

**SUPPLEMENTAL BOARD BOOK
OF
SEPTEMBER 5, 2019**



J. B. Goodwin, Chair

Leslie Bingham Escareño, Vice-Chair

Paul Braden, Member

Asusena Reséndiz, Member

Sharon Thomason, Member

Leo Vasquez, III, Member

- f) Presentation, discussion, and possible action regarding a Placed in Service deadline extension for a development located in a Major Disaster Area
16258 Provision at West Bellfort Houston

RULES

- g) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 23 Subchapter H, Homebuyer Assistance with New Construction or Rehabilitation, and directing publication for adoption in the *Texas Register*

Abigail Versyp
Director of
HOME and Homelessness
Programs

HOME AND HOMELESSNESS PROGRAMS

- h) Presentation, discussion, and possible action directing closing of the Program Year 2017-2018 Emergency Solutions Grants Program Notice of Funding Availability
- i) Presentation, discussion, and possible action to authorize the issuance of the 2019 HOME Investment Partnerships Program Homebuyer Assistance with New Construction Reservation System Notice of Funding Availability and publication in the *Texas Register*
- j) Presentation, discussion, and possible action to authorize the issuance of the 2019 HOME Investment Partnerships Program Single Family Persons with Disabilities Set-Aside Reservation System Notice of Funding Availability and publication of the NOFA in the *Texas Register*
- k) Presentation, discussion, and possible action to authorize the issuance of the 2019 HOME Investment Partnerships Program Single Family Contract for Deed Reservation System Notice of Funding Availability and publication of the NOFA in the *Texas Register*

Abigail Versyp
Director of
HOME and Homelessness
Programs

BOND FINANCE

- l) Presentation, discussion, and possible action on the Single Family Mortgage Loan and Mortgage Credit Certificate Programs Participating Lender List
- m) Presentation, discussion, and possible action on Inducement Resolution No. 20-001, Scott Street Lofts, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority and a Determination of Eligibility relating to 10 TAC §11.101(a)(3) regarding Neighborhood Risk Factors

Cathy Gutierrez
Director of Texas
Homeownership
Teresa Morales
Director of
Multifamily Bonds

MULTIFAMILY FINANCE

- n) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits
19412 Majestic Ranch Apartments San Antonio
19417 Green Oaks Apartments Houston
19419 Palladium Redbird Dallas
19434 Limestone Ridge Senior Apartments Austin ETJ
19430 Kyle Dacy Apartments Kyle ETJ
19431 Scharbauer Flats Midland

Marni Holloway
Director of
Multifamily Finance

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach and Activities Report (July-September)
- b) Quarterly Report on Texas Homeownership Division Activity

Michael Lyttle
Director of
External Affairs
Cathy Gutierrez
Director of Texas
Homeownership

ACTION ITEMS

ITEM 3: INTERNAL AUDIT

Report on the meeting of the Internal Audit and Finance Committee

Sharon Thomason
Chair of Committee

ITEM 4: FAIR HOUSING

Presentation, discussion, and possible action to approve the Analysis of Impediments to Fair Housing Choice

Cate Tracz
Manager of
Fair Housing

ITEM 5: OCI, HTF, NSP DIVISION

Presentation, discussion, and possible action authorizing the Department to implement limited and specific forgiveness provisions associated with Land Bank activities within the Neighborhood Stabilization Program

Raul Gonzales
Director of
OCI, HTF, NSP Division

ITEM 6: HOME AND HOMELESSNESS PROGRAMS

- a) Presentation, discussion, and possible action on an appeal under 10 Texas Administrative Code §1.7, Staff Appeals, in regards to 2019 Emergency Solutions Grants Application for Randy Sams' Outreach Shelter, Inc.
- b) Presentation, discussion, and possible action on Program Year 2019 Emergency Solutions Grants Program Awards

Abigail Versyp
Director of
HOME and Homelessness
Programs

ITEM 7: ASSET MANAGEMENT

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
96038 2100 Memorial Houston

Rosalio Banuelos
Director of Asset
Management

ITEM 8: RULES

- a) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; an order proposing new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published for public comment in the *Texas Register*
- b) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC, §1.10, Public Comment Procedures; and an order proposing new 10 TAC §1.10, Public Comment Procedures; and directing their publication for public comment in the *Texas Register*
- c) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 6 Community Affairs Programs; an order proposing new 10 TAC Chapter 6 Community Affairs Programs; and directing that they be published for public comment in the *Texas Register*
- d) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order proposing new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and directing publication for public comment in the *Texas Register*
- e) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and an order proposing new 10 TAC Chapter 25, Colonia Self-Help Center Program Rule, and directing their publication for public comment in the *Texas Register*

Brooke Boston
Director of
Programs

Michael DeYoung
Director of
Community Affairs

Teresa Morales
Director of
Multifamily Bonds

Raul Gonzales
Director of
OCI, HTF and NSP Programs

ITEM 9: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on the Fourth Amendment to the 2019-1 Multifamily Direct Loan Annual Notice of Funding Availability
- b) Presentation, discussion, and possible action regarding amendments and modifications to the Construction Loan Agreements and Promissory Notes for ADC West Ridge, LP
- c) Presentation, discussion, and possible action regarding changes to the capital structure for Avanti at Sienna Palms Legacy (HTC #18188/ TCAP RF Contract 13150019504)
- d) Presentation, discussion, and possible action regarding a request for waiver of rules for:

19126	3104 Division Lofts	Arlington
19244	Mariposa at Harris Road	Arlington
19319	Bardin Apartments	Arlington

Andrew Sinnott
MF Loan Programs
Administrator

Marni Holloway
Director of
Multifamily Finance

ITEM 10: RULES COMMITTEE

Report on the meeting of the Rules Committee

Leo Vasquez
Chair of Committee

ITEM 11: MULTIFAMILY FINANCE

Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and a proposed new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan and directing its publication for public comment in the *Texas Register*

Marni Holloway
Director of
Multifamily Finance

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS

J.B. Goodwin
Chair

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

The Board may go into Executive Session Pursuant to Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or

Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Terri Roeber, ADA Responsible Employee, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

6a

BOARD ACTION REQUEST

HOME AND HOMELESSNESS PROGRAMS DIVISION

SEPTEMBER 5, 2019

Presentation, discussion, and possible action on an appeal under 10 Texas Administrative Code §1.7, Staff Appeals, in regards to 2019 Emergency Solutions Grants Application for Randy Sams' Outreach Shelter, Inc.

RECOMMENDED ACTION

WHEREAS, the Department procured the services of Texas Homeless Network (THN) to administer a Local Competition for funds for Emergency Solutions Grant (ESG) Program Applicants in the Balance of State (BoS) Continuum of Care (CoC) pursuant to the provisions of 10 TAC §7.34;

WHEREAS, THN administered the Local Competition and submitted the results of the Local Competition, including a listing of all Applications received, Application scores and rank, and recommended award amounts based on the rank of the Applications;

WHEREAS, Randy Sams' Outreach Shelter, Inc. (Randy Sams') submitted an Application to THN in accordance with the Application Submission and Procedures Manual (ASPM) utilized by THN for the Local Competition;

WHEREAS, Randy Sams' Application scored below the threshold for an award recommendation from THN to the Department and Randy Sams' acknowledged that the Application score granted by THN did not qualify the Application for funding in accordance with the requirements of the ASPM;

WHEREAS, Randy Sams' submitted an appeal as provided for in the ASPM to THN, and the appeal was denied at both the THN staff level, and by the THN Board;

WHEREAS, Randy Sams' subsequently submitted a timely appeal to TDHCA related to the disposition of the Application, and the appeal was denied by the Executive Director and Randy Sams' requested that the appeal be brought before the Board;

WHEREAS, Randy Sams' appeal to the Department provided no grounds for appeal in accordance with 10 TAC §1.7(d), and alternatively requested an exception be made to grant an award although this type of exception is not contemplated in 10 TAC §1.7 governing the appeals process;

WHEREAS, the ESG is funded by the U.S. Department of Housing and Urban Development (HUD), and the Department is required to publish a Method of

Distribution of its ESG funds in its One Year Action Plan to HUD in accordance with 24 CFR §91.320;

WHEREAS, the Department and its agent, THN followed the Method of Distribution described to HUD; and

WHEREAS, Staff has found no provision in the Department's rules either in 10 TAC §7.31 - §7.44 (the Department's ESG Rules) or 10 TAC §1.7 (the Department's Appeal rule) for Staff, the Executive Director or the TDHCA Board to make a funding decision based upon an exception or alternative unpublished scoring criterion as implied by the Randy Sams' appeal request;

NOW, therefore, it is hereby

RESOLVED, that the appeal submitted by Randy Sams' is hereby denied.

BACKGROUND

The Department received its funding approval of its 2019 allocation of \$9,127,824 in ESG funds on July 12, 2019. The federal requirements at 24 CFR §576.203(a) require that non-administrative funds allocated to states are obligated within 60 days from the date that HUD signs the funding approval, or September 10, 2019. For the purposes of meeting this requirement, the letter that Staff sends out to awardees after Board approval of the Applications, constitutes an obligation.

In order to ensure that ESG funds are utilized to the greatest extent possible in all 11 CoC regions, 10 TAC §7.33 apportions the grant for distribution to Applicants in each CoC region, including the BoS CoC, which encompasses 215 of Texas' 254 counties. Through the provisions of 10 TAC §7.34, TDHCA released a request for proposals for CoC lead agencies to administer a Local Competition in their respective CoC region wherein all funds apportioned to the region would be released through a local Notice of Funding Availability (NOFA), and the CoC lead agency would recommend Applications from within their CoC region to the Department for award based on the results of the Local Competition. THN, as the lead agency for the BoS CoC, submitted a proposal and was selected as a vendor to administer a Local Competition for Applicants in the BoS, which includes Randy Sams'.

Randy Sams' submitted an Application for an award of funds for Emergency Shelter to THN in accordance with the ASPM as published by THN, and the Application was scored with a final score of 49. The lowest scored Application which was recommended for an award of funds for Emergency Shelter was Abilene Hope Haven, Inc., with a final score of 51. An Application from Family Crisis Center, Inc. scored 50, ranking higher than the Randy Sams' Application, but was also not recommended for funding due to its low score.

Randy Sams' was notified by THN that they were not recommended for funding based on the rank of their Application. Randy Sams' submitted an appeal to THN in accordance with their ASPM. The ASPM required Applicants to appeal first by submitting a grievance to THN in email format, clearly stating the

issue and the policy that the Applicant believed to be violated. Randy Sams' did not contest the score or rank of their Application within the grievance, which was subsequently denied. In accordance with the ASPM, Randy Sams' then submitted a written grievance to the CoC Board of Directors. The CoC Board of Directors founds no grounds under which the appeal may be granted, and the appeal was subsequently denied.

Randy Sams', upon denial of the final grievance procedure allowed by THN under their NOFA, submitted a timely appeal to TDHCA on August 27, 2019. The appeal from Randy Sams' acknowledged that the score was properly applied to their Application, and that "the points-based criteria is a fair way to make award recommendations, and Randy Sams' did not make that points threshold." Although the appeal submitted did not appear to include grounds for appeal as required by 10 TAC §1.7(d), the Executive Director reviewed the appeal and determined that there were three points to consider.

First, the appeal indicates that the scoring criteria do not reflect the services that Randy Sams' provides and that Randy Sams' desires an exception to the scoring criteria. Although THN was not required to do so, the scoring criteria utilized by THN as it relates to services provided was consistent with the scoring criteria utilized by TDHCA, and outlined at 10 TAC §7.40(c)(5). This criteria for scoring for services is clearly outlined in the TAC, and was approved through TDHCA rulemaking procedures, which provide extensive opportunity for public comment. TDHCA received no comment about this, or any other, scoring criterion and the rule was subsequently adopted to include the provisions as applied by THN.

Second, the appeal states that Randy Sams' is the only Texas-based free emergency shelter within 85 miles of its location and that the shelter provides about 100 beds per night of lodging for general population clients. The appeal letter indicated that general purpose shelters were at a disadvantage when compared to Applications for Homeless Prevention or for Emergency Shelters serving victims of domestic violence.

While only 45% of funds requested in the applications received by THN requested awards for Emergency Shelter, THN actually recommended for award that 49% of the available funds in the Balance of State for Emergency Shelter Applications be funded. While it may appear THN acknowledged that general population shelters were at a disadvantage, this is not supported by the amounts of funds recommended for award; additionally, while more domestic violence providers were recommended for funding than in previous years, there were no extra points awarded for domestic violence providers.

Third and finally, Randy Sams' appeal states that if an exception for Randy Sams' Outreach Shelter is not provided, "Randy Sams' is in a very real danger of closing its doors at the end of this calendar year." The appeal further states that this would result in a "deleterious effect both in humanitarian terms and for the redevelopment efforts in downtown Texarkana."

THN received requests totaling \$5,723,010, and the total amount of funds available under the NOFA was \$3,332,143. The funding received is insufficient to fund all Applications, which requires TDHCA, or its contractors, to engage in a transparent process to fund Applications based on the criteria set forth in the rule or in the NOFA as written. To provide the requested exception based on alternative criteria would equate to creating a new process or criteria that other applicant would not have known about or have

had the benefit of making an application under such new process or criteria. This would not follow the Department's ESG or Appeal rules, or the process it described to HUD in its annual Action Plan.

Randy Sams' does not allege in the appeal that the processes were not followed as outlined, or that the scoring criteria were not correctly tabulated based on their Application. Indeed, it is questionable whether the appeal submitted contains sufficient grounds to appeal the decision in accordance with 10 TAC §1.7(d). Accordingly, staff recommends denial of this appeal.



**RANDY SAM'S'
OUTREACH SHELTER, INC.**

"BY THE GRACE OF GOD A SHELTER FOR HIS PEOPLE"

Letter of Appeal

**Board of
Directors**

Father Doug
Anderson
Chairperson

JenniferLacefield
Executive Director

Heather Buster

Charlie Cook

John Delk

Jennifer Futrell

Joseph Gage

Michael Hendrix

Dennis Landreaux

Barbara Larry

Jeannie Miller

Dr. Cindy Porter

John Rich

Patti Shaffer

Donnie Spriggs

Robert Sturdivant

Steve Thompson

Tara Zwermann

Tax id number:
75-2627181

On behalf of the Board, Staff and Clients of Randy Sams' Outreach Shelter in Texarkana, I am thankful for the opportunity to make an appeal for funding to the TDHCA.

Randy Sams' was established in the mid 1990s to address a pressing need in Texarkana: to clothe, feed and house the significant numbers of indigent who gravitate to Texarkana as the largest city in the far northeasternmost part of the State. Prior to Randy Sams' founding, the downtown area was rife with crime, aggressive panhandlers, and in one case, a homeless man who set a fire in a house to keep warm and burned the house and himself to ashes.

In making this appeal, we acknowledge that the points-based criteria is a fair way to make award recommendations, and Randy Sams' did not make that points threshold. We also understand that you have limited funds at your disposal.

Nevertheless, we do not believe that this year's criteria adequately reflect the services we provide and the need we have going forward, and hope that in considering the recommendations you have before you, an exception will be made for our situation.

Randy Sams' is the only Texas-based free emergency shelter within 85 miles. We provide approximately 36,400 unduplicated bed nights of lodging. We partner with approximately 70 churches and civic organizations to provide meals. We provide life skills training. Through the Doorways Program, we strive to get our clients into permanent, stable housing, and furnish that housing with donated items.

For the grant cycle now ending, we were awarded about \$175,000 in funding through ESG, for which we are thankful. Most of this funding goes towards providing the staff and infrastructure necessary to provide services to our clients.

This year, our reward recommendation is zero dollars. If this recommendation stands, my Board and I believe that Randy Sams' is in a very real danger of closing its doors at the end of this calendar year. We are ready to accept the challenge of finding additional funding, but with a per capita income in the Texarkana MSA below \$17,000, the community pool from which we fundraise is limited in its resources.

We also are given to understand that the ESG grants this year seem to focus more on homeless prevention and domestic violence, both worthy goals. However, if Randy Sams' must close at the end of the year we will be putting these 36,400 bed nights-worth of souls on the street, including a large number of women. In such a case, the last state will be worse than the first! Not to mention the deleterious effect both in humanitarian terms and for the redevelopment efforts in downtown Texarkana.



RANDY SAM'S'

OUTREACH SHELTER, INC.

"BY THE GRACE OF GOD A SHELTER FOR HIS PEOPLE"

Letter of Appeal (continued)

**Board of
Directors**

Father Doug
Anderson
Chairperson

JenniferLacefield
Executive Director

Heather Buster

Charlie Cook

John Delk

Jennifer Futrell

Joseph Gage

Michael Hendrix

Dennis Landreaux

Barbara Larry

Jeannie Miller

Dr. Cindy Porter

John Rich

Patti Shaffer

Donnie Spriggs

Robert Sturdivant

Steve Thompson

Tara Zwermann

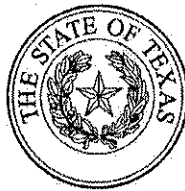
Tax id number:
75-2627181

We are thankful for the understanding and assistance provided by THN, TDHCA staff, the City of Texarkana and Representative VanDeaver's office in seeking to address our concerns, and for your kind consideration of our request. In light of the grave situation that we face, we will be thankful for any ESG funding you might be able to provide for the next grant cycle.

Yours truly,

Jennifer Lacefield
Executive Director

August 27, 2019



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
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Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

August 28, 2019

Writer's direct dial: 512-475-3296
Email: bobby.wilkinson@tdhca.state.tx.us

Jennifer Lacefield
Executive Director
Randy Sams' Shelter, Inc.
402 Oak Street
Texarkana, Texas 75501

RE: APPEAL OF FUNDING RECOMMENDATION FOR RANDY SAM'S' OUTREACH SHELTER, INC. FROM THE BALANCE OF STATE LOCAL COMPETITION

Dear Ms. Lacefield:

I have reviewed your August 27, 2019, appeal of Texas Homeless Network's recommendation to the Texas Department of Housing and Community Affairs (TDHCA or Department) to not fund an award of Emergency Solutions Grants (ESG) funding for Randy Sams' Outreach Shelter, Inc. (Randy Sams'). The following is a summary of your appeal and my response.

Randy Sams' is appealing the Texas Homeless Network's (THN) decision not to recommend Randy Sams' for an award of \$273,800 in emergency shelter funds. TDHCA procured the THN as a vendor to administer a 2019 ESG Local Competition for the Continuum of Care (CoC) region TX-607, Balance of State. Through its role as our vendor, THN had control over the scoring process for the Local Competition pursuant to 10 Texas Administrative Code (TAC) §7.34, Local Competition for Funds. After completing its required review and scoring process, THN recommended that TDHCA make awards to 13 Applications for emergency shelter funding out of the Local Competition for the Balance of State; Randy Sams' was not an entity recommended for funding from that competition. Randy Sams' subsequently appealed to THN, and to the CoC TX-607 Board, and the appeal was denied. The Randy Sams' appeal did not specifically identify that THN or the Department failed to follow its rules at 10 TAC Chapter 7 Homeless Programs (ESG rules) that govern this process, and did "acknowledge that the points-based criteria is a fair way to make award recommendations, and Randy Sams' did not make that points threshold." However, Randy Sams' is now appealing to TDHCA's Executive Director per 10 TAC §1.7. If denied, Randy Sams' has expressed their intent to appeal to TDHCA's Governing Board. While the appeal letter



submitted did not include under which grounds the appeal was submitted in accordance with 10 TAC §1.7(d), I have considered the entire appeal. There are three main issues raised in the appeal to TDHCA.

First, you have indicated that this year's scoring criteria does not reflect the services that Randy Sams' provides and asked that an exception be made for this situation. While THN had the independence to adopt alternative scoring criteria for its local competition, THN used the scoring criteria approved by the TDHCA Board for the TDHCA NOFA with one difference, which will be addressed in the next paragraph. Therefore, THN used TDHCA's scoring criteria for 90 of the 100 points available. This scoring criteria is clearly detailed in the TAC and was approved through the normal rulemaking process which provides extensive opportunity for public comment. TDHCA received no comment on the scoring criteria as outlined in the ESG Rules, and the rule was adopted at the February 21, 2019, TDHCA Board meeting. Moreover, there is no provision in the ESG rule for the Board to make an exception to the scoring criteria established or to override the scoring criteria established by a vendor utilized for the administration of a Local Competition. There is also no mechanism in the ESG Rules for the TDHCA Board to make an award to a lower scoring applicant based on any alternative criteria.

The one change made to the scoring criteria by THN was to create criteria for determining a rating of "approval," "recommended," or "strongly recommended" for Applications, per 10 TAC §7(c)(1). Randy Sams' benefited from the criteria established by THN, and received full points (10 points) for their emergency shelter Application based on the criteria created by THN.

Second, you indicated that Randy Sams' is the only Texas-based free emergency shelter within 85 miles and provides 36,400 unduplicated bed nights of lodging for general population clients. You also indicated that the ESG scoring criteria provided greater preference for homelessness prevention and domestic violence, and therefore Randy Sams', a general population shelter was disadvantaged in the scoring criteria. While only 45% of funds requested in the applications received by THNH requested awards for emergency shelter, THN actually recommended that 49% of their available funds for emergency shelter Applications be funded. While it may appear that general population shelters were at a disadvantage that is not supported by the amounts of funds recommended for award; additionally while it appears more domestic violence providers were awarded than in previous years, there were no extra points awarded for domestic violence providers.

Third and finally, your appeal states that an exception for Randy Sams' Outreach Shelter is needed; if not provided "Randy Sams' is in a very real danger of closing its doors at the end of this calendar year." You further state that this would result in a "deleterious effect both in humanitarian terms and for the redevelopment efforts in downtown Texarkana." TDHCA is very sympathetic to the potential impact that may occur in Texarkana and other communities where submitted ESG applications are not funded. Unfortunately, there are not sufficient funds in the ESG allocation to fund all applications.

Because funds are limited, any consideration to provide funding to Randy Sams' would necessarily take away funds from another higher-scoring ESG Applicant, affecting their community as well. Staff has evaluated whether any other funds may become available as occasionally funds are returned by other awardees. However, even if funds were to become available, Randy Sams' is still not the highest scoring shelter not recommended for funding by THN. Family Crisis Center in Harlingen

August 28, 2019

Page 3

received a higher score than Randy Sams' in the Balance of State region and was also not recommended for funding. Therefore, any funds that may come available would first go to Family Crisis Center (their request was \$69,991).

In conclusion, after considering the content of your appeal and reviewing the Department's rules for administering the ESG funds I do not believe you have presented sufficient reason to grant the appeal. Therefore, your appeal is denied. The Department has been in communication with the City of Texarkana in an effort to explore other funding options that may be available to Randy Sam's and I encourage you to remain in contact with them to pursue such options.

Since you have already indicated your desire to have your appeal heard before the Board, we are preparing a three-day posting of our Board materials so that your appeal can be considered by the Board on September 5th. If you have any additional materials you wish to be presented to the Board they must be submitted to us by noon on Friday, August 30, 2019, to be considered to be included in the posting, otherwise it may only be admitted at the Board Chair's discretion. If you choose to withdraw your appeal, please email Naomi Cantu, Coordinator for Homeless Programs and Policy at naomi.cantu@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Wilkinson", with a stylized flourish at the end.

Robert Wilkinson
Executive Director

RW/nc

CC: Sophia Checa, Texas Homeless Network