve rural areas; or
- have demonstrated:
  - a capacity to administer individual development account programs; or
  - a commitment to serve areas of this state that currently do not have individual development account programs available.

The bill requires the board by rule to establish eligibility criteria for participation in the program that are consistent with the purposes of the program and with the Assets for Independence Act.

The bill authorizes a participant to contribute to the participant's individual development account. The bill requires that a participant's contributions to the participant's individual development account accrue interest.

The bill authorizes a participant to withdraw money from the participant's account only to pay for the following qualified expenditures:

- postsecondary educational or training expenses for the adult account holder and dependent children;
- the expenses of purchasing or financing a home for the adult account holder for the first time;
- the expenses of a self-employment enterprise; and
- start-up business expenses for the adult account holder.

The bill requires that the board adopt rules to establish the duties of sponsoring organizations under the program.

The bill requires that each sponsoring organization provide to the office any information necessary to evaluate the sponsoring organization's performance in fulfilling the duties outlined in the board's rules.

At the time a participant in the program makes a withdrawal from the participant's individual development account for a qualified expenditure, the bill requires that a participant receive matching funds from the sponsoring organization, payable directly to the service provider.

The bill prohibits the amount of federal matching funds spent for each individual development account from exceeding the limits established by the Assets for Independence Act. The bill specifies that it may not be construed to create an entitlement of a participant to receive matching funds. The number of participants who receive matching funds under the program in any year is limited by the amount of funds available for that purpose in that year.

The bill requires the board by rule to establish guidelines to ensure that a participant does not withdraw money from the participant's individual development account, except for a qualified expenditure. The bill requires a sponsoring organization to instruct the financial institution to terminate a participant's account if the participant does not comply with the guidelines established by board rule.

The bill provides that a participant whose individual development account is terminated is entitled to withdraw from the participant's account the amount of money the participant contributed to the account and any interest that has accrued on that amount. The bill authorizes the legislature to appropriate money for the purposes of this program. The bill authorizes the office to accept gifts, grants, and donations from any public or private source for the purposes of this program.

The bill requires the office to:

- serve as a clearinghouse for information relating to state and local and public and private programs that facilitate asset development; and
- post that information on the office's Internet website.

The bill authorizes the office to enter into interagency contracts with other state agencies to facilitate the effective administration of this program.

The bill requires the Health and Human Services Commission, to the extent allowed by law, to provide information to the office as necessary to implement this subchapter.

**Effective date**

This Act takes effect September 1, 2009.

**HB 1079 by Kolkhorst**  
**relating to the appellate process for the community development block grant program.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	2- 5-09	
H	Introduced and referred to committee on <a href="#">House Agriculture and Livestock</a>	2-24-09	
H	Meeting set for 7:30 a.m., E2.028 -- House Agriculture and Livestock	3-24-09	



The bill modifies the appellate process for the community development block grant program by abolishing the state community development review committee and authorizing an applicant for a grant, loan, or award under a community development block grant program to appeal a decision of the executive director by filing an appeal with the board. The bill requires the board to hold a hearing on the appeal and render a decision.

**Effective date**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 1684 by Brown of Kaufman**  
**Relating to the creation and administration of the rural veterinarian loan repayment program.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	2-23-09	
H	Introduced and referred to committee on <a href="#">House Agriculture and Livestock</a>	3- 3-09	
H	Meeting set for 8:00 A.M., E2.028 -- House Agriculture and Livestock	3-17-09	

The bill establishes the Rural Veterinarian Loan Repayment Program at the Office of Rural Community Affairs.



The bill requires that the office establish and administer a program to provide loan repayment assistance to veterinarians who agree to practice veterinary medicine on livestock or deer in a designated rural area.

The bill authorizes the board to provide repayment assistance to a veterinarian for up to four years. The bill requires the board to determine the amount of repayment assistance to provide each year.

The bill sets forth eligibility requirements for a veterinarian to be eligible to receive loan repayment assistance, providing that a veterinarian must:

- apply to the office;
- be licensed to practice veterinary medicine in this state; and
- enter into an agreement with the office.

The bill authorizes the office to provide repayment assistance for the repayment of any education loan received by the veterinarian through any lender for education at any veterinary school that awards a degree that satisfies the veterinary study requirements to obtain a license to practice veterinary medicine in this state. The bill prohibits the office from providing repayment assistance for an education loan that is in default at the time of the veterinarian's application.

The bill provides that a person must, to qualify for loan repayment assistance under this section, enter into a written agreement with the office. The agreement must:

- specify the conditions the person must satisfy to receive repayment assistance;
- require the person to practice veterinary medicine on livestock or deer for one full year in a designated rural area for each year the person receives loan repayment assistance under this subchapter;
- provide that any repayment assistance the person receives under this subchapter constitutes a loan until the person completes the year of practice and satisfies other applicable conditions of the agreement; and

- require the person to sign a promissory note acknowledging the conditional nature of the repayment assistance received and promising to repay the amount of that assistance plus applicable interest and reasonable collection costs if the person does not satisfy the applicable conditions.

The bill requires the office to determine the terms of the required promissory note. To the extent practicable, the terms must be the same as those applicable to state or federally guaranteed student loans made at the same time.

The bill requires the office to deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the veterinarian and in accordance with any applicable federal law.

The bill authorizes loan repayment assistance to be applied to the principal amount of the loan and to interest that accrues.

In addition to funds appropriated by the legislature, the bill authorizes the office to solicit and accept grants, gifts, and donations from any public or private source for the purposes of this subchapter.

The bill requires the board of the Office of Rural Community Affairs to adopt rules for the rural veterinarian loan repayment program not later than December 31, 2009. The bill requires the office to distribute to each veterinary school in this state a copy of the rules adopted under this section.

The bill provides that "designated rural area" means a rural geographic area in this state that the board by rule designates as rural for purposes of the loan repayment program.

#### **Effective Date**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 1715 by Gonzalez Toureilles**  
**Relating to the establishment of the Texas Rural Development Fund and to the establishment, operation, and funding of certain programs for rural economic development.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	2-24-09	
H	Introduced and referred to committee on <a href="#">House Agriculture and Livestock</a>	3- 3-09	
H	Meeting set for 7:30 a.m., E2.028 -- House Agriculture and Livestock	3-24-09	



This bill, as introduced, is identical to SB 684 by Senator Lucio. Representative Gonzalez Toureilles is Chair of the House Committee on Agriculture and Livestock.

Please see the analysis of SB 684 beginning on page 16.

**Effective date**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 1918 by Darby**  
**Relating to changing the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	2-26-09	
H	Introduced and referred to committee on <a href="#">House Agriculture and Livestock</a>	3- 5-09	
H	Meeting set for 7:30 a.m., E2.028 -- House Agriculture and Livestock	3-24-09	



This bill changes the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs.

**Effective date**

This Act takes effect September 1, 2009.

## HB 2239 by Hamilton

Relating to transferring the Office of Rural Community Affairs to the Department of Agriculture and abolishing the board of the office.

Bill History			
House	Description of Action	Date	Stat
H	Filed	3- 3-09	
H	Introduced and referred to committee on <a href="#">House Agriculture and Livestock</a>	3- 9-09	



The bill provides that the Office of Rural Community Affairs is established within the Texas Department of Agriculture. The bill provides that a reference in Chapter 487, Government Code, or other law to the board of the Office of Rural Community Affairs means the commissioner.

The bill repeals provisions related to:

Sunset provision	(Section 487.002, Gov't. Code)
Board	(Section 487.021, Gov't. Code)
Conflicts of interest	(Section 487.022, Gov't. Code)
Training for members of board	(Section 487.023, Gov't. Code)
Removal	(Section 487.024, Gov't. Code)
Division of responsibility	(Section 487.025, Gov't. Code)
Standards of conduct	(Section 487.029, Gov't. Code)
Contract for administrative services	(Section 487.058, Gov't. Code)
Transfer of federal funds	(Section 487.352, Gov't. Code)
Co-location of ORCA and TDA field offices	(Section 487.051(b), Gov't. Code, as added by Chapter 1241 (H.B. 2542), Acts of the 80th Legislature, Regular Session, 2007.)

The bill provides that The Office of Rural Community Affairs is abolished as an independent agency and created as a program in the Department of Agriculture. The bill provides that the board of the Office of Rural Community Affairs is abolished. The bill provides that the validity of an action taken by the Office of Rural Community Affairs or its board before either is abolished is not affected by the abolishment.

The bill provides that, on September 1, 2009:

- the executive director of the Office of Rural Community Affairs becomes the executive director of the Office of Rural Community Affairs in the Department of Agriculture;
- an employee of the Office of Rural Community Affairs becomes an employee of the Office of Rural Community Affairs in the Department of Agriculture;
- a reference in law to the Office of Rural Community Affairs means the Office of Rural Community Affairs in the Department of Agriculture;
- all money, contracts, leases, rights, and obligations of the Office of Rural Community Affairs are transferred to the Office of Rural Community Affairs in the Department of Agriculture;
- all property, including records, in the custody of the Office of Rural Community Affairs becomes the property of the Office of Rural Community Affairs in the Department of Agriculture; and
- all funds appropriated by the legislature to the Office of Rural Community Affairs are transferred to the Office of Rural Community Affairs in the Department of Agriculture.

The bill provides that a function or activity performed by the Office of Rural Community Affairs is transferred to the Office of Rural Community Affairs in the Department of Agriculture. The bill requires the Office of Rural Community Affairs and the Department of Agriculture to establish a transition plan for the transfer described in this bill.

**Effective date**

This Act takes effect September 1, 2009.



**HB 3172 by Representative Yvonne Davis  
Relating to the administration of money provided to the state by the United States Department of Housing and Urban Development.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	3-10-09	



Notwithstanding any provision to the contrary, and to the extent permitted by federal law, the Texas Department of Housing and Community Affairs is designated as the recipient and administrator of all money provided to the state by the United States Department of Housing and Urban Development.

If another law permits an agency other than the Texas Department of Housing and Community Affairs to administer a program that receives not less than 50 percent of the program's money from the United States Department of Housing and Urban Development, the bill requires the program to be transferred to the Texas Department of Housing and Community Affairs and the Texas Department of Housing and Community Affairs and the other agency are required to enter into an agreement for the orderly transition of the program to the Texas Department of Housing and Community Affairs.

If another law permits an agency other than the Texas Department of Housing and Community Affairs to administer a program that receives less than 50 percent of the program's money from the United States Department of Housing and Urban Development, the Texas Department of Housing and Community Affairs and the other agency are required enter into a memorandum of understanding for the joint administration of the program.

**Effective Date**

This Act takes effect September 1, 2009.

## HB 3219 by Chavez

Relating to the creation and operation of a council to increase state efforts to offer service-enriched housing through increased coordination of housing and health services.

Bill History			
House	Description of Action	Date	Stat
H	Filed	3-10-09	
H	Introduced and referred to committee on <a href="#">House Human Services</a>	3-18-09	

The bill requires TDHCA to establish a housing and health services coordination council that is composed of 15 members consisting of:

- the director of TDHCA;
- one representative from each of the following agencies, appointed by the head of that agency:
  - the Office of Rural Community Affairs;
  - the Texas State Affordable Housing Corporation;
  - the Health and Human Services Commission;
  - the Department of Assistive and Rehabilitative Services; and
  - the Department of Aging and Disability Services;
- one representative from the Department of Agriculture who is:
  - knowledgeable about the Texans Feeding Texans and Retire in Texas programs or similar programs; and
  - appointed by the head of that agency;
- one member who is:
  - a member of an advisory committee to the Department of Aging and Disability Services that promotes independence for older adults and persons with disabilities; and
  - appointed by the governor; and
- one representative from each of the following interest groups, appointed by the governor:
  - financial institutions;
  - multifamily housing developers;
  - health services entities;
  - nonprofit organizations;
  - consumers of service-enriched housing;
  - advocates for minority issues; and
  - rural communities.



The bill provides that a member of the council appointed by the head of an agency must have, subject to the approval of the head of the agency, authority to make decisions for and commit resources of the agency that the member represents and must have:

- administrative responsibility for agency programs for older adults or persons with disabilities;

- knowledge or experience regarding the implementation of projects that integrate housing and health services; or
- knowledge or experience regarding services used by older adults or persons with disabilities.

The bill provides that the director of TDHCA serves as the presiding officer of the council.

#### TERMS

The bill provides that a member of the council who represents a state agency serves at the pleasure of the head of that agency.

The bill provides that members of the council who are appointed by the governor serve staggered six-year terms, with the terms of two or three members expiring on September 1 of each odd-numbered year.

#### OPERATION OF COUNCIL

The bill requires the council to meet at least quarterly. The bill requires TDHCA to provide clerical and advisory support staff to the council. The bill specifies certain exceptions in law providing that those provisions do not apply to the size, composition, or duration of the council.

#### COMPENSATION AND REIMBURSEMENT

The bill prohibits a member of the council who is appointed by the governor from receiving compensation for service on the council. The bill authorizes a member to receive reimbursement from TDHCA for actual and necessary expenses incurred in performing council functions.

The bill prohibits a member of the council who is not appointed by the governor from receiving compensation for service on the council or reimbursement for expenses incurred in performing council functions.

#### DUTIES; BIENNIAL REPORT

- The bill requires the council to:
  - develop and implement policies to coordinate and increase state efforts to offer service-enriched housing;
  - identify barriers preventing or slowing service-enriched housing efforts, including barriers attributable to the following factors:
    - regulatory requirements and limitations;
    - administrative limitations;
    - limitations on funding; and
    - ineffective or limited coordination;
  - develop a system to cross-educate selected staff in state housing and health services agencies to increase the number of staff with expertise in both areas and to coordinate relevant staff activities of those agencies;
  - identify opportunities for state housing and health services agencies to provide technical assistance and training to local housing and health

services entities about:

- the cross-education of staff;
- coordination among those entities; and
- opportunities to increase local efforts to create service-enriched housing; and
- develop suggested performance measures to track progress in:
  - the reduction or elimination of barriers in creating service-enriched housing;
  - increasing the coordination between state housing and health services agencies;
  - increasing the number of state housing and health services staff who are cross-educated or who have expertise in both housing and health services programs; and
  - the provision of technical assistance to local communities by state housing and health services staff to increase the number of service-enriched housing projects.

The bill requires the council to develop a biennial plan to implement the goals described above and, not later than August 1 of each even-numbered year, deliver a report of the council's findings and recommendations to the governor and the Legislative Budget Board.

#### GIFTS AND GRANTS

The bill authorizes the council to solicit and accept gifts, grants, and donations for the purposes of the council.

#### DUTIES OF EMPLOYEES PROVIDING ADVISORY SUPPORT TO COUNCIL

The bill requires TDHCA employees assigned to provide advisory support to the council to:

- identify sources of funding from this state and the federal government that may be used to provide integrated housing and health services;
- determine the requirements and application guidelines to obtain those funds;
- provide training materials that assist the development and financing of a service-enriched housing project;
- provide information regarding:
  - effective methods to collaborate with governmental entities, service providers, and financial institutions; and
  - the use of layered financing to provide and finance service-enriched housing;
- create a financial feasibility model that assists in making a preliminary determination of the financial viability of proposed service-enriched housing projects, including models that allow a person to analyze multiuse projects that facilitate the development of projects that will:
  - address the needs of communities with different populations; and
  - achieve economies of scale required to make the projects

financially viable;

- facilitate communication between state agencies, sources of funding, service providers, and other entities to reduce or eliminate barriers to service-enriched housing projects;
- provide training about local, state, and federal funding sources and the requirements for those sources;
- develop a database to identify, describe, monitor, and track the progress of all service-enriched housing projects developed in this state with state or federal financial assistance;
- conduct a biennial evaluation and include in the council's report to the governor and the Legislative Budget Board under Section 2306.1096 information regarding:
  - the capacity of statewide long-term care providers; and
  - interest by housing developers in investing in service-enriched housing;
- to increase the consistency in housing regulations, recommend changes to home and community-based Medicaid waivers that are up for renewal;
- research best practices with respect to service-enriched housing projects subsidized by other states; and
- create and maintain a clearinghouse of information that contains tools and resources for entities seeking to create or finance service-enriched housing projects.

The bill requires the governor and the heads of the applicable state agencies, as soon as possible after the effective date of the bill, to appoint members to the housing and health services coordination council and sets forth provisions related to the governor's initial appointments to the housing and health services coordination council.

The bill requires the housing and health services coordination council, not later than September 1, 2010, to submit the first report of the council's findings and recommendations as required by the bill.

**Effective date**

This Act takes effect September 1, 2009.

**HB 3241 by Martinez**

**Relating to economic development in the state by creating economic development opportunities in counties that contain colonias and by developing the workforce by increasing adult literacy rates.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	3-10-09	
H	Introduced and referred to committee on <a href="#">House Technology/Economic Dev/Workforce</a>	3-18-09	



This bill requires several heads or designees of various agencies to work on a Higher Education Colonia Counties Work Group. The work group will study and propose policies and legislation regarding the issues faced by counties that contain a colonia, including issues related to the international trade.

The workgroup must meet quarterly in Austin, Texas, to discuss and evaluate ideas and policies to address those issues; and not later than November 1 of each even numbered year, submit a report recommending appropriate policies to address those issues.

**HB 3540 by Representative Yvonne Davis**  
**Relating to the provision of housing, weatherization and energy assistance to persons who are elderly, homeless or with disabilities through the establishment of the Texas Housing Independence Campaign.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	3-11-09	
H	Introduced and referred to committee on <a href="#">House Urban Affairs</a>	3-19-09	



The bill creates the Texas Independence Campaign to promote housing independence and prevent unnecessary and expensive institutionalization of the state’s extremely low-income elderly and homeless populations and persons with disabilities.

The bill provides that Office of Rural Community Affairs (ORCA) is a member of the Texas Housing Independence Task Force. A member of the task forces serves at the pleasure of the appointing official or until termination of the member’s employment with the entity the member represents. A member must have administrative responsibility for programs for the homeless, disabled, or senior housing or related services provided by the agency that the member represents; and authority to make decisions for and commit resources of the agency, subject to the approval of the administrative head or board of directors of the agency.

The Executive Director of the Texas Department of Housing and Community Affairs (TDHCA) chairs the task force. The task force meets quarterly, and the bill requires that a record be taken of attendees and minutes must be included in the annual report. The bill specifies that actions taken must be approved by the majority vote of the voters present. The bill authorizes the task force to select and use advisors. TDHCA must provide clerical and advisory support staff to the task force. The task force is authorized to accept gifts and grants from a public or private source for use in carrying out the task force’s duties.

The task force must:

- coordinate interdepartmental and interagency plans and develop a unified campaign plan to achieve the goals of the Texas Housing Independence Campaign;
- determine the programmatic approaches, levels of funding and funding sources necessary to carry out the campaign plan to achieve the goals of the Texas Housing Independence Campaign;

- research housing needs and programs to achieve the goals of the Texas Housing Independence Campaign;
- aggregate, analyze and report the program initiatives and funding commitments of each participating department and agency for activities under the Texas Housing Independence Campaign, and certify whether sufficient programs and resources have been committed to meet the campaign plan and goals; and
- by September 1 of each year, submit to the Governor, Lt. Governor, Speaker, the Legislative Budget Board and to TDHCA's legislative oversight committees and the legislative oversight committees of ORCA the campaign plan and subsequent yearly revisions to the campaign plan that include an accounting of the funds allocated, funds expended and the number and geographic, demographic and economic characteristics of persons served by each participating department and agency through the campaign plan.

Notwithstanding other law, participating agencies are required to revise their existing program services and funding rules to permit them to contribute adequate program resources and target services as necessary to achieve the goals of the campaign plan.

TDHCA and ORCA must specifically assign housing funding and community development block grants, housing tax credits, weatherization, Texas Housing Trust Fund, program revenues, program income, excess proceeds from any related activities, energy assistance funds as well as any other resources available to TDHCA and ORCA at levels sufficient to meet the requirements of the campaign plan.

TDHCA, ORCA and the Texas State Affordable Housing Corporation must amend their strategic plans to increase the number of new and rehabilitated, integrated, affordable housing units for extremely low income people with disabilities the elderly and homeless populations at risk of being compelled to seek publicly supported institutionalized housing or shelter through new construction, rehabilitation and reuse, or tenant rental assistance by a number necessary to meet the campaign plan.

The Texas Housing Independence Campaign Housing Assistance Program is created at TDHCA to build or rehabilitate housing units of the type designated by recommendations of the task force consistent with the goals of the Texas Housing Independence Campaign.

TDHCA, ORCA and the Texas State Affordable Housing Corporation must through the Texas Housing Independence Campaign Task Force, develop and market an adequate portion of these housing units to meet the housing needs of individuals relocated as a result of any closing or consolidation of residential care facilities operated or maintained by the State of Texas.



TDHCA and ORCA must cooperate to develop rules and procedures to establish the Texas Housing Independence Campaign Residential Architectural Barrier Removal Program. TDHCA and ORCA must each expend no less than \$5 million from funds available to carry out a \$10 million Texas Residential Barrier Removal Grant Program to assist not less than 3,000 elderly or disabled Texas households to remain in their homes each year.

ORCA must administer the program to serve beneficiaries residing in that portion of the state that lies outside of Participating Jurisdictions under the Community Development Block Grant program and the TDHCA shall administer the portion of the program that serves beneficiaries residing in the remainder of the state.

TDHCA and ORCA must cooperate to provide local communities, nonprofit and for profit organizations desiring to participate in this program the necessary technical assistance to successfully implement the program.

TDHCA and ORCA must develop the Texas Housing Independence Campaign Energy Cost Burden Reduction program to reduce the energy costs of extremely low income elderly and disabled households whose energy costs exceed twenty percent of their gross income over the preceding 12 month period.

The Public Utility Commission must cooperate with TDHCA and ORCA to research and monitor the effectiveness of the program's efforts to reduce the cost of utilities and to recommend and support demonstration programs to be undertaken by TDHCA and ORCA to test program initiatives to reduce the energy cost burden on households. The program shall be administered in a manner that ensures that eligible beneficiaries in small cities and rural communities receive a share of the campaign resources in proportion to their share of the state's eligible population (Specific requirements are listed).

**Effective date**

This Act takes effect September 1, 2009.

**HB 4046 by McReynolds**  
**Relating to the creation of nonprofit health corporations with assistance from the Texas Rural Foundation.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	3-12-09	



**ADVISORY COMMITTEE ON NONPROFIT HEALTH CORPORATIONS.**

The bill authorizes the Texas Rural Foundation, through the assistance of a physician advisory committee, to help to establish and provide technical assistance to create at least one and not more than 12 nonprofit health corporations.

The bill authorizes the Texas Rural Foundation to designate geographic districts and each such district's nonprofit health corporation is required to be eligible to provide services to the district as provided in this section.

The bill requires the Texas Rural Foundation to find an organizational entity or serve as a temporary organizational entity for the establishment of a health corporation.

The bill provides that a nonprofit health corporation established by the advisory committee under this section is authorized to provide the following services:

- physician services to contracting hospitals in the district covered by the nonprofit health corporation;
- peer review and quality assurance programs at a contracting hospital;
- a uniform electronic medical record system that satisfies interoperability standards as set by the Secretary of the Department of Health and Human Services;
- health, life, and disability insurance, and retirement plan benefits for physicians working at a contracting hospital;
- administrative services and expertise including human resources services; and
- primary care residency training programs.

The bill provides that a nonprofit health corporation under this section is a Health Care Entity as defined by Section 151.002, Occupations Code, and any peer review or quality assurance performed or provided under this section is a medical peer review action under Chapter 160, Occupations Code.

The bill provides that a hospital or hospital district is eligible to contract with a nonprofit health corporation created under this section only if:

- the hospital or hospital district is in a county with a population of 25,000 or less; and
- the hospital or hospital district has an active or courtesy medical staff of seven or fewer physicians.

The bill authorizes an advisory committee to accept funds through the Rural Community Facilities Program Account as specified in Division A, Title I of the American Reinvestment and Recovery Act to carry out the duties and functions.

#### **IMMUNITY FROM LIABILITY**

The bill requires that the state, Office of Rural Community Affairs, Texas Rural Foundation, physician advisory committee, be immune from civil liability related to the establishment of the nonprofit health corporations to the extent that such entities and persons are acting in good faith and within the scope of their authority.

The bill does not waive any immunity of the state or of a political subdivision of the state or any employee or officer. The bill provides that, to the extent that this section limits the liability of a governmental unit under circumstances in which the governmental unit would be liable under Chapter 101, Civil Practices and Remedies Code, this section controls.

#### **Effective date**

This Act takes effect September 1, 2009.

**HB 4094 by Representative Yvonne Davis**  
**Relating to state and municipal actions to ensure compliance with fair housing requirements.**

Bill History			
House	Description of Action	Date	Stat
H	Filed	3-13-09	



This bill requires each state agency to administer its programs and activities relating to housing and urban development in a manner that affirmatively furthers the goals of fair housing under this chapter. The bill establishes the Governor's Fair Housing Advisory Council of which ORCA is member.

The council is composed of the heads of each of the following state agencies:

- the Office of Rural Community Affairs;
- the Health and Human Services Commission;
- the Texas Department of Transportation;
- the Texas Education Agency;
- the Texas Department of Housing and Community Affairs; and
- any other state agencies designated by the governor.

The executive director of the Texas Department of Housing and Community Affairs serves as the presiding officer of the council. The bill requires the council to review the design and delivery of state programs and activities relating to housing and urban development to ensure that the programs and activities support a coordinated strategy to affirmatively further the goals of fair housing under this chapter. The council must:

- propose revisions to existing programs or activities;
- develop pilot programs and activities; and
- propose new programs and activities.

The bill requires the executive director of the Texas Department of Housing and Community Affairs shall, in support of the council's goal of cooperative efforts among all state agencies, to:

- cooperate with, and render assistance to, the heads of all state agencies in the formulation of policies and procedures to:
  - affirmatively further fair housing goals; and

- provide information and guidance on the affirmative administration of programs and activities relating to housing and urban development and the protection of the rights; and
- develop with other state agencies memoranda of understanding and any necessary implementing procedures designed to provide for consultation and the coordination of state efforts to further fair housing goals through the affirmative administration of programs and activities relating to housing and urban development.

Texas Department has many duties of which to carry out to ensure further fair housing goals through the affirmative administration of programs and activities relating to housing and urban development.

The Texas Department of Housing and Community Affairs shall prepare an annual report describing the progress of the department and other state agencies in carrying out requirements and responsibilities of the council. The department shall submit the report required not later than December 1 of each year to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate committees of the senate and the house of representatives.

**Effective date**

This bill takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Otherwise, the bill takes effect September 1, 2009.

# Senate bills



## SB 684 by Lucio

Relating to the establishment of the Texas Rural Development Fund and to the establishment, operation, and funding of certain programs for rural economic development.

Bill History			
House	Description of Action	Date	Stat
S	Filed	2- 5-09	
S	Introduced and referred to committee on <a href="#">Senate Agriculture and Rural Affairs</a>	2-23-09	
S	Meeting set for 3:00 P.M. or Adj., E1.012 -- Senate Agriculture and Rural Affairs	3- 9-09	
S	Committee action pending <a href="#">Senate Agriculture and Rural Affairs</a>	3- 9-09	
S	Voted favorably from committee as substituted <a href="#">Senate Agriculture and Rural Affairs</a>	3-16-09	



The following are key elements of Senate Bill 684:

**1) The Rural Capacity and Leadership Enhancement Program** would assist rural leaders in developing and refining the skills needed to effectively and efficiently lead their communities of less than 10,000 in population. (Per 2000 U.S. Census, 1,005 of Texas' 1,192 incorporated places have fewer than 10,000 persons.)

**2) The Rural Community Asset Study Matching Grant Program** would issue grants (with a matching requirement) to allow rural Texans to identify community assets, with the goal of leveraging community strengths to enhance community and economic development.

**3) The Rural Area Regional Planning and Implementation Matching Grant Program** would issue grants (with a matching requirement) for planning and implementation of regionally-identified objectives. Regions would be self-identified by participants, but program requirements would encourage cross-sector, multi-city and multi-county planning.

**4) The Texas Rural Youth Corps Program** would develop the next generation of rural leaders by involving youth in decisions that shape their rural communities. The program would work with local organizations to empower youth to improve their lives and the lives of others in their communities through public service. Preference would be given for projects that provide youth ages 12 to 18 with an opportunity to earn scholarship awards for community service.

**5) The Rural Wealth Creation and Retention Program** would assist rural communities in developing community foundations to decrease long-term reliance on state and federal resources. The program would provide supportive services including financial management, strategic development, and educational training. For example, the Nebraska Community Foundation has distributed \$65 million to community betterment projects of its affiliated funds since 1993 and has nearly \$37.2 million in total assets under management.



**6) The Rural Entrepreneurship and Business Innovation Program** would assist microenterprises, entrepreneurs, and small businesses in rural areas of Texas through the provision of loans for job creation and retention.

The bill requires the board of the Office of Rural Community Affairs, not later than March 1, 2010, to adopt any necessary rules for the fund. Implementation of the programs established under this Act is contingent on appropriation of funding by the legislature.

**Effective date**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**SB 1667 by Estes**

**Relating to the creation and administration of the rural veterinarian loan repayment program.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-10-09	



This bill is identical to HB 1684 by Representative Betty Brown (see analysis).

**SB 1878 by Nelson**

**Relating to the creation and operation of a council to increase state efforts to offer service-enriched housing through increased coordination of housing and health services.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-11-09	



This bill is identical to HB 3219 by Representative Chavez (see analysis).

**SB 1943 by West.**

**Relating to state and municipal actions to ensure compliance with fair housing requirements.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-12-09	



This bill is identical to HB 4094 by Representative Yvonne Davis (see analysis).

**SB 2029 by Watson**  
**Relating to issuance of qualified energy conservation bonds.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-12-09	



The bill establishes the Qualified Energy Conservation Bond program. The bill requires the ORCA board to issue the State's allocation of qualified energy conservation bonds as authorized by Section 54D of the Internal Revenue Code (26 U.S.C. Section 54D) and for the purposes specified in Section 54D.

Subject to board approval and certification of a qualified energy conservation bond issuance, the bill requires ORCA to submit the proposed bond issuance to the Bond Review Board for review.

The bill requires the board to adopt rules governing the administration of the program, which is required to include a schedule of fees and penalties.

The bill requires that applications be accepted by ORCA on a first come, first served basis until the State's allocation is fully committed.

The bill requires the ORCA board to use available sources of revenue, income, and receipts to:

- pay the principal and interest on ORCA bonds; and
- create and maintain the reserves or funds provided by each resolution authorizing the issuance of ORCA bonds.

The bill authorizes ORCA to do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied for the program.

**Effective date**

This Act takes effect September 1, 2009.

**SB 2169 by Ellis**  
**relating to the establishment of a smart growth policy work group and the development of a smart growth policy for this state.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-13-09	



The bill establishes the smart growth policy workgroup and provides that the work group is composed of a representative from several agencies (appointed by the executive head of each agency), including the Office of Rural Community Affairs.

The bill requires the representatives from the Texas Department of Transportation, the Texas Commission on Environmental Quality, and the Department of State Health Services to serve as co-presiding officers of the work group. The bill requires the work group to hold regular meetings.

**DUTIES OF WORK GROUP**

The bill requires the work group to collaborate and develop a comprehensive smart growth plan for the state to prepare for the projected population growth in the state. The bill sets forth items for the workgroup to consider and for which the workgroup is to develop policies.

The bill requires the work group to coordinate with councils of government, regional mobility organizations, metropolitan planning associations, and smart growth experts in the public and private sectors, including the United States Environmental Protection Agency and planning departments in other states. The bill requires the work group to solicit and obtain input from relevant stakeholders.

**REPORT TO LEGISLATURE**

Not later than January 1 of each odd-numbered year, the bill requires the work group to submit a report to the legislature on the smart growth plan and policies developed by the work group. The bill requires the executive head of each agency included on the work group, not later than November 1, 2009, to appoint a representative to the work group on smart growth policy.

**Effective date**

This Act takes effect September 1, 2009.

**SB 2287 by Lucio**  
**relating to the creation of the small municipality and rural area housing development fund.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-13-09	



**SUMMARY**

The bill requires ORCA to provide funding for a new TDHCA program.

**SMALL MUNICIPALITY AND RURAL AREA HOUSING DEVELOPMENT FUND**

The bill establishes the small municipality and rural area housing development fund as an account in the general revenue fund.

The bill requires ORCA, in each state fiscal year, to set aside for the purposes of the Small Municipality and Rural Area Housing Development Fund an amount of money, not to exceed \$7.5 million each year, that is equal to any amount provided to the community development block grant colonia fund that exceeds the amount provided to that colonia fund for the state fiscal year ending August 31, 2008. [Requires up to an additional 7.5 million set aside that is equal to ORCA's existing Colonia Fund].

Colonia Fund	Percent	Amount
<i>Colonia Planning and Construction Fund</i>	7.28%	\$5,228,532.33
<i>Colonia EDAP Legislative Set-aside</i>	2.72%	\$1,952,391.19
<i>Colonia Self-Help Centers Legislative Set-aside</i>	2.50%	\$1,794,477.20
<i>The numbers shown above are based on the State's actual 2008 allocation percentages.</i>		

Except as provided [in the paragraph immediately below], the bill authorizes amounts deposited to the account to be appropriated to the office only for:

- housing initiatives in eligible counties and municipalities under office rules; or
- the improvement of the housing conditions in a colonia.

The bill prohibits amounts deposited to the account from being appropriated to ORCA for financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, as described by Section 17.922, Water Code [relating to EDAP financial assistance].

The bill provides that Sections 403.095, Government Code [Use of Dedicated Revenue – see below] and 404.071, Government Code [Disposition of Interest on Investments – see below] do not apply to the account.

#### COORDINATION WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

The bill requires ORCA to work with the TDHCA to identify available sources of funding for housing initiatives in a county or municipality that is eligible, as identified by ORCA rule, to receive financial assistance from the community development block grant colonia fund.

#### COORDINATION WITH OFFICE OF RURAL COMMUNITY AFFAIRS

The bill requires TDHCA to work with ORCA to identify available sources of funding for housing initiatives in eligible counties and municipalities, as described by Coordination with the Texas Department of Housing and Community Affairs [see above]. The bill defines “colonia.”

#### **EFFECTIVE DATE**

This Act takes effect September 1, 2009.

**SB 2288 by Lucio**  
**relating to the provision of affordable housing in this state.**

Bill History			
House	Description of Action	Date	Stat
S	Filed	3-13-09	

**Note: The key provisions in this bill analysis that relate to ORCA can be found in SECTIONS 1 and 3. The bill requires ORCA to provide funding for a new TDHCA program.**



**SECTION 1.**

SECTION 1 of SB 2288 is identical to SECTION 1 of SB 2287.

**SMALL MUNICIPALITY AND RURAL AREA HOUSING DEVELOPMENT FUND**

The bill establishes the small municipality and rural area housing development fund as an account in the general revenue fund.

The bill requires ORCA, in each state fiscal year, to set aside for the purposes of the Small Municipality and Rural Area Housing Development Fund an amount of money, not to exceed \$7.5 million each year, that is equal to any amount provided to the community development block grant colonia fund that exceeds the amount provided to that colonia fund for the state fiscal year ending August 31, 2008. [Note: This bill requires up to an additional 7.5 million set aside that is equal to ORCA's existing Colonia Fund].

Colonia Fund	Percent	Amount
<i>Colonia Planning and Construction Fund</i>	7.28%	\$5,228,532.33
<i>Colonia EDAP Legislative Set-aside</i>	2.72%	\$1,952,391.19
<i>Colonia Self-Help Centers Legislative Set-aside</i>	2.50%	\$1,794,477.20
<i>The numbers shown above are based on the State's actual 2008 allocation percentages.</i>		

Except as provided [in the paragraph immediately below], the bill authorizes amounts deposited to the account to be appropriated to the office only for:

- housing initiatives in eligible counties and municipalities under office rules; or
- the improvement of the housing conditions in a colonia.

The bill prohibits amounts deposited to the account from being appropriated to ORCA for financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, as described by Section 17.922, Water Code [relating to EDAP financial assistance].



The bill provides that Sections 403.095, Government Code [Use of Dedicated Revenue – see below] and 404.071, Government Code [Disposition of Interest on Investments – see below] do not apply to the account.

#### **COORDINATION WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

The bill requires ORCA to work with the TDHCA to identify available sources of funding for housing initiatives in a county or municipality that is eligible, as identified by ORCA rule, to receive financial assistance from the community development block grant colonia fund.

#### **SECTION 2.**

The bill prohibits the director at TDHCA from eliminating the division for rural community and small municipality housing initiatives.

#### **SECTION 3.**

SECTION 3 of SB 2288 is identical to SECTION 2 of SB 2287.

#### **COORDINATION WITH OFFICE OF RURAL COMMUNITY AFFAIRS**

The bill requires TDHCA to work with ORCA to identify available sources of funding for housing initiatives in eligible counties and municipalities, as described by COORDINATION WITH TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS [see above]. The bill defines “colonia.”

#### **SECTION 4.**

The bill requires TDHCA to develop and implement a homebuyer education program designed to provide information and counseling to individuals and families of low income in rural communities and small municipalities. The bill specifies the topics the education program must address and authorizes TDHCA to require any person who receives mortgage-based financial assistance from TDHCA to complete the homebuyer education program.

#### **SECTION 5.**

##### **RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING INITIATIVES**

The bill requires TDHCA to establish a division to support rural community and small municipality housing initiatives. The bill requires TDHCA by rule to define:

- a small municipality; and
- a rural community.

##### **REGIONAL HOUSING DEVELOPMENT ORGANIZATIONS**

The bill requires the division to establish regional nonprofit housing development organizations that serve rural communities and small municipalities. The bill authorizes TDHCA to use any money available to TDHCA for the purpose, including legislative appropriations and gifts, grants, and donations. The bill authorizes the division to use the services of the Texas State Affordable Housing

Corporation when necessary to accomplish purposes related to Regional Housing Development Organizations.

#### TRAINING

The bill requires the division annually to provide to elected officials, community organizations, nonprofit organizations, and private developers a training course that addresses housing programs and techniques that increase housing opportunities in rural communities and small municipalities.

#### RURAL GRANTS ADMINISTRATOR

The bill requires the TDHCA director to designate a rural grants administrator within the division. The bill requires the rural grants administrator to:

- oversee and coordinate TDHCA initiatives that are directed toward specific rural communities or small municipalities; and
- provide information to the TDHCA director and the TDHCA board regarding the impact of proposed TDHCA programs, rules, and initiatives on housing opportunities in rural communities and small municipalities.

#### HOUSING DEVELOPMENT PLANNING ASSISTANCE

On the request of the governing body of a municipality or county, the bill requires the division to assign a TDHCA employee or independent contractor to assist the municipality or county in:

- developing comprehensive housing plans for rural communities and small municipalities in that county;
- supporting housing development initiatives in those communities and municipalities; and
- identifying financial resources available for those plans and initiatives.

#### RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING DEVELOPMENT PILOT PROJECTS

The bill authorizes TDHCA to establish pilot projects to test and develop new approaches to providing housing in rural communities and small municipalities for:

- individuals and families of low income;
- individuals and families of very low income; or
- agricultural workers.

#### AGRICULTURAL WORKER HOUSING INITIATIVE

The bill requires the division to fund housing initiatives that serve agricultural workers, including:

- new housing initiatives;
- housing rehabilitation initiatives; or
- tenant-based rental assistance.

The bill authorizes the division to designate a housing initiative for agricultural workers as a pilot project authorized under RURAL COMMUNITY AND SMALL MUNICIPALITY HOUSING DEVELOPMENT PILOT PROJECTS. The bill requires the division to coordinate with appropriate divisions of TDHCA for specified purposes.

#### **RURAL LAND BANK DEMONSTRATION PROGRAM**

The bill authorizes TDHCA to adopt a rural land bank demonstration program, or authorizes TDHCA to enter into a memorandum of understanding requiring the Texas State Affordable Housing Corporation to adopt a rural land bank demonstration program, in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by TDHCA rule.

#### **SECTION 6.**

##### **QUALIFIED ALLOCATION PLAN; MANUAL**

The board of TDHCA is required to adopt any provisions in the qualified allocation plan that the TDHCA board considers necessary to facilitate the efficient delivery of multifamily housing to rural areas in this state.

#### **SECTION 7.**

##### **LOW INCOME HOUSING TAX CREDIT PROGRAM**

The bill provides that, to the extent permitted by federal law and notwithstanding any funding priorities otherwise provided by state law, the threshold, scoring, and underwriting criteria developed and approved under the Low Income Housing Tax Credit Program must ensure that applications for allocations of housing tax credits to small-scale developments located in rural areas are not placed, based solely on the size of the proposed developments, at a competitive disadvantage with applications for allocations of housing tax credits to other developments located in those areas. The bill establishes that, for purposes of this subsection, "small-scale development" means a development with fewer than 33 units.

#### **SECTION 8.**

##### **TEXAS SECURE LOAN PILOT PROGRAM**

The bill establishes the Texas Secure Loan Pilot Program and sets forth provisions relating to program administration, rules, eligibility, allocation of loans, loan terms and recovery of principal, modification of loan terms, initiation of modified loan terms, education services for homebuyers, and funding. The funding provisions require TDHCA to ensure that a loan issued under the Texas Secure Loan Pilot Program is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

In addition to funds set aside for the program under the Private Activity Bond State Ceiling and any other available funds, including legislative appropriations, the bill authorizes TDHCA to solicit and accept gifts and grants for the purposes of the Texas Secure Loan Pilot Program.

## **SECTION 9.**

### **RURAL HOUSING LAND ASSEMBLAGE PROGRAM**

The bill creates the Rural Housing Land Assemblage Program Act and authorizes the governing bodies of one or more rural municipalities or rural counties to participate in a rural housing land assemblage program. As part of the program, a participating municipality or county is required to:

- enter into interlocal agreements with any other participating municipalities or counties governing the scope and operation of the program, subject to the provisions of this chapter; and
- establish or designate an entity to serve as the rural housing land assemblage entity in charge of implementing and operating the program.

The bill authorizes a rural housing land assemblage entity to acquire, hold, and transfer, for the purpose of providing affordable housing for low-income households, real property that is not improved with a habitable building or buildings and is otherwise unoccupied. The bill sets forth provisions related to the private sale to a land assemblage entity, exemption from ad valorem taxation, TDHCA's rulemaking authority, open records and meetings requirements, records and audits.

## **SECTION 10.**

The bill establishes TDHCA's deadline for implementation of the homebuyer education program added by this bill. The bill sets forth rulemaking provisions related to Rural Community and Small Municipality Housing Initiatives.

## **SECTION 11.**

The bill provides that changes in law made by this bill in amending provisions relating to the Low Income Housing Tax Credit Program apply only to an application cycle that begins on or after the effective date of this Act. The bill specifies that an application cycle that begins before the effective date of this Act is governed by the law in effect when the application cycle began, and the former law is continued in effect for that purpose.

## **SECTION 12.**

The bill sets forth rulemaking and bond issuance timelines for the Texas Secure Loan Pilot Program.

## **SECTION 13.**

This Act takes effect September 1, 2009.



# SUMMARY

## FY 2009 Agency Operating Budget Update (As of February 28, 2009) Presented by Sharon Page

### DISCUSSION

#### Budget Changes

The 2009 Agency Operating Budget has remained the same as reported in the February 2009 Governing Board meeting, totaling \$88,908,076.

The following are budget adjustments that were made to the agency operating budget: (Note: The net impact of the increase and decrease adjustments was zero to the CDBG Grants line):

- A **decrease** of \$1,000,000 to the Community Development Grants line to reflect the board approval of the return of the \$1,000,000 set-aside for the Engineering Services contract back to the Deobligated and Program Income available balance. This was approved in the February 5-6 Governing Board meeting.
- An **increase** of \$500,000 to the Community Development Grants line to reserve funds from Deobligated and Program Income available balance for Renewable Energy as approved in the 2009 Action Plan. This is shown as a board set-aside item on the TxCDBG Fund Balance Report.
- An **increase** of \$500,000 to the Community Development Grants line to reserve funds from the Deobligated and Program Income available balance for additional Urgent Need funds as approved in the 2009 Action Plan. This is shown as a board set-aside item on the TxCDBG Fund Balance Report.

#### Pending Budget Items

**2009 CDBG Grant Allocation** – The 2009 CDBG allocation is budgeted at \$71,779,088 which is the 2008 funding level. Once the grant is received from HUD, an adjustment will be made to the 2009 Agency Operating Budget.

**Hurricane Ike Grant Award** – HUD has announced the allocation of more than \$2.1 billion to 13 States and Puerto Rico for emergency funding as a result of this year’s natural disasters, of which, Texas received \$1.3 billion to support the States’ long-term disaster recovery. The grant funds will not be added to the budget until the Action Plan is approved by HUD and decisions are made on the Infrastructure, Housing and Economic Development components as well as the entitlement and non-entitlement allocation.

**Federal Economic Stimulus Bill** – In January 2009, the President signed into law the American Reinvestment and Recovery Act, also known as the Federal Economic Stimulus Bill. ORCA is expected to receive an additional \$19.5 million for the Community Development Block Grant (CDBG) program that will be used to award a supplemental allocation of CDBG grants to non-entitlement rural communities. The federal regulations have not been finalized and once the decisions are made and the funds are received from HUD, an adjustment will be made to the 2009 Agency Operating Budget.

**HUD CDBG Neighborhood Stabilization Program** – The Neighborhood Stabilization Program (NSP) is a HUD-funded program authorized by the “Housing and Economic Recovery Act of 2008” (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) program. TDHCA is the lead agency and will be working with ORCA and the Texas State Affordable Housing Corporation to administer \$102 million of the NSP funds. The NSP Notice of Funding Availability and the NSP Application and Guidelines still needs to be approved by HUD. Once the decisions and guidelines are finalized and the funds are received from HUD, an adjustment will be made to the 2009 Agency Operating Budget.

### **Budget Status**

**Utilization** – The Agency Operating Budget schedule shows that six months (50%) into the year, the:

- **Internal Administration** budget was at 35% expended/obligated
- **External Services** budget was 91% expended/obligated
- **Grants to Communities** budget was 18% expended/obligated

The **Internal Administration** budget activity is below target due to the new Disaster Recovery Division budget and vacant positions in the CDBG Division. As the Disaster Recovery Division becomes fully operational the percentages are expected to recover. The **External Services** budget activity is ahead of target due to the impact of the Engineering Services contract. The **Grants to Communities** budget activity is below target and will most likely remain so until the June, when staff will award the Community Development and Colonias funds which represent over 74% of the CDBG allocation.

**Disaster Recovery Funds \$74,523,000 - Status**

**ORCA**

	<u>Budget</u>	<u>Expended</u>	<u>Obligated</u>	<u>Remaining</u>
Grants	\$30,537,574	\$26,743,622	\$ 3,656,561	\$ 137,392
Admin	\$ 1,607,241	\$ 1,374,537	\$ 45,567	\$ 187,137
Total	\$32,144,815	\$28,118,159	\$ 3,702,128	\$ 324,529

**TDHCA**

Grants	\$40,259,276	\$23,272,196	\$16,163,091	\$ 823,989
Admin	\$ 2,118,909	\$ 1,709,413	\$ 266,868	\$ 142,628
Total	\$42,378,185	\$24,981,609	\$16,429,959	\$ 966,617

**Hurricane Recovery Funds \$428,671,849 - Status**

**ORCA**

	<u>Budget</u>	<u>Expended</u>	<u>Obligated</u>	<u>Remaining</u>
Grants	\$42,000,000	\$ 7,691,326	\$34,308,674	\$ 0
Admin	\$ 2,100,000	\$ 427,928	\$ 0	\$ 1,672,072*
Total	\$44,100,000	\$ 8,119,254	\$34,308,674	\$ 1,672,072

**TDHCA**

Grants	\$365,238,257	\$51,579,947	\$313,547,784	\$ 110,526
Admin	\$ 19,333,592	\$ 5,603,532	\$ 0	\$ 13,730,060
Total	\$384,571,849	\$57,183,479	\$313,547,784	\$ 13,840,586

\* Note: In the Disaster Recovery Division section an action will be presented to transfer \$1,000,000 from Rita II administrative funds to grant obligations for the Jasper County Rita II contract.

**TxCDBG Fund Balance Report**

As of February 28, 2009 the TxCDBG Fund Balance Report shows that \$1,147,659 is available from prior year deobligated contracts and program income.



## **Enclosures**

FY 2009 Agency Operating Budget  
FY 2009 Departmental Budget  
TxCDBG Fund Balance Report

The budget schedules and reports are presented for informational purposes.

**\*Should any ORCA Board member have any questions concerning this agenda item please contact Ms. Page at (512) 936-6717 or [spage@orca.state.tx.us](mailto:spage@orca.state.tx.us)**

**ORCA FY 2009 Departmental Budget Schedule**  
As of February, 2009

ORCA ADMINISTRATION	Community Development	State Office of Rural Health & Compliance	Disaster Recovery	Finance	Executive Director	Proposed Budget
<b>INTERNAL ADMINISTRATION</b>						
<b>Personnel</b>						
Salaries and Wages	1,827,650	787,300	1,674,064	836,547	811,546	5,937,107
Other Personnel Costs	64,000	28,000	54,667	26,000	25,000	197,667
<b>Travel</b>						
In State Travel	180,000	70,000	205,000	25,000	82,500	562,500
Out of State Travel	6,900	6,080	19,980	0	7,000	39,960
<b>Capital Outlay</b>						
Computer Equipment	0	0	0	0	0	0
Furniture & Equipment	0	0	0	0	0	0
<b>Consumable Supplies</b>	17,600	7,700	28,748	7,150	6,875	68,073
<b>Utilities</b>	17,600	7,700	47,550	7,150	6,875	86,875
<b>Rent - Building</b>	6,400	18,600	58,200	2,600	2,500	88,300
<b>Rent Machine and Other</b>	16,845	6,945	29,475	6,681	6,463	66,410
<b>Other Operating Expense</b>						
Computer Equipment Expensed	54,770	22,848	200,000	22,673	24,141	324,432
Furniture & Equipment Expensed	12,000	5,250	129,875	4,875	4,688	156,688
Postage	12,000	5,250	25,375	4,875	4,688	52,188
Other	169,000	35,000	277,500	32,500	31,250	545,250
<b>Subtotal, Internal Administration</b>	<b>2,384,765</b>	<b>1,000,673</b>	<b>2,750,434</b>	<b>976,052</b>	<b>1,013,524</b>	<b>8,125,447</b>
<b>EXTERNAL SERVICES</b>						
Dept of Agriculture	442,781					442,781
Dept of Housing & Community Affairs	82,755					82,755
Councils of Government	272,761					272,761
Rural Health Physician Relief		166,176				166,176
Professional/Contracted Services	109,600	52,200	8,884,304	29,900	28,750	9,104,754
<b>Subtotal, External Services</b>	<b>907,897</b>	<b>218,376</b>	<b>8,884,304</b>	<b>29,900</b>	<b>28,750</b>	<b>10,069,227</b>
<b>TOTAL, ORCA ADMINISTRATION</b>	<b>3,292,662</b>	<b>1,219,049</b>	<b>11,634,738</b>	<b>1,005,952</b>	<b>1,042,274</b>	<b>18,194,674</b>
<b>GRANTS TO COMMUNITIES</b>						
TxCDBG Grants	65,408,312					65,408,312
Rural Technology Centers	0					0
Rural Foundation					32,500	32,500
SORH Grants (Excluding Tobacco)		2,841,537				2,841,537
SORH Grants (Tobacco)		2,431,052				2,431,052
<b>Subtotal, Grants to Communities</b>	<b>65,408,312</b>	<b>5,272,589</b>	<b>0</b>	<b>0</b>	<b>32,500</b>	<b>70,713,401</b>
<b>TOTAL, ORCA</b>	<b>68,700,974</b>	<b>6,491,638</b>	<b>11,634,738</b>	<b>1,005,952</b>	<b>1,074,774</b>	<b>88,908,076</b>

**ORCA FY 2009 Agency Operating Budget Schedule**  
As of February 28, 2009

<b>ORCA ADMINISTRATION</b>	<b>ORCA Operating Budget</b>	<b>Expended As of 02/28/09</b>	<b>Obligated As of 02/28/09</b>	<b>Amount Remaining 02/28/09</b>	<b>Expended 02/28/09</b>	<b>Expended &amp; Obligated 02/28/09</b>
<b>INTERNAL ADMINISTRATION</b>						
Salaries and Wages	5,937,107	2,213,242	0	3,723,865	37%	37%
Other Personnel Costs	197,667	75,818	0	121,849	38%	38%
<i>Travel</i>						
In State Travel	562,500	100,234	0	462,266	18%	18%
Out of State Travel	39,960	10,207	0	29,753	26%	26%
<i>Capital Outlay</i>						
Computer Equipment	0	0	0	0	0%	0%
Other Furniture/Equipment	0	0	0	0	0%	0%
<i>Consumable Supplies</i>	68,073	17,585	27,754	22,733	26%	67%
<i>Utilities</i>	86,875	10,029	15,593	61,253	12%	29%
<i>Rent - Building</i>	88,300	6,762	5,994	75,544	8%	14%
<i>Rent Machine and Other</i>	66,410	11,792	27,191	27,428	18%	59%
<i>Other Operating Expense</i>						
Computer - Expensed	324,432	87,484	51,550	185,398	27%	43%
Furniture & Equipment - Expensed	156,688	12,945	13,975	129,768	8%	17%
Postage	52,188	9,821	2,898	39,469	19%	24%
Other	545,250	81,878	68,853	394,519	15%	28%
<b>Subtotal, Internal Administration</b>	<b>8,125,447</b>	<b>2,637,797</b>	<b>213,809</b>	<b>5,273,842</b>	<b>32%</b>	<b>35%</b>
<b>EXTERNAL SERVICES</b>						
Dept of Agriculture	442,781	0	184,492	258,289	0%	42%
Dept of Housing & Community Affairs	82,755	20,356	14,126	48,273	25%	42%
Councils of Government	272,761	23,260	217,306	32,195	9%	88%
Rural Health Physician Relief	166,176	0	0	166,176	0%	0%
Professional/Contracted Services	9,104,754	837,199	7,853,044	414,511	9%	95%
<b>Subtotal, External Services</b>	<b>10,069,227</b>	<b>880,815</b>	<b>8,268,968</b>	<b>919,444</b>	<b>9%</b>	<b>91%</b>
<b>TOTAL, ORCA ADMINISTRATION</b>	<b>18,194,674</b>	<b>3,518,612</b>	<b>8,482,777</b>	<b>6,193,287</b>	<b>19%</b>	<b>66%</b>
<b>GRANTS TO COMMUNITIES</b>						
TxCDBG Grants	65,408,312	0	10,313,553	55,094,759	0%	16%
Rural Technology Centers	0	0	0	0	0%	0%
Rural Foundation	32,500	0	0	32,500	0%	0%
SORH Grants (Excluding Tobacco)	2,841,537	568,082	1,735,365	538,090	20%	81%
SORH Grants (Tobacco)	2,431,052	300,000	0	2,131,052	12%	12%
<b>Subtotal, Grants to Communities</b>	<b>70,713,401</b>	<b>868,082</b>	<b>12,048,917</b>	<b>57,796,401</b>	<b>1%</b>	<b>18%</b>
<b>TOTAL, ORCA</b>	<b>88,908,076</b>	<b>4,386,694</b>	<b>20,531,694</b>	<b>63,989,688</b>	<b>5%</b>	<b>28%</b>

**CDBG PROGRAM FUNDS AVAILABLE TO OBLIGATE 1,147,659**

**ORCA FY 2009 Agency Operating Budget Schedule**  
As of February 28, 2009

**TxCDBG Fund Balance Report**  
as of February 28, 2009

Program Year	Fund Balance	Amount needed to Obligate TCF	Amount needed to Obligate ORCA	Deobligated Funds Available for TxCDBG	Program Income Funds Available for TxCDBG
1993	0.00	0.00	0.00	0.00	\$0.00
1994	187,886.74	0.00	0.00	187,886.74	\$0.00
1995	0.00	0.00	0.00	0.00	\$0.00
1996	77,835.46	0.00	0.00	125,835.46	\$674.67
1997	0.00	0.00	0.00	0.00	\$0.00
1998	248,971.41	0.00	0.00	248,971.41	\$28,782.22
1999	73,879.04	0.00	0.00	73,879.04	\$10,562.00
2000	24,516.74	0.00	0.00	24,516.74	\$5,578.67
2001	48,494.19	0.00	0.00	48,403.18	\$334,983.10
2002	61,246.46	0.00	0.00	61,246.46	\$123,750.00
2003	205,276.32	0.00	0.00	205,276.32	\$31,488.29
2004	1,082,094.34	0.00	0.00	1,082,094.34	\$100,000.00
2005	917,389.93	0.00	0.00	917,389.93	\$0.00
2006	2,022,098.00	0.00	0.00	1,011,087.65	\$12,363.02
2007	6.00	0.00	0.00	24,454.18	\$1,701,190.31
2008	5,810,473.00	3,642,059.00	2,168,714.00	1,176,250.64	\$2,458,684.24
2009	0.00	0.00	0.00	0.00	\$112,490.04
<b>TOTAL</b>	<b>10,760,167.63</b>	<b>3,642,059.00</b>	<b>2,168,714.00</b>	<b>5,187,292.09</b>	<b>\$4,920,546.56</b>

<b>IDIS AVAILABLE BALANCE</b>		
Deob Available to Obligate	\$5,187,292	
Program Income Funds (Excluding 2% Admin)	\$4,920,547	
<b>Total IDIS Available Balance</b>		<b>\$10,107,839</b>
<b>Reconciliation Adjustments:</b>		
* Deob Pending IDIS Close Out	(\$3,288,932)	
<b>Total Reconciliation Adjustments</b>		<b>(\$3,288,932)</b>
<b>ORCA Board Set-Asides:</b>		
STEP Fund	(\$756,024)	
Additional Disaster Relief Fund - Reserve	(\$3,366,439)	
Urgent Need Fund	(\$1,000,000)	
Renewable Energy	(\$500,000)	
CSH Deob Reserve	(\$48,785)	
<b>Total ORCA Board Set-Asides</b>		<b>(\$5,671,248)</b>
<b>CDBG PROGRAM FUNDS AVAILABLE TO OBLIGATE</b>		<b>\$1,147,659</b>

\* This balance reflects contracts that have been deobligated by ORCA staff in the internal Contract Management System, but not in HUD's Intergrated Disbursement & Information System (IDIS).

**SUMMARY**  
**Collection Efforts by**  
**The Office of the Attorney General**  
**and ORCA**

Presented by Theresa Cruz\*

**DISCUSSION**

As part of our continuing effort to keep the Board up to date on collections, a report as of February 28, 2009 collections both by the OAG and by ORCA staff is attached behind this brief.

**RECOMMENDATION**

No action needed. For informational purposes only.

**RURAL DEFINITION**

N/A for this agenda item.

**\*Should an Executive Committee member have questions concerning this agenda item, please contact Theresa Cruz at 512-936-6719 or at [tcruz@orca.state.tx.us](mailto:tcruz@orca.state.tx.us).**

**ORCA Rural Health - Outstanding Debt Collections**

As of February 28, 2009

Collections by ORCA									
Student Name	Program *	Profession	Original Amount Owed	Year Entered Program	Default Date		Balance as of 2/28/2009	FY 2009 Collections	Comment
Castillo, Renee	ORS	Registered Nurse	\$ 18,629.40	2003	2007		\$ 17,568.91	\$ 450.00	Pending referral to OAG  New - Repayment packet recently sent
Chaka, Ted	ORS	Physician Assistant	\$ 33,933.34	2001	2005		\$ 19,026.21	\$ 4,333.56	
Dorman, April	ORS	Registered Nurse	\$ 51,762.77	2005	2008		\$ 48,662.77	\$ 3,100.00	
Doss, Sarah	ORS	Family Medicine	\$ 59,196.68	1997	2004		\$ 9,866.56	\$ 5,919.66	
Laurel, Patricia	ORS	Internal Medicine	\$ 170,364.01	2001	2009		\$ 170,364.01	\$ -	
Simons, Candice	ORS	Family Medicine	\$ 13,326.85	2007	2008		\$ 11,911.05	\$ 1,415.80	
Ybarra, Annette	ORS	Pharmacist	\$ 76,500.00	2000	2004		\$ 8,890.00	\$ 7,650.00	
<b>Total, ORCA</b>			<b>\$423,713.05</b>				<b>\$286,289.51</b>	<b>\$ 22,869.02</b>	

Collections by the Office of Attorney General (OAG)									
Student Name	Program *	Profession	Original Amount Owed	Year Entered Program	Default Date		Balance as of 2/28/2009	FY 2009 Collections	Comment
Cochran, Phillip	ORS	Family Medicine	\$ 133,938.93	1994	2003		\$ 38,488.58	\$ 10,996.74	\$67,958.50 paid in December 2007
Fulcher, Jesseca	ORS	Registered Nurse	\$ 38,750.73	2005	2005		\$ 38,750.73	\$ -	OAG deemed uncollectible and closed Jan. 08
Ginbey, Deborah	ORS	Registered Nurse	\$ 70,356.63	1995	2001		\$ 64,366.69	\$ 2,369.97	Referred to OAG 12/17/2008
Rizer, Tabbatha	ORS	Registered Nurse	\$ 86,203.20	2005	2007		\$ 84,878.48	\$ -	Referred to OAG 4/18/2008
Taylor, Margaret	ORS	Physician Asst.	\$ 7,824.35	1998	2000		\$ 6,629.33	\$ 900.00	Referred to OAG 12/4/2006
Zube, Robert	ORS	Emergency Medicine	\$ 221,634.03	1999	2006		\$ 196,887.61	\$ 9,000.00	
Munroe, Joseph	THSC	Family Medicine	\$ 10,250.00	2005	2005		\$ -	\$ 10,249.61	Paid in Full as of 9/8/2008
<b>Total, Attorney General</b>			<b>\$558,707.87</b>				<b>\$430,001.42</b>	<b>\$ 33,516.32</b>	

	Original Amount Owed			Balance as of 2/28/2009	FY 2009 Collections
<b>Total</b>	<b>\$982,420.92</b>			<b>\$716,290.93</b>	<b>\$ 56,385.34</b>

**SUMMARY**

**EVALUATION STUDY**

**OF THE**

**MEDICARE HOSPITAL FLEXIBILITY PROGRAM**

**IN TEXAS**

**(Fiscal Year 2007-2008)**

Presented by Theresa K. Cruz

## **DISCUSSION**

**Purpose of Flex Program:** The purpose of the Texas Medicare Rural Hospital Flexibility (Flex) Grant program is to assist rural communities, with the Critical Access Hospital (CAH) as the hub of an organized system of care, to sustain and expand access and availability to high quality health services across the continuum of care that meet local needs.

Consistent with the Program's national vision, Texas' vision is to make the CAH/Flex Program a strategic model for sustaining and expanding access to high quality healthcare and emergency medical services that meet local needs, for building and strengthening healthcare infrastructure and organized systems of care, and for improving the health status and quality of life of rural residents. To this end, ORCA coordinates available resources to inform rural communities about the CAH Program as a strategic mechanism for building a sustained, thriving, and integrated health services and delivery system; facilitate efforts for hospital performance and quality improvement; and support local capacity building through an integrated strategy of grant support and services as well as continuing healthcare education and training.

### **Objective of the Flex Program Evaluation**

An annual evaluation study is a requirement of the State Flex Program. The evaluation of the Flex Program for FY 2007-2008, including program and contractual funds of approximately \$525,000, was conducted by the Rural and Community Health Institute of the Texas A&M University System - Health Science Center through an interagency agreement with ORCA. The evaluation was conducted utilizing an updated version of a web-based survey instrument that was developed and utilized in the previous Fiscal Year.

The objectives of the evaluation study are:

1. To assess how the Texas Medicare Rural Hospital Flexibility Program assisted in stabilizing or enhancing the access to quality healthcare that meet the local needs,
2. To assess the impact of the Texas Rural Hospital Flexibility Program has on Critical Access Hospitals and their communities.
3. To assess the level of familiarity and satisfaction of Texas Rural Hospitals administrators with the programs offered by the Office of Rural Community Affairs through the FLEX Grant program.



The instrument was designed to survey CAH Administrators and Staff on their participation and familiarity with the FLEX programs, their levels of satisfaction with the services offered by ORCA, their perceptions about improvement of the healthcare services after the implementation of the FLEX programs, their response regarding increasing access of rural Texas citizens to regular healthcare, their satisfaction with new initiatives offered by ORCA, hospital characteristics, and demographic characteristics of respondents. A summary highlighting the findings and recommendations is included.

## **RECOMMENDATION**

The summary of the Flex Program Evaluation Study is provided for the ORCA Board for information only.

## **RURAL DEFINITION**

N/A for this agenda item.

**\*Should an Executive Committee member have questions concerning this agenda item, please contact Theresa Cruz at 512-936-6719 (tcruz@orca.state.tx.us).**



# OFFICE OF RURAL COMMUNITY AFFAIRS ANNUAL FLEX PROGRAM EVALUATION FISCAL YEAR 2007-2008

## SUMMARY

The 2007-2008 Annual Evaluation of the Critical Access Hospitals (CAHs)–FLEX programs evaluation in Texas was conducted by the Texas A&M Health Science Center, Rural and Community Health Institute from October 10<sup>th</sup> to December 10<sup>th</sup> 2008. Administrators and CEOs of CAHs received a message from RCHI with information and the link to the survey, which was an updated version of the online instrument developed by RCHI with the help of ORCA officers in 2004. The responses showed an overall increase in positive perceptions about improvements on healthcare services after the implementation of the CAH-FLEX Programs. The large majority of respondents (95%) were either satisfied or very satisfied with ORCA services.

## CONTEXT

The survey was organized in sections containing questions on:

- (a) Familiarity and participation in FLEX programs and services;
- (b) Overall satisfaction with the programs offered by the Office of Rural Community Affairs;
- (c) Satisfaction with specific features of the FLEX programs;
- (d) Hospital capacity and community needs (improvement of healthcare services after CAH designation);
- (e) Hospital Characteristics
- (f) Demographics.

The rate of response was very high again: 79 % of the recipients completed the survey. The full report contains tables and figures showing the most important findings, which are analyzed and compared to the results from previous years. It also includes suggestions from survey respondents and evaluators.

## KEY FINDINGS

- In FY 2007-2008, the overall satisfaction with ORCA services achieved its highest level since the beginning of the annual evaluations: 95 % of survey respondents were either satisfied or very satisfied, improving from 85% in the previous Fiscal Year.
- Eighty three percent of respondents answered that ORCA was effective or very effective in assisting providers to increase the percentage of rural Texans with access to regular healthcare, improving from 74 % in the previous Fiscal Year
- ORCA was also rated effective or very effective in helping to improve the healthcare services for rural communities by 84% of all respondents, in FY 2007-2008.
- Swing bed, again, received the highest levels of agreement on improvements after the implementation of the CAH-FLEX programs. The other services among the top 5 are: Clinic Services, Health Education, Radiology, and Trauma Care.
- Most of the services received higher scores compared to the previous Fiscal Year. Two services had an important decrease (18 percentage points) in positive perceptions: Mental Health and Occupational Health / Therapy.
- The Flex Program that received more applications (30) was the Rural Health Technology Investment Grant.

## SUGGESTIONS FROM RESPONDENTS

### (Most frequently cited topics)

- Financial and economic Resources (41 %)
- Recruitment and retention of qualified personnel (31 %)
- Equipment and facility improvement/replacement (22 %)
- Training and education (19 %)
- Advocacy in favor of CAHs (16%)

## SUGGESTIONS AND RECOMMENDATIONS

### (From the evaluation team)

- Continuation of Health Technology Investment Grants, as well as the CAH Board of Trustees Education Grant.
- Help with recruitment and retention of qualified personnel, since this is a repeated topic of interest from CAHs.
- Keep the same evaluation format, useful for comparison purposes across time.

PREPARED BY THE RURAL AND  
COMMUNITY HEALTH INSTITUTE

TEXAS A&M



HEALTH SCIENCE CENTER

RURAL AND COMMUNITY HEALTH INSTITUTE

# SUMMARY

## Disaster Relief Fund Update

Presented by Mark Wyatt\*

### DISCUSSION

#### 2009 Allocation & Deobligated Funds and/or Program Income the Disaster Relief Fund:

Amount remaining, as of 3/16/2009, that is potentially available is \$3,366,439  
Less Anticipated Amount to be awarded at State Review Committee meeting on 3/27/2009 \$1,131,490  
Remaining Amount: **\$2,234,949 <==**

A recommendation to provide additional deobligated funds and program income for the Disaster Relief Fund is contained in a subsequent agenda item.

Upon receipt of the PY 2009 allocation from HUD, the Disaster Relief Fund is anticipated to receive approximately \$2.98 Million.

#### History of Disaster Relief Awards – TxCDBG by Calendar Year

1992	\$699,534
1993	\$1,820,200
1994	\$1,987,546
1995	\$2,947,042
1996	\$4,285,113
1997	\$6,294,168
1998	\$3,902,787
1999	\$6,562,878
2000	\$6,583,629
2001	\$5,694,158
2002	\$7,442,557
2003	\$6,237,789
2004	\$5,661,479
2005	\$5,915,869
2006	\$2,824,760
2007	\$11,088,331
2008	\$13,318,496
2009	896,185
<u>Total</u>	<u>\$94,162,521</u>

## **Current Status Report**

### **Recent awards:**

On January 23, 2009, the State Review Committee approved three Disaster Relief Fund recommendations covering Fannin County, Red River County, and Val Verde County, that total \$896,185.

### **Anticipated demand based on current disaster declarations:**

April through June 2009: up to approximately \$2,000,000 <=====

## **RECOMMENDATION**

No action is required. This report is provided for informational purposes only.

## **RURAL DEFINITION**

Non-entitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Mr. Wyatt at 512-936-6725 (mwyatt@orca.state.tx.us)**

# SUMMARY

## Proposed Use of CDBG Deobligated Funds and/or Program Income for the Disaster Relief Fund

Presented by Mark Wyatt \*

### DISCUSSION

#### Disaster Relief Fund

As discussed in the previous section, there is likely to be additional demand for the regular Disaster Relief Fund throughout the program year. This action will provide the mechanism to begin to build up the resources for the Disaster Relief Fund to meet anticipated demand.

Deobligated funds/Program Income Balance Available – Anticipated after State Review Committee meeting on March 27, 2009:

\$3,366,439  
less \$1,131,490 in awards - anticipated as of 3/27/2009  
\$2,234,949 remaining - anticipated as of 3/27/2009

Based on the anticipated amount remaining, this recommendation would provide, dependent on demand, up to \$4,234,949 of deobligated funds/program income being made available to the Disaster Relief Fund.

### RECOMMENDATION

Staff recommends approval of the following motion language that has been adopted previously, with an amount at this time of \$2,000,000:

*CD staff would be able to allocate additional future deobligated funds and program income for Disaster Relief assistance as needed up to a limit of an additional \$2,000,000.*”

### RURAL DEFINITION

Non-entitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Mr. Wyatt at 512-936-6725 (mwyatt@orca.state.tx.us)**

# SUMMARY

## HUD's Neighborhood Stabilization Program

Presented by Mark Wyatt\*

### DISCUSSION

#### UPDATE:

This report provides an update of CDBG staff activities under the Neighborhood Stabilization Program (NSP).

Staff has met on numerous occasions with the Texas Department of Housing and Community Affairs, which is the lead agency, to work on implementing this program. We have been focusing on drafting the Notice of Funding Availability (NOFA), which will function as the detailed rules for implementing the HUD-approved NSP Action Plan amendment. The American Recovery and Reinvestment Act of 2009 made several significant changes to the NSP program that had to be incorporated into the final version of the NOFA. The NSP NOFA was approved at the March 12, 2009 TDHCA Board meeting.

In addition, a draft Interagency Agreement between ORCA and TDHCA was submitted to TDHCA for possible consideration at their March Board meeting. Due to the extensive work on finalizing the NOFA, the proposed interagency agreement is still under review within TDHCA.

#### **Current Timeline (subject to change):**

- Submit the adopted Notice of Funding Availability to the Texas Register for publication.
- Start accepting applications on **March 27, 2009**.
- Applications would be due on **April 27, 2009**.

#### **BACKGROUND INFORMATION:**

NSP is a CDBG supplemental program authorized by the "Housing and Economic Recovery Act of 2008" (HERA). The purpose of the program is to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight. NSP provides funds to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes. The American Recovery and

Reinvestment Act of 2009 (ARRA) provided an additional \$2 Billion to the NSP program and made significant changes to certain provisions of HERA such as requirements for program income and limits on demolition.

Congress used the established CDBG program as the delivery vehicle to speed up the delivery of these dollars, which avoided creating a new set of regulations and a new oversight agency. The current HUD CDBG staff who administer the regular CDBG state program will oversee this program.

Texas will receive approximately \$173 Million, approximately \$71 Million of which has already been identified by HUD as a direct allocation to 13 cities and counties with the greatest need. The Texas Department of Housing and Community Affairs, as the lead agency, will implement the NSP funds and will work in cooperation with ORCA and the Texas State Affordable Housing Corporation (TSAHC) to deliver and administer the remaining \$102 Million funds.

## **RECOMMENDATION**

This report is provided to inform the Board. No action is required at this time.

## **RURAL DEFINITION**

Non-entitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Mr. Wyatt at 512-936-6725 (mwyatt@orca.state.tx.us)**



# SUMMARY

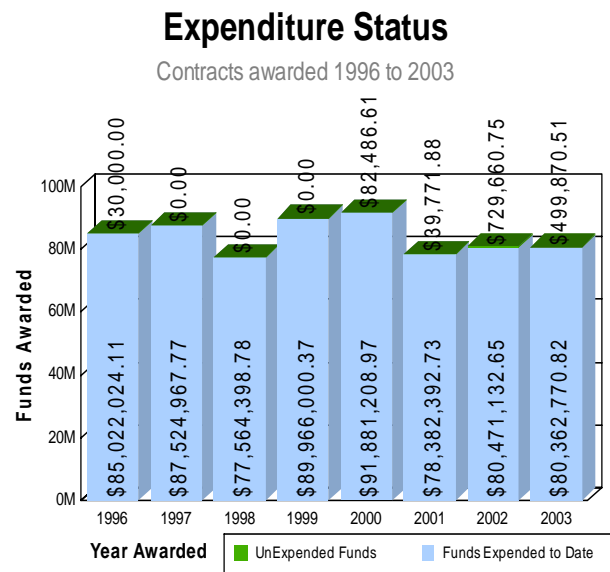
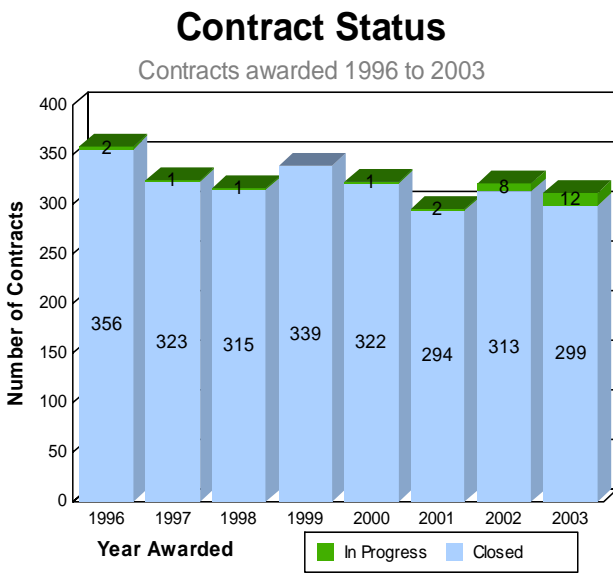
## Reports from Management on the Status of Open Contracts

Presented by Susan Grosz\*

### DISCUSSION

#### Status of Aged Contracts – All Fund Types

Of the 2,588 contracts awarded from 1996 to 2003, 28 contracts are currently open. These contracts are described in the attached list, “Aged Contracts”. While aged contracts remain “open”, they do not materially affect the TxCDBG expenditure rate.

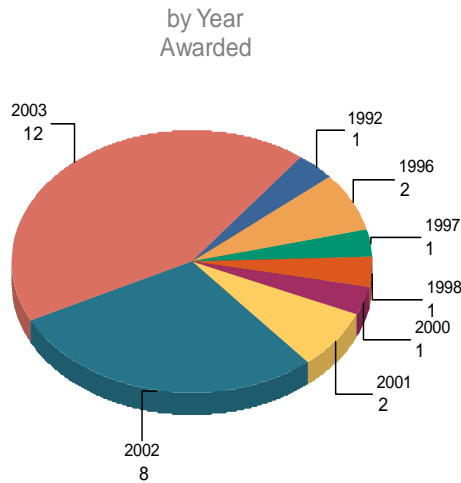


When compared to all contracts awarded during this time period, aged contracts make up only 1% of the total number of contracts awarded and 1.6% of the TxCDBG funds awarded. As of this report, only 0.14% (\$993,782) of the total funds awarded during this time period (\$729,807,684) remains unexpended in aged contracts (excluding \$379,145 collected to date through repayment agreements).

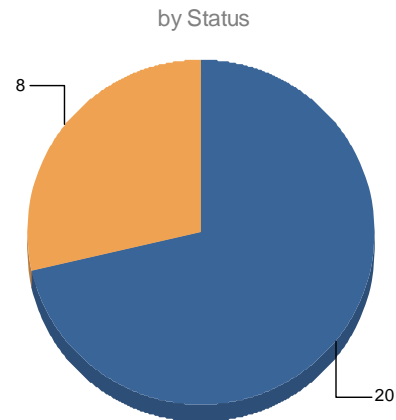
Of the 27 aged contracts, 20 contracts are currently classified as “In Progress”. On average, 86% of the grant funds in these projects have been dispersed. Twelve of these contracts have begun the closeout process.

Seven of the 27 contracts are classified as “Repayment Only”, meaning that the project has ended but the Locality must repay grant funds for disallowed costs or other settlement agreements. One additional contract awarded in 1992 was recently reclassified as “Repayment Only” and is also included for a total of eight aged contracts required to repay grant funds.

## Number of Open Aged Contracts



## Number of Open Aged Contracts



TxCDBG staff has worked continuously to close slow and problematic contracts. Since September 1, 2007, twenty-six aged contracts have been closed, and three additional aged contracts have been terminated.

## RECOMMENDATION

This report is provided to inform the Board. No action is required at this time.

We anticipate providing this report periodically to provide the status of open contracts to satisfy a recommendation and management decision in an Internal Audit.

Staff would welcome guidance on any other report on the status of open contracts that would be beneficial to the Board.

## RURAL DEFINITION

Non-entitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Ms. Grosz at 512-936-0232 (sgrosz@orca.state.tx.us)**

**Open Contracts Funded Prior to 01-01-2004,  
Projects in Progress**

		<u>Fund</u>	<u>Total Award</u>	<u>Current Balance</u>	<u>Start Date</u>	<u>Curr. End Date</u>
718569	Rio Bravo	CD	\$669,634	\$0.00	5/11/98	5/10/00
	Conditional closure and repayment for disallowed costs pending.					
721749	Smyer	CD	\$250,000	\$39,771.88	5/8/01	11/7/03
	Closeout delayed for TCEQ approval for use of the new well.					
721339	Hardin	CD	\$350,000	\$0.00	5/8/01	5/1/06
	Closeout delayed for septic tank decommissioning not provided to date.					
722611	Premont	CD	\$300,000	\$30,428.77	3/19/02	6/9/09
	Project delayed by coordination with USDA-RD. Construction in progress.					
721117	Caldwell County	DR	\$350,000	\$270,260.00	4/29/02	4/14/08
	Project delayed by acquisition process and coordination with TxDOT. Closeout pending.					
721212	Pearsall	ED	\$750,000	\$101,783.00	8/9/02	3/5/09
	Required jobs not yet created. Construction in progress.					
721175	Webb County	CEDAP	\$300,000	\$10,316.96	7/5/02	7/4/08
	Project delayed by acquisition process and coordination with TWDB-EDAP. Closeout pending.					
722026	Fannin County	STEP	\$350,000	\$134,237.16	8/26/02	1/15/09
	Project delayed by CCN dispute and bankruptcy of two participating water supply corporations. Closeout pending.					
722055	Edwards County	CFC	\$500,000	\$0.00	10/7/02	10/4/07
	County's request to terminate the contract is under review.					
722098	Hondo	HIF	\$400,000	\$20,000.00	1/8/03	7/7/09
	HIF project delayed by housing market. Constructing homes under workout agreement.					
718227	La Salle County	DR-D	\$225,284	\$0.00	1/14/03	1/31/06
	Closeout delayed by monitoring findings.					
722023	Cameron County/Willacy County	CSH	\$1,146,950	\$0.00	8/1/03	7/31/07
	Closeout delayed by monitoring findings.					
723369	Hawk Cove	CD	\$250,000	\$15,435.00	6/10/03	12/21/08
	Project delayed by coordination with USDA-RD and dispute between city and construction contractor. Construction substantially complete.					
723669	Premont	CD	\$300,000	\$16,500.00	6/10/03	6/9/09
	Project delayed by coordination with USDA-RD. Construction in progress.					
723381	Higgins	CD	\$250,000	\$196,228.00	6/10/03	6/8/09
	Project delayed by coordination with TCEQ and TWDB. Construction awarded.					
723419	Jefferson County	CD	\$250,000	\$148,572.00	6/10/03	7/9/09
	Project delayed by Hurricanes Rita & Ike and coordination of force account work. Construction in progress.					
723881	Willis	CD	\$350,000	\$0.00	6/10/03	7/9/08
	Project delayed by acquisition process. Closeout pending.					
723659	Pleasanton	CD	\$250,000	\$0.00	6/10/03	8/8/09
	Project delayed by litigation. Closeout pending.					
723049	Big Wells	CD	\$800,000	\$0.00	6/10/03	8/1/08
	Closeout delayed by monitoring findings with disallowed costs.					
723012	Anahuac	ED	\$395,000	\$10,249.73	7/29/03	9/28/06
	Required jobs not created. Settlement agreement pending.					

**Contracts Funded Prior to 01-01-2004  
Repayment Required Prior to Closeout**

		<u>Fund</u>	<u>Total Award</u>	<u>Payments to Date</u>	<u>Start Date</u>
701951	Westminster Repayment pending for \$39,424 total disallowed costs; no repayment plan in place.	CD	\$250,000		3/4/92
700459	Sunset Repayment pending for \$240,000 total disallowed costs; repayment plan pending.	CD-D	\$350,000	\$44,041.85	5/17/96
716039	Asherton Repayment pending for \$59,050 total disallowed costs; no repayment plan in place.	CD	\$207,680		8/23/96
716018	Colorado City Repayment pending for \$140,000 total disallowed costs; annual repayment plan in place.	HDF	\$492,136	\$116,000.00	3/21/97
718168	Pittsburg Repayment pending for \$275,600 total disallowed costs; monthly repayment plan in place.	HIF	\$280,000	\$82,679.94	9/5/00
721078	Lufkin Repayment pending for \$400,000 total disallowed costs; monthly repayment plan in place.	HIF	\$400,000	\$77,777.77	2/28/02
721108	Pecos Repayment pending for \$367,343 total disallowed costs; annual repayment plan in place.	HIF	\$400,000	\$70,000.00	2/28/02
720058	Bay City Repayment pending for \$389,515 total disallowed costs; monthly repayment plan in place.	HIF	\$400,000	\$75,739.09	1/8/03

# SUMMARY

## **Proposed Substantial Amendment to the TxCDBG Action Plan Covering the Use of \$19.47 Million of Supplemental Funds**

Presented by Mark Wyatt \*

### DISCUSSION

This substantial amendment to the TxCDBG Action Plan covers the use of \$19,473,698 of supplemental CDBG funds that HUD will provide to the State of Texas Community Development Block Grant Program under the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (sometimes referred to as the “stimulus funds.”)

This amendment is being brought to the Board prior to HUD’s publication of its Notice covering the requirements for these funds to allow for Board review and consideration. At this time, we anticipate HUD is likely to publish their Notice after the Board’s April meeting, yet before the Board’s June meeting.

#### **Summary:**

##### **1. Allocation of Funds – Method of Distribution:**

The funds will be allocated to the 24 Council of Government regions **for existing Community Development Fund applications submitted for the 2009 / 2010 application cycle**, provided the applications meet the requirements of American Recovery and Reinvestment Act of 2009, (ARRA) and HUD guidelines. The funds will be distributed to the 24 Council of Government regions using the same regional allocation method contained in the 2009 TxCDBG Action Plan.

##### **2. Funding and Selection Process:**

Initially, the TxCDBG will score, rank, and make regional selections under the 2009 / 2010 Community Development Fund cycle for existing applications received by the due dates using the PY 2009 regular allocation funds as specified in the 2009 TxCDBG Action Plan. The TxCDBG will then determine those remaining applications that contain activities that meet the HUD requirements and also meet the TxCDBG prioritization requirements for the use of these supplemental funds.

### **3. Prioritization requirements:**

ARRA requires the TxCDBG to give priority to projects that can award contracts based on bids within 120 days from the date the State of Texas funds receives its grant award from HUD. Therefore, all applications that the TxCDBG staff determines meets this requirement will be considered initially in the first round of ranking and selection for the supplemental funds. The TxCDBG determination of meeting the contracting requirement will be based upon:

- (a) the proposed activities in the application do not require acquisition;
- (b) the proposed activities in the application do not require Texas Commission on Environmental Quality approval;
- (c) the proposed activities and budget do not require supplemental funding to be obtained for the project from any source other than from the applicant;
- (d) the proposed activities in the application do not require any entity to obtain a Certificate of Convenience and Necessity; and
- (e) the applicant's chief elected official certifies in writing to TxCDBG that any environmental review and plans and specifications will be prepared and completed in any expedited manner to allow the subrecipient to award contracts based on bids within 120 days from the date the State of Texas funds receives its grant award from HUD

### **4. Applicants must elect to receive these funds:**

Because special ARRA requirements will apply, TxCDBG will require a recipient of an award using these funds to accept these funds and all prescribed special requirements. A 2009 / 2010 Community Development Fund applicant will have the option to decline the offer of these supplemental funds and may elect to wait for any PY 2010 regular allocation funds that may be provided in the future to the TxCDBG program.

### **5. Special Restrictions and Requirements:**

All regular CDBG requirements covering fair housing, nondiscrimination, labor standards (including wage rate requirements) and the environment apply to these supplemental funds. Applicants must not proceed with any proposed project activity

prior to complying with all of these requirements and other TxCDBG requirements, including all of the regular TxCDBG pre-agreement strategy requirements.

There may be ARRA requirements and HUD guidance limitations or issues that will need to be considered if these funds are combined with regular CDBG funding for the same activity. In addition, the TxCDBG and any subrecipient (city or county) of these funds will be required to track and report on the use of these funds separately from the regular TxCDBG funding.

#### **6. Special Ineligibility Rules:**

In accordance with ARRA, these funds may not be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

## **RECOMMENDATION**

Staff recommends approval of the following motion:

“Staff may present to the public for comment the Proposed Amendment to the Texas CDBG Action Plan covering approximately \$19.47 Million of CDBG funds to be provided to Texas under the American Recovery and Reinvestment Act of 2009. Provided further, prior to publication of the proposed amendment, staff is authorized to make any adjustment necessary to conform the amendment to HUD’s requirements for the use of these funds.”

## **RURAL DEFINITION**

Non-entitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Mr. Wyatt at 512-936-6725 (mwyatt@orca.state.tx.us)**

## *Proposed*

### **Amendment to the Texas Community Development Block Grant Program 2008 Action Plan**

#### **I. AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 - GENERAL PROGRAM INFORMATION**

This substantial amendment to the TxCDBG Action Plan covers the use of \$19,473,698 of supplemental CDBG funds HUD will provide to the State of Texas Community Development Block Grant (TxCDBG) Program under the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5.

*Note: At the time this was drafted, HUD had not yet released its anticipated notice governing the use of these funds. To expedite the delivery of these funds TxCDBG is initiating the development of this program prior to HUD's publication of its notice.*

#### **A. PROGRAM ADMINISTRATION**

The Office of Rural Community Affairs (ORCA) administers the State of Texas Community Development Block Grant Program (TxCDBG). ORCA will administer all of the supplemental CDBG funds provided to the State of Texas CDBG program under the American Recovery and Reinvestment Act of 2009.

#### **B. ELIGIBLE APPLICANTS**

Eligible applicants are nonentitlement general purpose units of local government including cities and counties that are not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant Program (CDBG) as of PY 2008. Nonentitlement cities as of PY 2008 that are not participating in urban county programs through existing participation agreements are eligible applicants (unless the city's population is counted towards the urban county CDBG allocation).

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

#### **C. ELIGIBLE ACTIVITIES**

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

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

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

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



#### **D. INELIGIBLE ACTIVITIES**

In general, any type of activity not described or referred to in 42 U.S.C Section 5305 is ineligible.

In accordance with ARRA, these funds may not be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

These funds may not be used for projects associated with disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by hurricanes, including Hurricanes Ike and Dolly, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974. (The State of Texas has been allocated \$1,314,990,193 for these purposes and it is anticipated that HUD will allocate additional funds to Texas out of the total \$6.5 Billion appropriated nation-wide for these purposes.)

Many other ARRA provisions may apply to the use of these funds. Therefore, all requirements of ARRA as specified in the HUD notice will apply to the use of these funds and will be included in any contract with an awardee of these funds. *[The final language will be modified based on the HUD notice.]*

Specific activities ineligible under the Texas Community Development Block Grant Program are:

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

#### **E. PRIMARY BENEFICIARIES**

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

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

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

## **II. ALLOCATION OF CDBG FUNDS – METHOD OF DISTRIBUTION**

The funds will be allocated to the 24 Council of Government regions for existing Community Development Fund applications submitted for the 2009 / 2010 application cycle, provided the applications meet the requirements of American Recovery and Reinvestment Act of 2009, Public Law 111-5, (ARRA) and the HUD guidelines.

#### **A. Regional Allocation Method:**

The funds will be distributed to the 24 Council of Government regions using the same regional allocation method contained in the 2009 TxCDBG Action Plan as submitted to HUD for the regular PY 2009 allocation. This method is described below.

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

Original CD formula (40%) factors:

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

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

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

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

(A) the average of the ratios between:

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

OR

(B) the average of the ratios between:

- the age of housing in the nonentitlement areas in that region and the age of housing in the nonentitlement areas in all 24 regions (counted two and one half times - 50% weight);
- the extent of poverty in the nonentitlement areas in that region and the extent of poverty in the nonentitlement areas of all 24 regions (counted one and one half times - 30% weight); and
- the population of the nonentitlement areas in that region and the population of the nonentitlement areas of all 24 regions (counted one time - 20% weight).

## **B. Priority for Funding and Selection Process:**

Initially, the TxCDBG will score, rank, and make regional selections under the 2009 / 2010 Community Development Fund cycle for existing applications received by the due dates using the PY 2009 regular allocation funds as specified in the 2009 TxCDBG Action Plan.

The TxCDBG will then determine those remaining applications that contain activities that meet the HUD requirements and also meet the TxCDBG prioritization requirements for the use of these supplemental funds.

From the list of remaining 2009 / 2010 Community Development Fund applications that meet all HUD requirements, TxCDBG will select awards using these special funds using up to two selection rounds.

First round of ARRA supplemental funds ranking and selection. The first round will use the regular 2009 Community Fund score within the group of applications meeting the priority requirements. (See Appendix A for scoring criteria.)

ARRA requires the TxCDBG to give priority to projects that can award contracts based on bids within 120 days from the date the State of Texas funds receives its grant award from HUD. Therefore, all applications that the TxCDBG staff determines meets this requirement will be considered initially in the first round of

ranking and selection for the supplemental funds. The TxCDBG determination of meeting the contracting requirement will be based upon:

- (a) the proposed activities in the application do not require acquisition;
- (b) the proposed activities in the application do not require Texas Commission on Environmental Quality approval;
- (c) the proposed activities and budget do not require supplemental funding to be obtained for the project from any source other than from the applicant;
- (d) the proposed activities in the application do not require any entity to obtain a Certificate of Convenience and Necessity; and
- (e) the applicant's chief elected official certifies in writing to TxCDBG that any environmental review and plans and specifications will be prepared and completed in any expedited manner to allow the subrecipient to award contracts based on bids within 120 days from the date the State of Texas funds receives its grant award from HUD

Second round of ARRA supplemental funds ranking and selection. Any 2009 / 2010 Community Development Fund application not selected to be funded in the first round may compete in a second round within a region if supplemental funds remain. The second round will also use the regular 2009/2010 Community Fund score. A marginal competition similar to the Community Development Fund may be employed. (See Appendix A for scoring criteria and marginal competition.)

**C. Applicants must elect to receive these funds:**

Because special ARRA requirements will apply, TxCDBG will require a recipient of an award using these funds to accept these funds and all prescribed special requirements. A 2009 / 2010 Community Development Fund applicant will have the option to decline the offer of these supplemental funds and may elect to wait for any PY 2010 regular allocation funds that may be provided in the future to the TxCDBG program.

**D. Special Restrictions and Requirements:**

**All regular CDBG requirements covering fair housing, nondiscrimination, labor standards (including wage rate requirements) and the environment apply to these supplemental funds. Applicants must not proceed with any proposed project activity prior to complying with all of these requirements and other TxCDBG requirements, including all of the regular TxCDBG pre-agreement strategy requirements.**

There may be ARRA requirements and HUD guidance limitations or issues that will need to be considered if these funds are combined with regular CDBG funding for the same activity. In addition, the TxCDBG and any subrecipient (city or county) of these funds will be required to track and report on the use of these funds separately from the regular TxCDBG funding.

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

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

**E. Allocation of Funds**

Community Development Fund 2009 / 2010 Cycle Existing Applications– \$18,500,013

State Administration – 5 percent

(or such amount as HUD prescribes in its notice)	\$ 973,685
Total	\$19,473,698

Note: The HUD Notice may allow up to 10 percent of the funds for total administration along with activity delivery costs that are project-specific similar to the recent HUD Neighborhood Stabilization Program.

10 percent calculation for total administration:

Community Development Fund 2009 / 2010 Cycle – <u>Project Delivery</u> –	\$17,526,328
State Administration – 5 percent	973,685
Other Program Administration – 5 percent	973,685
(or such amount as HUD prescribes in its notice)	
Total	\$19,473,698

If the HUD Notice provides for “activity or project delivery costs” at the local level, the TxCDBG will establish the activity or project delivery maximum levels. This section will be adjusted consistent with the HUD Notice.

**F. Deobligated Funds, Unobligated Funds, and Program Income**

(a) Deobligated funds, unobligated funds and program income generated by activities under these awards shall be retained for expenditure in the TxCDBG program in accordance with the Consolidated Plan.

Any deobligated funds, unobligated funds, program income, and unused funds may be redistributed among the Community Development fund or within other existing fund categories in the regular TxCDBG program’s annual Action Plan.

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

Funds recaptured from the withdrawal of an award are offered in rank order to the next highest ranked applicants from that region that was not recommended to receive full funding as the amount of funds still available exceeds \$75,000. Any funds remaining that are not accepted by an applicant from the region or that are not offered to an applicant from the region may be used for other Tx CDBG fund categories and, if unallocated to another fund, are then subject to the procedures described in paragraph (a) of this section.

**(c) Program Income**

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

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

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

- Payments of principal and interest on loans using CDBG funds
- Proceeds from the sale of loans made with CDBG funds
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient with CDBG funds
- Gross income from the use, sale, or rental of real property and/or real property improvements owned by the unit of general local government or subrecipient that was constructed or improved with CDBG funds
- Gross income from the use of infrastructure improvements constructed or improved with CDBG funds

- Funds collected through special assessments, impact fees or other additional fees from benefiting businesses, if the special assessments or fees are used to recover all or part of the CDBG portion of public improvements
- Proceeds from the disposition of equipment purchased with CDBG funds
- Interest earned on funds held in an RLF account

**III. APPLICATION INFORMATION**

**A. TYPES AND NUMBER OF APPLICATIONS**

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

**1. Single Jurisdiction Applications**

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

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

**2. Multi-Jurisdiction Applications**

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

A multi-jurisdiction application that includes participating units of general local government from more than one state planning region will compete in the regional competition where the majority of the application activity beneficiaries are located.

**B. CONTRACT AWARDS**

An applicant is eligible to receive only one grant award. Maximum and minimum contract awards for any single project allowable are:

	CONTRACT AWARD	
	MAXIMUM	MINIMUM
Single Applicant	\$800,000 <sup>1</sup>	\$75,000 <sup>1</sup>
Multi-Jurisdiction Application	\$800,000 <sup>1</sup>	\$75,000 <sup>1</sup>

<sup>1</sup> Regional Review Committees are authorized to establish a grant maximum for their respective regions between \$250,000 and \$800,000 for a single jurisdiction application and between \$350,000 and \$800,000 for a multi-jurisdiction application. The maximum amount for a housing or non-border colonia priority activity application is the same as other Community Development Fund applications in the region.

Amounts shown are maximum funding levels or contract "ceilings," since the Program can fund only the actual, allowable, and reasonable costs of the proposed project, not to exceed these amounts. All grants,

awarded under the Texas Community Development Block Grant Program are subject to negotiation between ORCA and the applicant regarding the final grant amount.

### **C. PROJECT LENGTH**

All funded projects must be completed within two years from the start date of the contract agreement. Waivers through a contract amendment of these requirements for any Tx CDBG contract will only be granted when a waiver request is submitted in writing to ORCA and ORCA finds that compelling circumstances exist outside the control of the local government that justify the approval of such a waiver.

### **D. REVIEW PROCESS**

These funds will be used for the Community Development Fund 2009/2010 applications that will be reviewed under the Regional Review Committee scoring factors in each region.

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

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

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

#### **2. State Review Committee (SRC) - Composition and Role**

A State Community Development Review Committee comprised of 12 local elected officials appointed by the Governor for two-year terms is provided for by State statute. Chapter 487.353 of the Texas Government Code prescribes the duties of the State Review Committee.

Chapter 487.353 says the State Review Committee shall:

- (1) consult with and advise the executive director of ORCA on the administration and enforcement of the community development block grant program; and
- (2) in consultation with the executive director and Tx CDBG office staff, review and approve grant and loan applications and associated funding awards of eligible counties and municipalities and advise and assist the executive director regarding the allocation of program funds to those applicants.

The State Review Committee may annually recommend to the executive director a formula for allocating funds to each geographic state planning region established by the governor under Chapter 391, Local Government Code. The formula must give preference to regions according to the regions' needs.

An applicant for a grant, loan, or award under a community development block grant program may appeal a decision of the State Review Committee by filing a complaint with the ORCA board. The board will hold a hearing on a complaint filed with the board and render a decision.

#### **3. Clearinghouse Review**

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

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

Water activities included in Tx CDBG applications must be consistent with Regional Water Plans promulgated by Senate Bill 1. (Passed during the 75<sup>th</sup> State of Texas Legislative Session)

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

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

1. Demonstrate the ability to manage and administer the proposed project, including meeting all proposed benefits outlined in its application, by using the following criteria:
  - a. Provide the roles and responsibilities of local staff designated to administer or work on the proposed project. Also, include a plan of project implementation;

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

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

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

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

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

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Community Development Fund  
 Community Development Supplemental Fund  
 Colonia Construction Fund  
 Colonia Fund Planning  
 Disaster Relief / Urgent Need Fund  
 Planning/Capacity Building Fund  
 Non-Border Colonia Fund

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

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Texas Capital Fund  
 Colonia Self-Help Centers Fund  
 Housing Rehabilitation Fund  
 Housing Infrastructure Fund  
 Texas STEP  
 Colonia Economically Distressed Areas  
 Young vs. Martinez  
 Microenterprise Loan Fund  
 Small Business Loan Fund

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

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

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

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

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

---

Community Development Fund  
 Community Development Supplemental Fund  
 Colonia Construction Fund  
 Colonia Fund Planning  
 Disaster Relief / Urgent Need Fund  
 Planning/Capacity Building Fund  
 Non-Border Colonia Fund

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

---

Texas Capital Fund  
 Colonia Self-Help Centers Fund  
 Housing Rehabilitation Fund  
 Housing Infrastructure Fund  
 Texas STEP (original 24-month contract, extended to 36-months) awarded prior to PY 2009  
 Colonia Economically Distressed Areas  
 Young vs. Martinez  
 Microenterprise Loan Fund  
 Small Business Loan Fund

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

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



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

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

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

10. Tx CDBG funds cannot be expended in any county that is designated as eligible for the Texas Water Development Board Economically Distressed Areas Program unless the county has adopted and is enforcing the Model Subdivision Rules established pursuant to Section 16.343 of the Water Code.
11. Based on a pattern of unsatisfactory (a.) performance on previously awarded Texas Community Development Block Grant Program contracts, (b.) management and administration of Tx CDBG contracts, or (c) financial management capacity based on a review of official financial records and audits, ORCA may determine that an applicant is ineligible to apply for Tx CDBG funding even though at the application date it meets the threshold and past performance requirements. ORCA will consider the most recent 48 months before the application due date. An applicant would still remain eligible for funding under the Disaster Fund.

**F. ADMINISTRATION OF TxCDBG CONTRACTS**

In order to administer a TxCDBG contract awarded in PY 2009, the administrator (contracted administrators on behalf of the client community or the city or county staff of self-administering award recipients) must attend, and retain the completion certificate, from the most recent cycle of TxCDBG Project Implementation Manual workshops. The TxCDBG contract recipient (city or county) is strongly encouraged to attend the TxCDBG Project Implementation Workshops even if it anticipates using an outside firm to provide it with contract administration services.

**IV. APPLICATION SELECTION CRITERIA**

**A. DESCRIPTION OF SCORING CRITERIA**

The scoring criteria used are described in Appendix A.

In accordance with Section 2310.403, Government Code, preference will be given to applications from governing bodies of communities designated as defense economic readjustment zones over other eligible applications for Tx CDBG grants and loans if at least fifty percent (50%) of the grant or loan will be expended for the direct benefit of the readjustment zone and the purpose of the grant or loan is to promote Tx CDBG-eligible economic development in the community or for Tx CDBG-eligible construction, improvement, extension, repair, or maintenance of Tx CDBG-eligible public facilities in the community.

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

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

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

## **B. TEXAS ADMINISTRATIVE CODE RESOURCES**

Additional information on the selection criteria, selection factors and methods used to determine scores for these fund categories is provided in the application guide for each fund category and in the Texas Administrative Code at 10 T.A.C., Part 6, Chapter 255, Subchapter A as described below. The Texas Administrative Code can be found on the Texas Secretary of State website at [www.sos.state.tx.us](http://www.sos.state.tx.us).

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

Section	Section Title
255.1	General Provisions
255.2	Community Development Fund
255.8	Regional Review Committees

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

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

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

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

### **GOALS, OBJECTIVES AND OUTCOMES – For FY 2008-2009**

- Goal 1: Support Community and Economic Development Projects
- Objective 1: Fund Facility, Economic Development, Housing, and Planning Projects
- Outcome 1: Percent of the Small Communities' Population Benefiting from Projects
- Outcome 2: Percent of Requested Project Funds Awarded to Projects Using Annual HUD Allocation

### **STRATEGIES AND EFFICIENCY, EXPLANATORY AND OUTPUT MEASURES – For 2008-2009**

Goal 1: Support Community and Economic Development Projects  
Objective 1: Fund Facility, Economic Development, Housing and Planning Projects  
Strategy 1: Provide Grants for Community and Economic Development Projects  
Efficiency 1: Average Agency Administrative Cost per Contract Administered  
Output 1: Number of New Contracts Awarded  
Output 2: Number of Projected Beneficiaries from New Contracts Awarded  
Output 3: Number of Jobs Created/Retained through Contracts Awarded Annually  
Output 4: Number of Projected Beneficiaries from Self-Help Center Contracts Funded  
Output 5: Number of Programmatic Monitoring Visits Conducted  
Output 6: Number of Single Audit reviews Conducted Annually

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

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

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

These funds will be recorded and tracked in the HUD Outcome Measurement System as prescribed by HUD guidance documents.

### **V. OTHER CDBG PROGRAM GUIDELINES**

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

Each applicant for Tx CDBG funds must prepare an assessment of the applicant's housing and community development needs. The needs assessment submitted by an applicant in an application for the Community Development Fund must also include information concerning the applicant's past and future efforts to provide affordable housing opportunities in the applicant's jurisdiction and the applicant's past efforts to provide infrastructure improvements through the issuance of general obligation or revenue bonds.

#### **B. MINORITY HIRING/PARTICIPATION**

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

#### **C. CITIZEN PARTICIPATION**

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

**APPENDIX A – Scoring Criteria**  
**(Same as contained in the TxCDBG 2009 Action Plan)**

**a. Regional Review Committee (RRC) Objective Scoring**

(1) Responsibilities of the RRC:

Each Regional Review Committee is responsible for determining local project priorities and objective factors for all its scoring components based on public input.

(2) Maximum RRC Points Possible:

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

(3) RRC Selection of the Scoring Factors:

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

(4) Examples of RRC Objective Scoring Factors:

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

The RRC must clearly indicate how responses would be scored under each factor and use data sources that are verifiable to the public. After the RRC's adoption of its scoring factors, the score awarded to a particular application under any RRC scoring factor may not be dependent upon an individual RRC member's judgment or discretion. (This does not preclude collective RRC action that the state TxCDBG has approved under any appeals process.)

(5) RRC Priority Set-asides:

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

(6) RRC Designation of Staff Support:

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

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

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

The selection of the entity responsible for calculating the RRC scores must be identified in the RRC Guidebook and must define the role of each entity selected. ORCA shall be responsible for reviewing all scores for accuracy and for determining the final ranking of applicants once the RRC and TxCDBG scores

are summed. The RRC is responsible for providing to the public the RRC scores, while the TxCDBG is responsible for publishing the final ranking of the applications.

(7) Tie-breaker in a region:

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

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

(1) Past Selection – Maximum Points - 2% of Maximum Possible RRC Score for each region - are awarded to each applicant that did not receive a 2007 or 2008 Community Development Fund or Community Development Supplemental Fund contract award

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

An applicant can receive points based on the applicant's past performance on previously awarded Tx CDBG contracts. The applicant's score will be primarily based on our assessment of the applicant's performance on the applicant's most recent Tx CDBG contract that has reached the end of the original contract period stipulated in the contract within the past 4 years (for CD/CDS contracts only the 2003/2004 and 2005/2006 cycle awards will be considered). The Tx CDBG will also assess the applicant's performance on existing Tx CDBG contracts that have not reached the end of the original contract period. Applicants that have never received a Tx CDBG grant award will automatically receive these points. The Tx CDBG will assess the applicant's performance on Tx CDBG contracts up to the application deadline date. The applicant's performance after the application deadline date will not be evaluated in this assessment. (Adjustments may be made for contracts that are engaged in appropriately pursuing due diligence such as bonding remedies or litigation to ensure adequate performance under the TxCDBG contract.) The evaluation of an applicant's past performance will include the following:

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

(3) Benefit To Low/Moderate-Income (LMI) Persons -- Applications that meet the Low and Moderate Income National Objective for each activity (51 percent low/moderate-income benefit for each activity within the application) will receive 2% of the Maximum Possible RRC Score for each region.

(4) Cost per Household (CPH) – The total amount of TxCDBG funds requested by the applicant is divided by the total number of households benefiting from the application activities to determine the TxCDBG cost per household. (Use pro rata allocation for multiple activities.) – Up to 2% of the Maximum RRC Score for each region.

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

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

(Maximum State points - the calculated maximum score is rounded to a whole integer, with Past Selection, Past Performance, and LMI being rounded to a whole integer and CPH points being the difference.)

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

**c. Other TxCDBG State Responsibilities:**

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

In the event that an RRC fails to approve an objective scoring methodology to the satisfaction of the TxCDBG or if the RRC fails to implement the approved methodology, TxCDBG will score and rank all applications for the region under the methodology shown in Appendix A of this Action Plan.

The state TxCDBG staff may establish:

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

The TxCDBG will award 2008 funds for a region after its RRC has adopted an objective scoring for PY 2009. If the RRC does not adopt an objective scoring methodology and submit it to the state TxCDBG for approval by the established deadline above, the state TxCDBG staff will establish for the region the scoring factors in Appendix A for the 2009 applications as described above and will award PY 2008 funds for a region after the region’s applications have been re-scored using the State scoring method in IV (C)(1)(a-e) of the 2007 Action Plan.

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

**Community Development Fund Marginal Competition**

Due to the two-year funding cycle proposed for program years 2009 and 2010, a Community Development Fund pooled marginal competition will not be conducted for program year 2009. A pooled marginal competition may be conducted for program year 2010 using available funds if the State’s 2010 allocation is not decreased significantly from the State’s estimated 2010 Community Development allocation.

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

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

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

The scoring factors used in this competition are the Tx CDBG Community Development Fund factors scored by TXCDBG staff as described in this section with the following adjustments (1) Past Selection – Ten (10)

points are awarded to each applicant that did not receive a 2007 or 2008 Community Development Fund or Community Development Supplemental Fund contract award; (2) Past Performance – Up to 25 points; and (3) Community Distress -- 55 Points Maximum (Percentage of persons living in poverty 25 points; Per Capita Income 20 points; Unemployment Rate 10 points)

# **SUMMARY**

## **Proposed Amendments to the TxCDBG Program Found in Title 10 Part 6 Chapters 255 of the Texas Administrative Code – Appeals Process**

Presented by Mark Wyatt\*

### **DISCUSSION**

The attached proposed amendments to the Texas Administrative Code would establish an appeals process for recommendations of awards, contingent upon enactment of HB 1079.

HB 1079 introduced by Representative Kolkhorst during the current session provides that “An applicant for a grant, loan, or award under a community development block grant program may appeal a decision of the executive director by filing an appeal with the board. The board shall hold a hearing on the appeal and render a decision.”

In addition, HB 1079 would abolish the State Review Committee that has in the past heard appeals on the Community Development Fund recommendations.

Since the introduced bill as written would take effect immediately upon a vote of two-thirds of all the members elected to each house, we want to have a proposal ready to implement should the introduced bill become law.

The proposed rules would modify the appeal of TxCDBG actions (§255.1) and the appeal of Regional Review Committee decisions (§255.8). The amendment would eliminate any reference to Texas Capital Fund / TDA appeals.

### **RECOMMENDATION**

Staff recommends that the Board approve the publication of the proposed amendment in the Texas Register for public comment.



## **RURAL DEFINITION**

Non-entitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Mr. Wyatt at 512-936-6725 ([mwyatt@orca.state.tx.us](mailto:mwyatt@orca.state.tx.us))**

## SECTION 255.1 General Provisions

(a) – (h) No change.

(g) Appeals. An applicant for funding under the TxCDBG, except for the Texas Capital Fund, may appeal the disposition of its application in accordance with this subsection.

(1) The appeal may only be based on one or more of the following grounds.

(A) Misplacement of an application. All or a portion of an application is lost, misfiled, or otherwise misplaced by Office staff ~~and, in the case of TCF applications, by TDA staff,~~ resulting in unequal consideration of the applicant's proposal.

(B) Mathematical error. In rating the application, the score on any selection criteria is incorrectly computed by the Office ~~and, in the case of TCF applications, by the TDA~~ due to human or computer error.

(C) Other procedural error. The application is not processed by the Office ~~and, in the case of TCF applications, by the TDA,~~ in accordance with the application and selection procedures set forth in this subchapter. Procedural errors alleged to have been committed by a regional review committee may only be appealed in accordance with the provisions of §255.8 of this title (relating to Regional Review Committees).

(2) The appeal must be submitted in writing to the TxCDBG of the Office no later than 30 days after the date the announcement of ~~community development fund and planning/capacity building fund~~ contract awards is published on in the Office's website, Texas Register. ~~In addition, timely appeals not submitted in writing at least five working days prior to the next regularly scheduled meeting of the state review committee will be heard at the subsequent meeting of the state review committee.~~ The Office staff will evaluate the appeal and may either concur with the appeal and make an appropriate adjustment to the applicant's scores, or disagree with the appeal and prepare an appeal file for consideration by the Executive Director. ~~state review committee at its next regularly scheduled meeting. The state review committee will make a final recommendation to the executive director of the Office. The decision of the executive director of the Office is final. If the appeal concerns a TCF application, the appeal must be submitted in writing to the TDA no later than 10 days following the date of the notification letter of the denial. If the appeal concerns a disaster relief fund or urgent need fund application, the appeal must be submitted in writing to the Office no later than 30 days following the date of the notification letter of the denial. If the appeal concerns a disaster relief fund or urgent need fund application, the appeal must be submitted in writing to the Office no later than 30 days following the date of the notification letter of the denial. The staff of either the Office or the TDA, when appropriate, evaluates the appeal and may either concur with the appeal or disagree with the appeal and prepare an appeal file for consideration by the appropriate executive director. The executive director, of the agency with which the appeal was filed, then considers the appeal within 30 days and makes a the final decision.~~

(3) In the event the appeal is sustained and the corrected scores would have resulted in project funding, the application is approved and funded. If the appeal concerning an a ~~community development fund or planning/capacity building fund~~ application is rejected, the office notifies the applicant of its decision, including the basis for rejection. ~~after the meeting of the state review committee at which the appeal was considered. If the appeal concerns a small business fund, microenterprise fund, section 108 loan guarantee pilot~~

~~program, non-border colonia fund, Young v. Martinez fund, TCF, housing fund, colonia fund, disaster relief fund, small towns environment program fund, or urgent need fund application, the applicant will be notified of the decision made by the appropriate executive director within ten days after the final determination by the executive director.~~

(4) Appeal of Executive Director's Decision to the Board.

(A) If the appealing party is not satisfied with the Executive Director's response to the appeal, it may appeal in writing directly to the board within seven days after the date of the Executive Director's response. In order to be placed on the next agenda of the board, the appeal must be received by the Office at least fourteen days prior to the next scheduled board meeting. Appeals received after the fourteenth calendar day prior to the board meeting will be scheduled for the next board meeting. The Executive Director shall prepare an appeal file for the board's review based on the information provided. If the appealing party receives additional information after the Executive Director has denied the appeal, but prior to the posting of the appeal, for board consideration, the new information must be provided to the Executive Director for further consideration or the board will not consider any information submitted by the applicant after the written appeal. New information will cause the deadlines in this subsection to begin again. The board will review the appeal de novo and may consider any information properly considered by the Office in making its prior decision(s).

(B) Public comment. The board hears public comment on the appeal under its usual procedures. Persons making public comment are not parties to the appeal and no rights accrue to them under this section or any other appeal process. Nothing in this section provides a right to appeal any decision made on an application if the appealing party does not have direct grounds to appeal.

(C) Possible actions regarding applications. In instances in which the appeal if sustained by the board could have resulted in an award to the applicant, the application shall be approved by the board contingent on the availability of funds. If the appeal is denied, the Office shall notify the applicant of the decision.

5. Decisions are final. Appeals not submitted in accordance with the section will not be considered. The decision of the board is final.

~~An applicant for a grant, loan, or award under a community development block grant program may appeal a decision of the state review committee by filing a complaint with the Board. The Board will hold a hearing on a complaint filed with the Board and render a decision.~~

~~Appeals not submitted in accordance with this subsection are dismissed and may not be refiled.~~

## SECTION §255.8 Regional Review Committees

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(a) – (k) No change.

(l) Appeals. Appeals will be handled in accordance with the following procedures:

(1) Written Notification to RRC and ORCA. An applicant must notify its Regional Review Committee and ORCA in writing of the alleged specific violation of the RRC procedures within five working days following the date the RRC scores are made available to the applicants (RRC staff support is advised to record this date).

(2) RRC Notification to Applicants of Appeal(s). Within ten working days following the receipt of an appeal, the RRC will notify all applicants in the region that the RRC will reconvene to hear the appeal. The RRC will give notice to applicants that their scores may be affected by the outcome of the appeal.

(3) RRC Reconvenes to Hear the Appeal(s). In an open meeting, the RRC shall consult with the appellant jurisdiction and consider the appeal. With a simple majority quorum present (i.e., seven members), the RRC will vote to either deny the appeal and forward the appeal and the original regional scores to ORCA or to sustain the appeal and proceed with corrective actions. If the RRC sustains the appeal, the RRC makes corrections and forwards the corrected regional scores to ORCA. The RRC administrative staff will send a written description of the results of the appeals meeting to all applicants in the region and to ORCA. Please note that applicants negatively affected by an original appeal have the same procedural rights to counter-appeal.

(4) Applicants May Appeal a Decision of the RRC. Within five working days following the decision of the RRC, an applicant may submit an appeal of the RRC decision to ORCA. The appeal must be submitted to ORCA in writing stating the alleged specific violation of the RRC procedure.

(5) ORCA Makes Final Scoring and Ranking Determinations. If the appeal is unresolved by the RRC, denied at the regional level, or if an applicant appeals a decision of the RRC, the ORCA executive director will make a ~~final~~ determination as follows: sustain the appeal and make funding recommendations based on corrected regional scores; or reject the appeal and make funding recommendations considering the original RRC scores. ORCA will notify the region of the decision and post the final rankings for the region.

~~(6) ORCA Forwards Funding Recommendations to the SRC. Following resolution of regional appeals, ORCA staff will make funding recommendations to the State Review Committee for the 2009 and 2010 program years. The SRC consists of 12 elected officials, including a chairman appointed by the Governor. In consultation with the executive director and TxCDBG office staff, the State Review Committee is responsible for reviewing and approving grant applications and associated funding awards of eligible counties and municipalities.~~

~~(7)~~ Applicants May Appeal A Decision of the ORCA executive director SRC and File a Complaint with the ORCA Board. An applicant ~~applying under the CD Fund~~ may appeal a decision of the ORCA executive director SRC by filing a complaint with the ORCA Board. The ORCA Board shall hold a hearing on a complaint filed with the Board and render a decision. After the ORCA Board renders a final decision, ORCA will notify the region of the determination and post the final rankings for the region.



**SUMMARY**  
**Update on the Action Plan for Disaster Recovery**  
**Hurricanes Ike/Dolly**  
Presented by Oralia Cardenas\*

**DISCUSSION**

The Proposed Action Plan was submitted to HUD on February 19, 2009. Upon a preliminary review of the Action Plan, HUD requested some administrative revisions that were not of a significant nature and additional information regarding the state's Method of Distribution. To further understand the Method of Distribution proposed by Texas, HUD requested a copy of the South East Texas Regional Planning Commission's Method of Distribution. ORCA submitted the information as requested by HUD.

On March 6, 2009, HUD Secretary Donovan announced the approval of the State of Texas Disaster Recovery Action Plan. ORCA is pleased with HUD's quick review and approval of the Action Plan. Approval of the Action Plan allows ORCA and TDHCA to continue with the implementation of the disaster recovery program for communities impacted by Hurricanes Ike and Dolly.

Although ORCA has received a verbal approval of the Action Plan, a formal letter and grant agreement have not been received. HUD staff has indicated that two letters will be issued to Texas regarding the approval of the Action Plan. One letter will be sent to the Governor. The second letter will be sent to ORCA announcing the approval of the Action Plan and will contain additional specific guidance on approval of the funding and other related information.

**RECOMMENDATION**

Provided for discussion purposes.

**RURAL DEFINITION**

Nonentitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Oralia Cardenas at 512-936-7890 (ocardenas@orca.state.tx.us).**

**SUMMARY**  
**Status Report**  
**Supplemental CDBG Disaster Recovery Funds for**  
**Round 1 & Round 2 –Non-Housing &**  
**Infrastructure Funds**  
Presented by Heather Lagrone\*

**DISCUSSION**

**Overview:**

This status report covers the portion of the Supplemental CDBG funds provided to Texas that were allocated to non-housing or infrastructure projects that ORCA is managing. The Texas Department of Housing and Community Affairs (TDHCA) was designated by the Governor as the lead agency in Texas. It is currently managing the delivery of the vast majority of the disaster recovery funds, which were allocated to housing. A breakdown by purpose and agency managing the funds is below.

**Hurricane Rita Funds – Round 1**

Housing (TDHCA):	\$41,795,655	
Non-housing (ORCA):	\$31,933,946	< =====
Unallocated :	<u>\$ 793,399</u>	
Total:	\$74,523,000	

**Hurricane Rita Funds – Round 2**

Housing (TDHCA):	\$384,461,323	
Infrastructure (ORCA):	\$ 44,100,000	< =====
Unallocated :	<u>\$ 110,526</u>	
Total:	\$428,671,849	

## Hurricane Rita Funds – Round 1

(as of 2/28/09)

93 total contracts to communities (excludes COG contracts)

Amount Awarded: \$30,294,362

Amount Expended: \$28,798,089

Percentage Expended\* 95.10%

\*expended amount includes funds spent and draws pending in office

	All Funds Expended / Pending Final Closeout	Percent	Greater than 95% Expended	Percent	Total Contracts
DETCOG	6	13%	29	62%	47
ETCOG	2	29%	6	86%	7
HGAC	8	50%	12	75%	16
SETRPC	11	48%	18	78%	23
	27	29%	65	70%	93

## Hurricane Rita Funds – Round 2

(as of 2/28/09)

8 total contracts to communities

Amount Awarded: \$42,000,000

Amount Expended: \$ 8,542,283

Percentage Expended\* 20.34%

\*expended amount includes funds spent and draws pending in office

TDHCA and ORCA have executed an amendment to the Interagency Agreements for both Round 1 and Round 2 funding that provided for ORCA management to handle all non-housing / infrastructure funds.



## **RECOMMENDATION**

These reports are provided for information only.

## **RURAL DEFINITION**

Nonentitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Ms. Lagrone at 512-936-6727 ([hlagrone@orca.state.tx.us](mailto:hlagrone@orca.state.tx.us)).**

# **SUMMARY**

## **Transfer in Unobligated DR2 Administrative Funds**

Presented by Oralia Cardenas \*

### **DISCUSSION**

#### **Overview:**

On April 13, 2007 HUD approved an Action Plan for approximately \$428 million (DR2) to help restore and rebuild areas of the State most directly impacted by Hurricanes Katrina and Rita. Within this plan TDHCA allocated \$42 million for restoration of critical infrastructure to be managed by ORCA. In addition to the grant funds provided, ORCA was allocated \$2.1 million for administrative costs. The Action Plan further required ORCA to directly set aside \$19.8 million of the critical infrastructure funds for three entities (Hardin County, Memorial Hermann Hospital – Orange, and Bridge City) and to hold a competition for the remaining \$22.2 million. ORCA received applications totaling over \$70 million from 24 eligible applicants. The result of the competition was full awards to 4 communities (Jefferson County, Tyler County, Lumberton, and Silsbee) and a partial award to Jasper County.

ORCA is currently one year or more into the management of the 8 critical infrastructure contracts and has approximately \$1.6 million remaining in the administrative budget. Based on staff calculations ORCA does not need at least \$1 million of these remaining funds to complete the management of the grant awards and would recommend the Board consider a transfer from the unobligated administrative funds to program funding. This transfer would allow staff to award Jasper County, the partially funded community in the competitive process, additional funds to restore and rebuild from Hurricane Rita. Staff has visited with the County and they have confirmed they do have projects they could spend the additional funds on related to Hurricane Rita.

### **RECOMMENDATION**

Staff recommends the Board approve the transfer of \$1 million of DR2 funds from administrative funds to project funds to allow additional recovery work in Jasper County.

## **RURAL DEFINITION**

Nonentitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Ms. Cardenas at 512-936-7890 ([ocardenas@orca.state.tx.us](mailto:ocardenas@orca.state.tx.us)).**

**SUMMARY**  
**Status Report**  
**Report on Contracted Activities with HNTB**  
Presented by Oralia Cardenas \*

**DISCUSSION**

**Overview:**

ORCA has hired the engineering firm, HNTB, to provide technical assistance and to assist non-entitlement communities in prioritizing and assessing projects for Hurricane Ike disaster recovery assistance. HNTB is a nationally recognized engineering firm with offices throughout Texas. The initial timeframe to get the projects identified, scoped, and estimated by March 31, 2009.

The contract was awarded for \$8,604,000. Payment of the contract have come from funds secured by the Governor's Office provided in a temporary transfer of \$6 million to fund the contract initially, to be reimbursed upon receipt of the Hurricane Ike funding. The engineering services provided under the contract are eligible CDBG planning activities.

HNTB has the resources and staff with the extensive knowledge necessary to assist ORCA in providing damage assessments, identifying gaps in other funding sources, and prioritizing infrastructure projects, while at the same time identifying special permits and clearances that may affect the timeline to get funded projects completed. ORCA expects that this standardized approach will help to provide uniformity and reliability in the development of damage assessments. The results of the engineering assessments to identify priorities at the community level will assist the regions in determining regional priorities for funding and will be incorporated in the application process.

Number of Communities to Assess	165
Number of Community Meetings Held to date (Remaining communities have declined or have been non-responsive)	147
Number of Review Findings Meetings Completed	13/14
Total Number of Eligible Projects Identified to Date	2127
Total FEMA Project Worksheets Reviewed	758
Potential Increase in FEMA Funding Identified	\$13.7 million

## **RECOMMENDATION**

These reports are provided for information only.

## **RURAL DEFINITION**

Nonentitlement cities with populations under 50,000 and counties under 200,000.

**\*Should a Board member have questions concerning this agenda item, please contact Ms. Cardenas at 512-936-7890 (ocardenas@orca.state.tx.us).**

# SUMMARY

## HNTB Contract Amendment Presented by David Flores

### DISCUSSION

#### Background

In the December 11-12 ORCA Board Meeting (agenda item I.3) staff provided the Board with a report on the hiring of the Engineering Firm HNTB. In the report staff advised the Board that a contract for \$8.6 million with an expiration date of March 31, 2009 had been executed.

While contracts for services and other similar activities fall under the purview of day-to-day operations of the agency, the Executive Director felt it appropriate to have the Board review and approve this Contract Amendment due to the amount involved and the significant increase in scope of work. The original contract provided for the following services:

- Conduct 189 community meetings
- Identify, scope, and estimate costs for 960 projects
- Review 480 FEMA Project Worksheets
- Assist with the development of the Action Plan
- Develop a program website
- Develop program dashboard
- Provide project management services
- Provide technical assistance
- Develop a Summary Report

As work progressed during the last couple of months it became apparent that the number of projects estimated by ORCA staff for this contract was significantly under estimated. The projects estimate was based on the Rita I & II experience.

As surmised from the services listed above, the primary objectives of the HNTB Engineering Services contract is to assist communities by identifying all eligible projects, scoping them and completing cost estimates that can be used to [1] compare against FEMA Project Worksheets, [2] allocate funds within the Ike disaster area, and [3] simplify the grant applications for funding. These remain the primary objectives.

## **Engineering Services Contract Update**

As of March 2009 HNTB has identified 2,870 projects of which 2,300 are eligible for CDBG funding. This is more than double the original ORCA estimate. To achieve the primary objectives of the original contract an additional \$8,014,835 is needed with a new contract expiration date of June 30, 2009. These additional funds will pay for the following services:

- Identify, scope, and estimate costs for 1340 additional eligible projects
- Review an additional 820 FEMA Project Worksheets
- Identify and scope 570 ineligible projects
- Maintain and support the program website
- Maintain and support the program dashboard
- Provide project management services
- Provide technical assistance
- Provide a month of transition to transfer materials & information, website responsibility, and program dashboard maintenance & support to ORCA
- Provide a Summary Report

## **Conclusion**

The original contract amount of \$8,604,004 paid for the identification, scoping and cost estimating for 960 eligible projects, at a price of **\$8,963 per project**.

The contract amendment for \$8,014,835 pays for the identification, scoping and cost estimating for an additional 1,340 eligible projects, at a price of **\$5,981 per project**.

The new contract maximum will be \$16,618,839 and the new contract termination date will be June 30, 2009.

## **RECOMMENDATION**

Staff recommends the approval of the \$8,014,835 HNTB Contract Amendment to continue the services listed above. (**Action Needed**)

## **Enclosures**

HNTB Contract Amendment

**\*Should any ORCA Board member have any questions concerning this agenda item please contact Mr. Flores at (512) 936-6707 or [dflores@orca.state.tx.us](mailto:dflores@orca.state.tx.us)**

**OFFICE OF RURAL COMMUNITY AFFAIRS**  
**CONTRACT FOR ENGINEERING SERVICES**  
**CONTRACT NO. RFP 357-09-RFP0001**  
**AMENDMENT NO. 1**

STATE OF TEXAS

COUNTY OF TRAVIS

**Section 1**

The Office of Rural Community Affairs, an agency of the State of Texas, hereinafter referred to as "ORCA", and HNTB Corporation, hereinafter referred to as "Contractor", do hereby contract and agree to amend their original contract, as initially executed by the Executive Director of Office effective November 14, 2008 through March 31, 2009, for the provision of engineering services related to Hurricane Ike.

**Section 2**

The parties hereto agree to amend the contract identified in Section 1 above by deleting in its entirety Section 2.1, TERM OF CONTRACT, and replacing it with the following:

Section 2. TERM OF CONTRACT

This contract and agreement shall commence on November 14, 2008, and shall terminate on June 30, 2009, unless otherwise specifically provided by the terms of this contract.

**Section 3**

The parties hereto agree to amend the contract identified in Section 1 above so that Attachment A, Statement of Work, is revised to read hereafter as given in the Statement of Work attached to this amendment, hereinafter referred to as Attachment A, and hereby made a part of this amendment. Attachment A consists of nine pages.

**Section 4**

The parties hereto agree to amend the contract identified in Section 1 above so that Attachment B, Hourly Billing Rates and Tasks Breakdowns, is revised to read hereafter as given in the Hourly Billing Rates and Tasks Breakdown attached to this amendment, hereinafter referred to as Attachment B, and hereby made a part of this amendment. Attachment B consists of three pages.

**Section 5**

The parties hereto agree to amend the contract identified in Section 1 above so that Section 3.1, Payment Terms, is revised to read hereafter as given below:



"In consideration of the services required by this contract, ORCA hereby agrees to pay to Contractor a maximum fee not to exceed \$16,618,839 and No/100 Dollars (\$16,618,839) ("Maximum Fee"). Payments are predicated upon successful completion and written approval by ORCA of the described tasks and deliverables as provided for under this Agreement. Payments will be made to Contractor after written acceptance by ORCA of the deliverables and approval of an invoice. Each invoice shall reflect the services provided and must provide reference to the deliverables provided in Exhibit A, Scope of Work, the date the services were performed, the name and billing rate of the individual providing the services and the amount billed for such services. Payment will be made only on approval of designated ORCA staff.

During the execution of tasks contained in the Scope of Work, Contractor may submit invoices, not more frequently than once every two weeks. Payment shall be made within thirty (30) days of receipt of a correct invoice for services satisfactorily provided to ORCA. Interest shall accrue in accordance with Texas Government Code §2251.025 on late payments. Contractor shall not be paid more than the Maximum Fee and in accordance with the hourly billing rates and task breakdowns specified in Attachment B to this contract. Contractor shall be reimbursed for lodging and meals at the rates available to state employees. The prior approval of ORCA's executive director shall be required to exceed such rates.

**Section 6**

The parties hereto agree that this amendment shall become effective on April 1, 2009.

**Section 7**

The parties hereto agree that all of the terms of the contract identified in Section 1 above shall remain in effect and shall continue to govern except to the extent that they conflict with the terms of this amendment.

**Section 8**

The parties hereto agree that nothing in this amendment shall be construed as authorizing any violation of federal, state or local laws or regulations as they pertain to the contract identified in Section 1 above.

**Section 9**

By the signing of this amendment, the parties hereto expressly understand and agree that this amendment shall become a part of the contract identified above in Section 1 above as though it were set forth word for word therein.

WITNESS OUR HANDS EFFECTIVE .

---

Name, Title  
HNTB Corporation

Approved and accepted on behalf of the Office of Rural Community Affairs.

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Charles S. (Charlie) Stone, Executive Director  
Office of Rural Community Affairs

This contract amendment is not effective unless signed by the Executive Director of the Office of Rural Community Affairs, or his/her authorized designee.

ATTACHMENT A  
STATEMENT OF WORK

Hurricane Ike Disaster Recovery

Contractor shall provide the following civil engineering services and related activities in the target area identified below and as specified in this contract and in its response to RFP 357-09-RFP0001. Contractor shall provide such services in the following 25 non-entitlement counties: Cherokee, Nacogdoches, San Augustine, Sabine, Houston, Angelina, Jasper, Newton, Trinity, Polk, Tyler, Madison, Walker, San Jacinto, Hardin, Orange, Grimes, Liberty, Jefferson, Washington, Waller, Chambers, Austin, Galveston, and Matagorda.

Contractor shall also provide services, as requested, in the entitlement counties of Harris, Montgomery, Fort Bend, and Brazoria.

**I. Program Management**

Contractor shall perform general program management and administration services to manage the scope of work described in this Attachment and as outlined as follows:

- A. Coordination with ORCA and subcontractors including regular team meetings, team debrief meetings, kick off meeting, and team training for site assessments and federal coordinating meetings
- B. Contractor shall implement a set of project controls using Bentley ProjectWise. The ProjectWise environment will also be the primary means for submitting electronic deliverables (meeting minutes, technical memorandums, project lists, Quad Sheets, data sheets, estimate cost data, templates, QA/QC documents, interim submittals, final documents, summary report, etc.)
  1. Contractor shall host and administer ProjectWise through June 30, 2009
  2. Contractor shall provide training for up to 20 staff
- C. Contractor shall maintain a project schedule for the time limits of this contract. The project schedule will be maintained in Microsoft Project and shall include the following elements:
  1. Present an overall schedule for ORCA and other stakeholders
  2. Task schedule including all major elements (meetings, interim deliverables, etc.) for project team
  3. Rolled up schedules will be posted to the Project Dashboard and Website as approved by ORCA
- D. Reporting – Contractor shall provide an activity report of the eligible entities that have received the technical assistance following scheduled meetings, and other project activities. The report shall also summarize ongoing activities. The report shall follow the following format:
  1. Contractor shall provide a weekly report to ORCA in a standardized template. The report shall include an update on meetings, site visits,

coordination with communities and agencies, schedule, issues/concerns

2. Contractor shall provide a monthly report for website and portal posting to communities, consultant team, other agencies (FEMA, TCEQ, EPA, HUD, etc.)
3. Contractor shall post information as it is developed to the Project Dashboard and Website as appropriate and approved by ORCA
4. The Contractor shall present reports to ORCA's Board of Directors meeting on two occasions.

E. Continuation of Program Management services shall be provided from June 1 to June 30, 2009. Such services include general program management and administration services to coordinate with ORCA, agencies, communities; maintenance of dashboard and the website; training of ORCA staff; technical assistance; and other assignments as directed by ORCA.

## **II. Meetings with Communities**

Contractor shall hold 160 meetings with the communities in the 25 non entitlement counties and the four entitlement counties as directed and specified above. These meetings shall include the following: 160 "Here We Come" initial meeting with chief elected officials and chief administrators, and 160 review findings as a result of the 160 meetings, approximately 16 meetings with the governing body of selected communities, and approximately 13 revision meetings.

- A. In preparation of such meetings, Contractor shall provide notice of the meeting to each community that includes a description of the type of projects, eligibility, guidelines, goals, mission, and plan. Contractor shall develop a standard agenda for face to face meetings and shall familiarize itself with the community (e.g. water and sanitary sewer providers, municipal utility districts, etc.) prior to the meeting.
- B. Contractor shall provide a Power Point presentation with some customization as well as a hand out of the goals, project plan, schedule, expectations, and needs; a wind speed map of Ike; and checklist packets.
- C. In the meeting, Contractor shall:
  1. Educate the community on project eligibility
  2. Discuss the CDBG program opportunities with the community and the purpose of the program
  3. Set deadline for identification of projects by community
  4. Identify Projects not identified by FEMA that could be CDBG eligible
  5. Community to provide Contacts for follow up, project identification
  6. Provide basic training on website and other project tools to be used by counties/Communities – handout format
  7. Determine community challenges for the program as related to:
    - a. ability to execute projects when funded
    - b. fiscal controls
    - c. preferred professional service providers (attorneys, engineers, etc.) related to areas such as permitting, environmental, acquisition, etc.

8. Provide meeting minutes including the following:
    - a. Attendees and key contacts
    - b. Sign in sheet
    - c. Meeting content
  9. New projects identified by the community that are needed as a result of Hurricane Ike (damage or failure to function as a result of the storm)
  10. Community input of other participants within county that have eligible projects that can be “sponsored” by the city or county (i.e. MUDs, Water Supply Corporations, Navigation Districts)
  11. Any new information that is important to note
- D. Following the meeting with the community to obtain community approval of project lists/site assessment cost estimates, the Contractor shall submit a follow up letter to the community outlining the information received and the status of evaluating the projects at the time the letter is written.

### **III. Action Plan Development Assistance**

Contractor shall assist with the development and review with the Action Plan related to the non-housing/infrastructure projects, as requested. The Action Plan developed by ORCA addresses housing and non-housing funding needs to recover, and provide sustainability, for damage resulting from Hurricane Ike and Dolly.

### **IV. Technical Assistance**

Contractor shall provide Technical Assistance, as requested, for eligible units of general local governments and other public entities in the various components of CDBG compliance. Contractor shall provide the following types of services, as needed, for communities requiring technical assistance:

- A. Fiscal Management & Auditing – Contractor shall assist in several areas related to CDBG funds including:
  1. Perform risk assessment activities.
  2. Consult with Communities regarding documentation related to processing of transactions relating for the program.
  3. Assess and develop program-wide benchmark procedures.
- B. Maintain a listing of the entities receiving the technical assistance, agendas and sign-in sheets and other related documents to support the activity reports.
- C. Perform other special assignments as requested.

### **V. Project Identification**

Contractor shall identify projects that are eligible for CDBG funding under this program and will use this project list as the basis for projects that will be assessed, scoped, estimated, and that may be prioritized by the COGs, local agencies, and/or ORCA. Projects will be identified through a number of sources as follows:

- A. Projects identified through meetings with communities – initial “here we come” meetings as well as any necessary follow-on field meetings conducted during the site assessment phase.

- B. Gather and conduct a preliminary review of 1300 FEMA Project Worksheets (PWs). The PWs often consist of multiple projects rolled into one larger project or worksheet. This review will require review to assess how these worksheets will need to be divided into individual projects that will be independently assessed by the Contractor. This may also be a key indicator of additional projects that will need to be scoped and estimated, which are above and beyond the scope and fee for the base contract. Additional services will be required and ORCA is aware of this scenario; the scope and fee will be increased to accommodate additional projects that will be assessed when additional funds are made available from state and federal sources.
- C. Contractor shall get list of projects from TCEQ of previously cited projects for water and wastewater projects that could be eligible for each community.
- D. Contractor shall identify other agencies that might provide information on projects that will assist with preparation for community meetings (i.e. Texas Water Development Board, TxDOT, Council of Governments, etc.).
- E. Contractor shall identify what other associations might provide listing of projects that will assist with preparation for community meetings (i.e. Texas Municipal League, Texas City Managers Association, Texas Public Works Association, Texas Association of County Engineers and Road Officials, County Judges and Commissioners Association of Texas, etc.)
- F. Identification, is limited to 2300 individual projects that are eligible for scoping and estimating and 570 projects identified that are deemed ineligible for scoping and estimating.
- G. Scoping and estimating is limited to 2300 individual projects.

## **VI. Project Site Assessment**

Contractor shall perform site visits to the project locations identified and conduct site assessments that will be the basis for scoping and estimating the cost for the projects.

This task includes the following items:

- A. Conduct site assessments and complete HNTB-developed site assessment worksheets for 2300 projects that are eligible for scoping and estimating.
- B. Conduct site assessments and complete Contractor-developed site assessment-worksheets for 570 projects that are deemed ineligible for scoping and estimating. No scoping and estimating shall be performed for the 570 partial projects.
- C. Develop a Field Handbook to be used for the site assessments. The handbook will include the following elements:
  - 1. Project background, goals
  - 2. Scoping criteria
  - 3. Safety information
  - 4. Contact information
  - 5. Scoping protocol
  - 6. Instructions to use data sheets
  - 7. Instructions on taking photos
  - 8. Using GPS handheld units
- C. Conduct Pilot Program with 2 teams. The pilot program will test the project data sheets, the process, handbook, field equipment, etc. The team will follow the first

round of meetings and return to the office to make adjustments before rolling out the full program. This will be completed within 7 calendar days.

## **VII. Project Scoping**

Contractor shall scope each project that is investigated during the Site Assessment process. Scoping tasks shall include the following:

- A. Contractor shall review and update 1300 FEMA Project Worksheets.  
See Project Identification above. Contractor shall provide an office review of FEMA PWs to identify discrepancies, fatal flaws, missing elements, etc. Contractor shall distinguish between eligible and ineligible projects that should be included in the scoping and estimating effort and determine what additional information is required in the field to scope and estimate CDBG eligible projects.
- B. Contractor shall develop scope of 2300 projects. Contractor shall secure other agency/district input via counties and cities (no additional meetings are scoped).
- C. Contractor shall scope all projects in the following fashion:
  1. Identify project types
  2. Determine project components to scope and estimate, including quantities
  3. Develop template for project data collection
- D. Contractor shall conduct training in field with field personnel.
- E. Contractor shall have the following Team Structure:
  1. Two person teams – minimum one experienced (i.e., PE) and one less experienced (i.e. EIT or other) to assist and take notes
  2. One HNTB employee and one subconsultant
  3. 12-14 week schedule for site visits
- F. Environmental and Historical Evaluations
  1. Projects will be evaluated to determine the requirements and permitting that are necessary to develop and construct the project, such as a Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement. No additional efforts to begin the process or clear the project are included in the scope.
  2. Historical efforts will be similar in nature to Environmental efforts described above.

## **VIII. Project Estimating**

Contractor shall estimate the construction and program (engineering, administration, contingency) costs for each project that is investigated during the Site Assessment process not including the 570 projects that are ineligible for scoping and estimating. This Task includes the following items:

- A. Contractor shall develop construction cost information for each project type and determine regions (groups of counties) that will require cost variations/indexes.
- B. Contractor shall include economist evaluations of regions, indexes, other to assist with cost escalations.
- C. Contractor shall develop a master database of all projects.
- D. Contractor shall summarize this information with Quad sheet.

## **IX. QA/QC Developed Scopes and Estimates**

Contractor shall implant the QA/QC plan at every phase of the project prior to every deliverable to the client according to the following:

- A. Contractor shall provide Scoping and Estimating QC reviews based on the following:
  - 1. QC reviews will be conducted by personnel who have specific and sufficient experience relative to the project type.
  - 2. QC will review for the following:
    - a. Completeness of the document
    - b. All project elements included for project type (considering project type, description, photos)

**X. Auditing and Fiscal Evaluation**

- A. Contractor shall conduct Agency audits to review compliance of CDBG regulations.
- B. Economist evaluation identified in the Cost Estimating section of the scope of work.

**XI. Technology Elements**

Contractor shall utilize the following Technology Elements:

- A. ProjectWise -
  - 1. Contractor shall setup the Project in ProjectWise with:
    - a. Project setup and file/folder structure
    - b. User administration and access
  - 2. Contractor shall provide full time maintenance and administration.
  - 3. Contractor shall develop protocol based on LADOTD Submerged Roads.
  - 4. Contractor shall conduct staff training for up to 20 staff.
- B. Program Website - The Contractor shall implement a Program Website that will be used to share information with the public including the following features:
  - 1. The site will display up to 4 layers of static (non-interactive) GIS Data.
    - a. Base layer to include geographic data, street/highway network, and surface water boundaries
    - b. County boundaries and Cities
    - c. Wind speed Map
    - d. Storm Surge Map
  - 2. The site will have Basic map navigation: zoom in/out, pan left/right/up/down
  - 3. The Website will contain links to other project information for public dissemination, such as reports, timelines, project lists, and other ORCA information.
  - 4. The following tasks are included as part of the Program Website:
    - a. Develop/propose domain url and obtain approval
    - b. Obtain domain and hosting
    - c. Develop logo and branding
    - d. Document website content and functionality, submit to ORCA
    - e. Design website
    - f. Website development



- g. Develop content
  - h. Develop map
  - i. QA/QC content (HNTB)
  - j. Content approval by ORCA
  - k. Continuing website content development up to June 30, 2009, unless authorized for additional services by ORCA
  - l. Continuing website technical maintenance up to June 30, 2009, unless authorized for additional services by ORCA
  - m. Content export/handoff and transition plan at end of project.
5. The Program Website is based on the following assumptions:
- a. Reuse layout and functionality of “submerged roads website” for New Orleans LADOTD
  - b. Early successes of the program will coincide with public meetings if possible
  - c. Website will be third-party hosted, contracted through Contractor’s account with the cost passed through ORCA.
  - d. Modify submerged roads graphics to reflect ORCA branding and Logo
  - e. Keep ORCA’s IT representative updated.
- C. Program Dashboard - Program stakeholders and HNTB staff will coordinate project activities through the use of a program dashboard, which will allow project staff one place to go to access all project information.
1. The Dashboard will display up to 8 layers (in addition to the 4 layers provided in the website) of static non-interactive maps including, but not limited to:
    - a. Projects
    - b. Quad Sheets
    - c. Projects sorted by County
    - d. Quad Sheets sorted by County
    - e. Projects sorted by Community
    - f. Quad Sheets sorted by Community
    - g. 2 other views to be determined.
  2. The Dashboard will include site administration functions to manage user access and security.
  3. The Dashboard will provide a link to ProjectWise.
  4. Contractor shall provide training for up to 20 staff.
  5. Contractor shall perform the following tasks:
    - a. Develop/propose domain url and obtain approval
    - b. Obtain domain and hosting
    - c. Develop logo and branding
    - d. Determine the following user roles:
      - 1). Stakeholders
      - 2). HNTB
      - 3). Subs
    - e. Develop dashboard functionality document
    - f. Design dashboard
    - g. Website development for dashboard

- h. Develop content
  - i. Develop map
  - j. QA/QC content (HNTB)
  - k. Content approval by ORCA
  - l. Continuing website content development up to June 30, 2009, unless authorized for additional services by ORCA
  - m. Continuing website technical maintenance up to June 30, 2009, unless authorized for additional services by ORCA
  - n. Content export/handoff and transition plan at end of project.
6. The Program Dashboard is based on the following assumptions:
- a. Reuse layout and functionality of “submerged roads” dashboard
  - b. Dashboard can be delivered in late December or early January
  - c. Security roles will mirror those of the submerged roads program
  - d. Dashboard will be third-party hosted, contracted through our account, with the cost passed through to ORCA
  - e. Will modify submerged roads graphics to reflect new ORCA logo and project branding.
  - f. Updates to ORCA’s IT rep for this project.
  - g. Contractor’s Tina Guillot, or a similar employee, shall help the new Document Controls staffer with determining document organization, processes, and support requirements.

## **XII. Summary Report**

Contractor shall develop a Summary Report. The following items will be included in this task:

- A. Coordinate information and data based on:
  - 1. Non Housing/Housing (information to be provided by ORCA)
  - 2. Local
    - a. Community Project List & Ranking from COGs/ORCA
    - b. Water, Streets, Bridges, Drainage, Sanitary Sewer and Vertical (fire stations, community centers, etc.)
  - 3. Regional Priorities
  - 4. Governor’s Priorities
- B. Assist with Prioritizing/Ranking of the projects based on community needs/priorities, engineer’s recommendation, and input from ORCA and communities to include the following as applicable:
  - 1. Project Ranking and Prioritization Criteria Development
  - 2. Rank
  - 3. Review with ORCA
  - 4. Finalize project list for application process by ORCA and communities
- C. Summarize and write report:
  - 1. Develop outline
  - 2. Collect and organize data and information throughout the project in a format to write report
  - 3. Project Summary Report Due May 30, 2009

### **XIII. Program Deliverables**

Contractor shall provide the following deliverables in accordance with the scope of work described herein.

- A. Community Meeting letters with emails and phone calls
- B. For 160 communities, the Contractor shall conduct and provide handouts for the following meetings
  1. Here We Come – Introduction Meeting – 160 meetings
  2. Present Findings – 160 meetings
  3. Governing Body Meetings – 16 estimated total
  4. Revision Meetings (8% of total) – 13 estimated total
  5. 349 Estimated Total meetings for program
- C. Contractor shall deliver worksheets and summary sheets resulting from Project Identification and Damage Assessments for 2300 projects project under the program.
  1. Review and discuss with ORCA Hurricane RITA projects for background information and avoidance of negative issues
    - a. Review 1300 FEMA Damage Assessments with Quad sheets: Develop an estimated 2300 Projects. Activities will be a roll up of several projects for a total of 2300 Quad sheets.
- D. Site Visit Letter, Email and Phone Call
- E. On Site Visits for Damage Assessments, 2870 Total site visits. (2300 projects to be scoped and estimated. 570 projects ineligible for scoping and estimating.
- F. Level I Review (+/- 20% of actual cost) Scoping and Estimating
- G. Provide Public Involvement and Program Stakeholder Websites
  1. Public Involvement (PI) site will display up to 4 layers of static (non-interactive) GIS Data.
    - a. Base layer to include geographic data, street/highway network, and water
    - b. County boundaries and Cities
    - c. Windspeed Map
    - d. Storm Surge Map
  2. Basic map navigation, zoom in/out, pan left/right/up/down
  3. 4 viewing options
  4. PI site will contain links to other project information for public dissemination, such as reports, timelines, project lists, and other ORCA information.
  5. Program Stakeholder (PS) site will display up to 8 layers (in addition to the 4 layers provided in the PI site) of static (non-interactive) GIS Data, including but not limited to:
    - a. Project Layer
    - b. Quad Sheet Layer
    - c. Projects sorted by County
    - d. Quad Sheets sorted by County
    - e. Projects sorted by Community
    - f. Quad Sheets sorted by Community
    - g. 2 other layers to be determined.

6. PS site will include site administration functions to manage user access and security.
  7. QA/QC of site and content
  8. Provide hosting environment through June 30, 2009, including necessary plug-ins.
  9. Provide website maintenance through June 30, 2009
  10. Provide content updates through June 30, 2009
  11. Provide training for up to 20 staff
- H. Provide Program Dashboard
1. The Program Dashboard is the “landing page” the program stakeholders see once the user logs into the PS site.
  2. The Program Dashboard is customized by user.
  3. Features and functions will include:
    - a. User profile – customized by County
    - b. Schedule snapshot (non-interactive)
    - c. “My projects” list of projects that are entered into the system
    - d. Recently viewed documents
    - e. Link to ProjectWise
  4. Provide training for up to 20 staff
- I. Project Ranking and Prioritization Criteria Development
- J. Weekly Reports
1. Internal through ProjectWise
  2. External on the Program Website
- K. Project Summary Report Due May 30, 2009
- L. Present Interim Report to Texas ORCA Board Meeting in February
- M. Present Findings to Texas ORCA Board Meeting in April
- N. Staff Augmentation as needed

HURRICANE IKE DISASTER RECOVERY FOR  
OFFICE OF RURAL COMMUNITY AFFAIRS

This Fee Estimate includes the following additional efforts to supplement the Original Scope:

	Additional Amount	Revised Total
Additional Number of Projects (original no. = 960)	1,340	2,300
Partial Projects = Field Assessment & NOT eligible for scoping and estimating (none originally estimated)	570	570
Additional Number of PWs (original no. = 480)	820	1,300

Notes

The additional fee presented here is based on the additional number of projects identified below. Costs in this spreadsheet are generally calculated based on an hourly cost per project for additional projects. Program Development costs, including meetings, technology development, and unit cost development were included in the original scope and fee. They are not required here.

	BILLING CLASSIFICATIONS																						TOTAL HOURS	TOTAL COST		
	PRINCIPAL	PROG MGR	PROJ ADVISOR	DEPUTY PROG MGR	SR. PROJ MGR	PROJ MGR II	CIV ENGR III	CIV ENGR II	CIV ENGR I	PRGR MGR TECH	SR DEV TECH	GRAPH DSGN	SR. GIS ANLST	GIS ANLST	SR. EVIRON SPCLST II	SR. ENVIRON SPCLST I	DIR OF PUB INF	PUB INF ASST	CONST REP II	BUS MNGR	PROJ ADMIN	PROJ ANLST			ADMIN ASST II	
<b>HOURLY BILLING RATES</b>	\$ 320.00	\$ 272.00	\$ 263.00	\$ 232.00	\$ 223.00	\$ 200.00	\$ 115.00	\$ 110.00	\$ 100.00	\$ 226.00	\$ 141.00	\$ 115.00	\$ 130.00	\$ 105.00	\$ 214.00	\$ 160.00	\$ 154.00	\$ 82.00	\$ 134.00	\$ 129.00	\$ 68.00	\$ 84.00	\$ 72.00			
<b>TASK BREAKDOWN</b>																										
<b>PROGRAM MANAGEMENT</b>																									0	0
<b>General Program Administration</b>																										
Coordination of program team	40	40		40																					120	32,960
Reporting		10		20																					50	11,360
Project Controls																									2,680	236,640
Monthly Invoices																									28	3,040
Administrative Tasks																									160	11,520
Coordination Meetings		40		40																					120	28,160
Coordination with subconsultants				40																					40	12,160
<b>Technical Assistance</b>																										
Staff Augmentation																									0	0
<b>Project Identification</b>																										
Summarize Community projects and develop logistical plan								670																	670	77,050
<b>Project Scoping</b>																										
Review and Update FEMA Worksheets (8 Damage Assessments/ 160 communities = 1,280)																										
Office Review				40	820		2,460																		410	3,730
Damage Assessment for New Projects = 1340																										
Site visits			80		1,340	5,360		5,360						670											670	13,480
Develop Quad Sheets			80		670			670						670											670	2,760
Geotechnical								670																	670	73,700
<b>Project Estimating</b>																										
Develop Quantities, Cost Estimates							1,340	2,010	2,010																670	6,030
<b>Identify Program Obstacles</b>																										
Environmental Constraints					670										670	1,340										2,680
Historical															670	670										1,340
Infrastructure/other issues							1,340																			1,340
<b>QA/QC (1340 projects)</b>					1,340	1,340																			168	2,848
<b>Program Summary Report</b>																										
Coordinate information and data		80		80																					670	1,500
Summarize and write report		80		80																					670	1,500
<b>Technology Services</b>																										
<b>GIS Enterprise Solution</b>																										
Data Entry														670												670
<b>Website</b>																										
Content Updates																										670
<b>Total Hours</b>	40	250	160	340	4,840	9,448	5,140	10,050	-	-	-	670	-	2,010	1,340	2,010	335	-	-	-	1,340	3,928	1,720		43,621	6,360,200
<b>Total Labor</b>	\$ 12,800	\$ 68,000	\$ 42,080	\$ 78,880	\$ 1,079,320	\$ 1,889,600	\$ 591,100	\$ 1,105,500	\$ -	\$ -	\$ -	\$ 77,050	\$ -	\$ 211,050	\$ 286,760	\$ 321,600	\$ 51,590	\$ -	\$ -	\$ -	\$ 91,120	\$ 329,910	\$ 123,840			\$ 6,360,200

TECHNOLOGY SERVICES - DIRECT EXPENSES	UNIT	UNIT COST	QTY	Cost
Website Hosting (2 Months)	LS	\$ 1,200.00	2	\$ 2,400
<b>TOTAL EXPENSES</b>				<b>\$ 2,400</b>

ESTIMATED PROJECT EXPENSES (TRAVEL, MEALS, LODGING, CAR RENTAL, HANDHELD GIS RENTAL, CAMERAS, ETC.)	8%	\$ 508,816
<b>TECHNOLOGY SERVICES DIRECT EXPENSES</b>		\$ 2,400
<b>SUBTOTAL DIRECT EXPENSES</b>		\$ 511,216
10% MARK UP ON DIRECT EXPENSES	10%	\$ 51,122
10% MARK UP ON SUBCONSULTANT EXPENSES	10%	\$ 159,005
<b>TOTAL EXPENSES</b>		<b>\$ 721,343</b>

**TOTAL LABOR & EXPENSES \$ 7,081,543**

Hourly Rates and Task Breakdowns

Amendment 1

HURRICANE IKE DISASTER RECOVERY FOR  
OFFICE OF RURAL COMMUNITY AFFAIRS

	BILLING CLASSIFICATIONS																					TOTAL HOURS	TOTAL COST			
	PRINCIPAL	PROG MGR	PROJ ADVISOR	DEPUTY PROG MGR	SR. PROJ MGR	PROJ MGR II	CIV ENGR III	CIV ENGR II	CIV ENGR I	PRGR MGR TECH	SR DEV TECH	GRAPH DSGN	SR. GIS ANLST	GIS ANLST	SR. EVIRON SPCLST II	SR. ENVIRON SPCLST I	DIR OF PUB INF	PUB INF ASST	CONST REP II	BUS MNGR	PROJ ADMIN			PROJ ANLST	ADMIN ASST II	
<b>HOURLY BILLING RATES</b>	\$ 320.00	\$ 272.00	\$ 263.00	\$ 232.00	\$ 223.00	\$ 200.00	\$ 115.00	\$ 110.00	\$ 100.00	\$ 226.00	\$ 141.00	\$ 115.00	\$ 130.00	\$ 105.00	\$ 214.00	\$ 160.00	\$ 154.00	\$ 82.00	\$ 134.00	\$ 129.00	\$ 68.00	\$ 84.00	\$ 72.00			
<b>TASK BREAKDOWN</b>																										
<b>PROGRAM MANAGEMENT</b>																										
<b>General Program Administration</b>																										
Coordination of program team	8	10		10	8																		10	46	10,104	
Reporting				8	8	16											4	20					10	66	9,816	
Project Controls										55	309												200	20	585	74,334
Monthly Invoices					8																		16	24	3,128	
Administrative Tasks																							32	18	50	4,013
Coordination Meetings		10	10	10	8												8	16							62	11,998
Coordination with subconsultants		9		5	5	28										23	37	46					92	244	29,859	
<b>Technical Assistance</b>																										
Staff Augmentation		20	20	20	10		40			40		24			40	40	16	80							350	57,954
Project Worksheet Review				40	520		1,560																		2,120	304,640
Technical Assignments		20	20	20	10		40			40		24			40	40	16	80							350	57,954
																									0	0
<b>Meetings</b>																										
Meetings with ORCA	10	10	10	10	8												8	16							72	15,198
Meetings with Communities		40	40	40	40		40								16		16						40		272	52,968
Meetings with Agencies, including ESF-14, TCEQ, TWDB, EPA, GDEM, Other	8	20	20	40	40		80																		208	40,660
<b>Technology Services</b>																										
GIS Mapping and Maintenance		4		10						80	64							161							319	47,473
Dashboard Maintenance		4		10						40	40		100	160											354	47,888
Website Maintenance		4		10						60	80		160	160			16	80					40		610	77,707
<b>Total Hours</b>	26	151	120	233	665	44	1,760	-	-	315	494	48	260	481	96	103	121	338	-	-	-	-	248	230	5,732	845,693
<b>Total Labor</b>	\$ 8,320	\$ 41,126	\$ 31,560	\$ 53,963	\$ 148,206	\$ 8,720	\$ 202,400	\$ -	\$ -	\$ 71,190	\$ 69,619	\$ 5,520	\$ 33,800	\$ 50,505	\$ 20,544	\$ 16,480	\$ 18,603	\$ 27,716	\$ -	\$ -	\$ -	\$ -	\$ 20,832	\$ 16,589	\$ 845,693	

TECHNOLOGY SERVICES - DIRECT EXPENSES	UNIT	UNIT COST	QTY	Cost
Website Hosting (8 Months)	LS	\$ 1,200.00	1	\$ 1,200
<b>TOTAL EXPENSES</b>				<b>\$ 1,200</b>

ESTIMATED PROJECT EXPENSES (TRAVEL, MEALS, LODGING, CAR RENTAL, HANDHELD GIS RENTAL, CAMERAS, ETC.)	6%	\$ 50,742
<b>TECHNOLOGY SERVICES DIRECT EXPENSES</b>		\$ 1,200
<b>SUBTOTAL DIRECT EXPENSES</b>		\$ 51,942
10% MARK UP ON DIRECT EXPENSES	10%	\$ 5,194
10% MARK UP ON SUBCONSULTANT EXPENSES	10%	\$ 30,464
<b>TOTAL EXPENSES</b>		\$ 87,600

**TOTAL LABOR & EXPENSES** \$ 933,293

		Revised Deadline
Subtotal for 2,300 total estimated projects and 570 partial projects	\$ 7,081,543	31-May-09
Subtotal Monthly Management Services	\$ 933,293	30-Jun-09
<b>Total Additional Services through June 2009</b>	<b>\$ 8,014,836</b>	

ATTACHMENT B  
HOURLY BILLING RATES and TASK BREAKDOWNS

Contractor Classifications & Billing Rates

	Title	Hourly Billing Rate
Project Management	Principal	\$ 320
	Program Manager	\$ 272
	Project Advisor	\$ 263
	Deputy Program Manager	\$ 232
Engineering	Sr. Project Manager	\$ 223
	Project Manager II	\$ 200
	Project Manager	\$ 173
	Senior Engineer	\$ 154
	Project Engineer	\$ 128
	Civil Engineer IV	\$ 147
	Civil Engineer III	\$ 115
	Civil Engineer II	\$ 110
	Civil Engineer I	\$ 100
	Civil Engineer	\$ 92
	Structural Engineer III	\$ 150
	Structural Engineer II	\$ 134
	Structural Engineer I	\$ 109
	Engineering Intern	\$ 58
	Senior Engineering Tech (CADD)	\$ 125
	Engineering Tech	\$ 80
	Construction Manager	\$ 211
	Construction Representative III	\$ 150
	Construction Representative II	\$ 134
	Construction Representative I	\$ 114
	Construction Technician II	\$ 105
Construction Technician I	\$ 95	
Construction Technician	\$ 80	
Urban Planning	Senior Planner III	\$ 159
	Senior Planner II	\$ 141
	Senior Planner I	\$ 128
	Project Planner II	\$ 115
	Project Planner I	\$ 106
	Senior Landscape Architect II	\$ 193
	Senior Landscape Architect I	\$ 160
	Landscape Architect IV	\$ 141
	Landscape Architect III	\$ 115
	Landscape Architect II	\$ 95
	Landscape Architect I	\$ 80
	Landscape Architect Intern	\$ 58
	Environmental	Senior Environmental Specialist II
Senior Environmental Specialist I		\$ 160
Environmental Specialist II		\$ 141
Environmental Specialist I		\$ 123
Environmental Specialist		\$ 116
Environmental Planner II		\$ 100
Environmental Planner I		\$ 85
Environmental Planner		\$ 70
Public Involvement	Director of Public Information	\$ 154
	Public Information Manager	\$ 143
	Public Information Specialist II	\$ 125
	Public Information Specialist I	\$ 110
	Public Information Specialist	\$ 95
	Public Information Assistant	\$ 82
Technology/GIS	Program Manager - Technology	\$ 226
	Senior Developer - Technology	\$ 141
	Graphic Designer	\$ 115
	Sr. GIS Analyst	\$ 130
	GIS Analyst I	\$ 120
	GIS Analyst	\$ 105
	GIS Technician II	\$ 95
	GIS Technician I	\$ 85
	GIS Technician	\$ 75
Business Administration	Business Manager	\$ 129
	Senior Project Analyst	\$ 103
	Project Analyst	\$ 84
	Project Administrator	\$ 68
	Administrative Assistant II	\$ 72
	Administrative Assistant	\$ 60
	Secretary	\$ 48

\*Annual raises assume an escalation factor of 4% to occur in June  
\*Non-exempt personnel incur premium OT (1.5) for hours over 40 per week.

## **Future ORCA Board Meeting Dates**

### **2009**

June 4-5	(Thursday – Friday)	Austin
August 6-7	(Thursday – Friday)	Austin
October 1-2	(Thursday – Friday)	Austin
December 3-4	(Thursday – Friday)	Austin