

## CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** September 12th, 2023

**To:** Honorable Mayor and Members of City Council

**From:** Brian Shea, Planning Director

**Through:** George Garrett, City Manager

**Item:** **Resolution 2023-79**, Approving The Ranking And Allocations Of The Market Rate And Affordable Residential Building Permit Allocation System (RBPAS) For Period 1, Year 32 (July 13, 2023 To January 14, 2024); And Providing For An Effective Date.

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### RECOMMENDATION

Based on the result of all BPAS applications, Planning Staff recommends that the City Council **APPROVE** the award of two (2) Market Rate General and two (2) Market Rate Owner Occupied BPAS allocations as shown in “Attachment A” and one (1) Affordable BPAS allocations “Attachment B”.

#### I. BACKGROUND AND JUSTIFICATION

This evaluation report has been prepared pursuant to Chapter 107 Article 1 of the City of Marathon Land Development Regulations (the “Code”). The residential dwelling unit allocation rankings attached to this report correspond to Period 1, Year 32, as defined by the Residential Building Permit Allocation System (RBPAS). This period includes July 13, 2023 To January 14, 2024

Monroe County adopted the Rate of Growth Ordinance (#016-1992), commonly referred to as ROGO, on July 13, 1992 to implement portions of its Comprehensive Plan. The ROGO established a building permit allocation system for residential construction, for the purpose of directing and limiting growth and enabling the safe and timely evacuation of the Keys in the event of a hurricane.

The City adopted new Land Development Regulations by Ordinance 2007-03 which replaced the Rate of Growth Ordinance with the Residential Building Permit Allocation System (RBPAS).

In this, its thirty first year, the BPAS allocation system may issue up to 30 awards for residential construction within the boundaries of the City, pursuant to the agreement between the City, the Department of Economic Opportunity (DEO) and Monroe County. Of the 30 allocation awards, 80% (24) are assigned to market-rate residential units and 20% (6) are assigned to affordable housing. Applications for permits are evaluated, scored and ranked according to criteria outlined in Chapter 107 Article 1 of the City of Marathon Land Development Regulations twice a year.

To provide some remedy for the decline in building permits being issued, the City adopted Ordinance 2009-09 that called for a temporary procedure to be implemented to RBPAS. This allowed the Planning Department to create a new list from the applicants that are able and willing to move forward with an awarded allocation and pick up building permits. Temporary Procedures has sunset, however to maintain the efficiency of permitting, a similar process is followed. Rather than bringing a new list back to Council each time an owner responds to defer, the owners are asked before the list is created.

In June of 2009 City Council adopted Ordinance 2009-18, creating a “TBR Affordable Pool”. Additionally, in November of 2010, the City Council adopted Ordinance 2010-12, which would allow up to 50% of the annual allocations to be distributed to the “Administrative Relief Pool” at the City Council’s discretion and by the criteria set forth in the Ordinance.

Resolution 2022-22 amends the available allocation awards as set by Council. This resolution amends the previous Resolution 2010-18 that revised the annual allocations available.

Based upon the aforementioned MOU commercial square footage is also given out through the BPAS process. 500,000 square feet was set to be given out over the 10 year period. This amounts to 25,000 square feet every six months. New commercial development is rare, with the majority falling under commercial redevelopment. Therefore, applications for commercial BPAS are few and far between. Any commercial square footage not awarded rolls over into the next period. There are three applications for commercial square footage in the last year. Based upon this, 443,294 square feet of commercial square footage is currently available.

**II. ALLOCATION AWARDS AVAILABLE**

The following allocation awards are available this period:

<u>Category</u>	<u>BPAS / Period</u>
(Market Rate)	
(a) Owner-occupied Pool	2 / period
(b) General Pool	2 / period
(Affordable)	
(c) General Affordable Pool	1 / period
(d) Community Workforce Pool	
(e) TBR Affordable Pool	
(To be granted to highest scoring allocation within the 3 pools)	
(Administrative Relief)	
(e) Administrative Relief Pool	0 / period

On January 1, 2011, the Florida Cabinet (sitting as the Administration Commission) passed Rule 28-18.400 F.A.C., which changes the roll-over procedure for building permit allocations for the City of Marathon. Per the rule:

**“The number of allocations issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 30, plus any available unused BPAS allocations from a previous year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13. Policy 1-3.5.18 supersedes Policy 1-3.5.2 of the City of Marathon Comprehensive Plan.”**

The above language has also been made part of the City of Marathon Comprehensive Plan, Policy 1-3.5.1.

### III. EVALUATION AND RANKING

Staff's evaluation of the BPAS applications was performed according to the provisions of the Building Permit Allocation System; positive points were granted in compliance with the evaluation criteria contained in Section 107.09 of the City Land Development Regulations. Each allocation application was ranked based on the total number of points scored. RBPAS applications with identical scores were further ranked based on the date and time they applied for RBPAS.

The final Rankings and proposed allocations are presented in the RBPAS Allocation Resolution.

Administrative relief may be provided through the above-mentioned code section. In making a determination in review of an application for administrative relief, the City Council may:

- (a) Offer to purchase the property at its fair market value as its preferred action if the property is considered environmentally sensitive; or
- (b) Grant the applicant an allocation award for all or a number of dwelling units requested in the next succeeding allocation period or extended pro rata over several succeeding quarterly allocation periods as the preferred action for buildable properties not meeting any of the criteria in subsection (f)(1) of this section; or
- (c) Suggest or provide such other relief as may be necessary and appropriate.

### IV. ANALYSIS AND RECOMMENDATION

The market rate applications for consideration for an allocation this Period are shown on Attachment "A". The ranking of the applications are shown on both attachments.

See Attachment A of the Resolution: Ranking of Market Rate RBPAS.

The affordable applications for consideration for an allocation this Period are shown on Attachment "B". The ranking of the applications are shown on both attachments.

See Attachment B of the Resolution: Ranking of Affordable RBPAS.

Based on the result of the BPAS System, Planning Staff recommends that the City Council **APPROVE** the award of two (2) Market Rate General and two (2) Market Rate Owner Occupied BPAS allocations as shown in "Attachment A" and one (1) Affordable BPAS allocations as shown in "Attachment B".

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2023-79**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING THE RANKING AND ALLOCATIONS OF THE MARKET RATE AND AFFORDABLE RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (RBPAS) FOR PERIOD 1, YEAR 32 (JULY 13, 2023 TO JANUARY 14, 2024); AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon City Council (the “City”) reviewed the market rate and affordable residential dwelling unit application rankings for Period 1, Year 32 in compliance with the RBPAS Procedures promulgated in Section 107.07 of the Land Development Regulations (the “LDRs”);

**WHEREAS**, the City conducted a properly advertised public hearing (the “Public Hearing”) regarding the proposed residential BPAS rankings, Period 1, Year 32 pursuant to Chapter 107 Article 1 of the LDRs.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** Based upon the evidence and testimony presented by City Staff and members of the public, the City Council hereby finds:

**Residential Building Permit Allocation (RBPAS)**

(1) The Public Hearing was properly advertised and held, as required by law, and the Applicants and all interested parties concerned in the matter were given an opportunity to be heard; and

(2) Based upon the RBPAS Rankings shown in the staff recommendation, attached as “Attachment A” for the Market Rate RBPAS pools and “Attachment B” for the Affordable pools, the City Council awards four (4) Market Rate Residential, one (1) Affordable Residential allocation; and

(3) The remaining RBPAS Applicants will retain their relative positions in the RBPAS ranking list and will be marked as deferred in accordance with Section 107.07 of the LDRs.

**Section 3.** Based upon the above Findings of Fact, the City Council does hereby make the following Conclusions of Law:

1. The RBPAS applications for Period 1, Year 32 of RBPAS have been processed in accordance with Chapter 107 Article 1 of the LDRs.
2. In rendering its decision, as reflected in this Resolution, the City Council has:
  - (a) Accorded procedural due process;
  - (b) Observed the essential requirements of the law; and
  - (c) Supported its decision by substantial competent evidence of record.
3. The attached RBPAS allocations are awarded. Applicants requesting transfer of building rights as part of the provision of affordable allocations shall be required to meet the criteria established in Chapter 107,17 C, prior to the receipt of affordable allocations from the City completion of transfer of market rate residential units to other locations.

**Section 4.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12<sup>th</sup> DAY OF SEPTEMBER, 2023.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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Steven T. Williams, City Attorney

**Attachment A:**  
**Ranking of BPAS Applications for Period 1 Year 30**  
**July 14, 2021 to January 13, 2022**

RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	RE NUMBER
		<b>MARKET RATES</b>	<b>YEAR 32</b>	<b>PERIOD 1</b>		
<b>Market Rate General Pool</b>						
1	BPAS-07-2	Marathoners II LLC	82	10/10/2007	2:20 PM	00346470-000000
2	BPAS-05-54	ARM SA/Roberto Reyes	81	11/8/2005	11:45 AM	00354420-000000
3	BPAS-07-22	Notgrass, Austin	80	3/9/2007	4:42 PM	00319760-000000
4	BPAS-21-103	Notgrass, Austin	80	3/9/2007	4:42 PM	00319760-000000
5	BPAS-17-19	MAM Holdings	80	7/5/2017	11:05AM	00363850-000000
6	BPAS-21-97	MAM Holdings	80	7/5/2017	11:06 AM	00363850-000000
7	BPAS-06-30	PATIBANDLA, SRIKIRAN	79	11/2/2006	4:20 PM	00366031-000300
8	BPAS-21-7	LARSEN RAYMOND	76	1/12/2021	9:00 AM	00331061-002600
9	BPAS-21-11	KEYS LUXE LIFE LLC	76	1/15/2021	10:17AM	00368450-000000
10	BPAS-21-42	Liron Gozlan	76	2/17/2021	9:00 AM	00325080-000000
11	BPAS-21-53	Morshedi, Christine	75	5/17/2021	9:19 AM	00352890-000000
12	BPAS-05-37	Cranford, Dean	73	7/13/2005	3:20 PM	00358230-000104
13	BPAS-21-34	QUINCOSES FELICIA	73	2/11/2021	9:00 AM	00364370-000000
14	BPAS-07-14	Blue Castle Holdings, LLC	72	2/5/2007	2:10 PM	00353690-000000
15	BPAS-21-64	Bueno Concrete	71	7/8/2021	2:59 PM	00328950-000000
16	BPAS-22-17	KANTHETY SANTOSH	71	6/7/2022	10:06 AM	00360440-000000
17	BPAS-21-3	Hole, Cheri	70	4/23/2018	11:22 AM	00331061-000500
18	BPAS-04-49	Hallman, John & Carol	69	8/19/2004	10:48 AM	00365410-000000
19	BPAS-04-93	Borowski, Gregory	69	11/18/2004	8:00 AM	00373010-000000
20	BPAS-18-39	Epifano, Robert	69	8/3/2018	12:00 PM	00105240-001000
21	BPAS-04-81	Rodriguez, Jose	68	9/7/2004	10:30 AM	00331061-002000
22	BPAS-21-96	Perona, Bernard P.	67	11/28/2005	11:17AM	00320990-000100
23	BPAS-18-44	Firstco Marine LLC	67	12/28/2018	9:55 AM	00347480-000200
24	BPAS-21-30	GEM Homes LLC	67	12/2/2020	10:00 AM	00101340-000000
25	BPAS-21-85	GEM Homes LLC	67	12/2/2020	10:00 AM	00101340-000000
26	BPAS-21-86	GEM Homes LLC	67	12/2/2020	10:00 AM	00101340-000000
27	BPAS-21-87	GEM Homes LLC	67	12/2/2020	10:00 AM	00101340-000000
28	BPAS-21-88	GEM Homes LLC	67	12/2/2020	10:00 AM	00101340-000000
29	BPAS-06-16	Held, Michael & Robin	66	2/14/2006	12:00 PM	00105240-001900
30	BPAS-18-27	4 Avenue D LLC	66	1/16/2018	8:30 AM	00363840-000000
31	BPAS-21-99	4 Avenue D LLC	66	1/16/2018	8:31 AM	00363840-000000
32	BPAS-19-21	JC Construction	66	1/10/2019	2:02 PM	00349970-000000
33	BPAS-19-31	The Royal Company	66	7/12/2019	4:57 PM	00104441-000200
34	BPAS-20-27	Corrie, Brent	66	7/6/2020	1:26 PM	00100650-000100
35	BPAS-04-34	Felling, Michael	65	8/4/2004	3:02 PM	00376160-000000
36	BPAS-18-42	Fisher, Aaron	65	12/12/2018	1:30 PM	00354260-000000
37	BPAS-19-30	Guerra, Roger	65	7/15/2019	2:23 PM	00332750-000000
38	BPAS-21-36	Andrew George	65	2/12/2021	2:22 PM	00376410-000000
39	BPAS-21-70	Cruz in the Keys	65	7/1/2021	2:28 PM	00341930-000000
40	BPAS-21-71	FLORIDA KEYS HOMES	65	7/13/2021	11:29 AM	00376220-000000
41	BPAS-18-35	Epifano, Pamela	64	7/13/2018	4:56 PM	00105240-000500
42	BPAS-20-25	Florida Keys Homes LLC	64	6/17/2020	12:00 PM	00354180-000000
43	BPAS-22-5	Reichert, Timothy	64	1/12/2022	9:10 AM	00333641-009800
44	BPAS-22-16	Miseki, Igor	64	3/23/2022	6:46 PM	00355820-000000
45	BPAS-22-21	McSweeney, Joseph	64	6/7/2022	1:45 PM	00326080-000100
46	BPAS-20-28	93 Stirrup Key LLC	63	7/6/2020	4:22 PM	00333641-009300
47	BPAS-21-38	Adkins, Michael	63	7/16/2020	12:46 PM	00373830-000100
48	BPAS-21-100	4 Avenue D LLC	61	1/16/2018	8:32 AM	00363840-000000
49	BPAS-06-11	Moreau, Guy	60	1/19/2006	3:00 PM	00329300-000000
50	BPAS-21-26	DESIGN CENTER INC	60	1/15/2021	12:54 PM	00376420-000000
51	BPAS-04-96	Prieto, Rogel	59	12/21/2004	2:21 PM	00328900-000000
52	BPAS-22-27	Alsina, Emanuel	59	11/19/2022	9:40 PM	00347440-000000
53	BPAS-05-47	Forthman, Todd & Leslie	57	10/5/2005	12:30 PM	00339910-000000
54	BPAS-04-52	Mann, James	56	8/9/2004	11:25 AM	00355980-000000
55	BPAS-05-19	Yellowtail Trust Inv	56	4/13/2005	8:30 AM	00338780-000100
56	BPAS-07-20	Osborne, Robert F	55	3/9/2007	4:40 PM	00319870-000000
57	BPAS-21-101	Osborne, Robert F	55	3/9/2007	4:40 PM	00319870-000000
58	BPAS-07-21	Hetuin, Jean Michael	55	3/9/2007	4:41 PM	00319880-000000
59	BPAS-21-102	Hetuin, Jean Michael	55	3/9/2007	4:41 PM	00319880-000000
60	BPAS-08-3	Torres, Luis & Maria Elena	54	6/3/2008	1:55 PM	00100750-001200
61	BPAS-22-23	Trujillo, Osvaldo	53	9/6/2022	1:20 PM	00322060-000000
62	BPAS-04-63	Toilton, Frank	52	8/16/2004	8:00 AM	00355418-001800
63	BPAS-05-38	33 Southpoint, LLC	52	7/13/2005	3:22 PM	00358230-000106
64	BPAS-08-9	Jutstrom, Bryan	49	3/7/2008	3:50 PM	00345780-000000
65	BPAS-05-25	Valentin, Barbara	46	5/19/2005	4:00 PM	00345570-000000
66	BPAS-13-1	Keys Dragon Marathon	45	1/14/2013	2:00 PM	00102440-000000
67	BPAS-18-28	Vitale, John	44	1/16/2018	8:34 AM	00356720-000000
68	BPAS-19-25	JRC LLC	42	3/22/2019	3:31 PM	00355370-000101
69	BPAS-21-112	Hernandez, Jacqueline	42	11/30/2021	11:05AM	00354430-000000
70	BPAS-16-11	Tatro Michigan, LTD	40	1/11/2016	10:00AM	00355417-003100
71	BPAS-21-104	Waite, Peggy	27	10/20/2021	10:19AM	00375000-000000

**Attachment A:  
 Ranking of BPAS Applications for Period 1 Year 30  
 July 14, 2021 to January 13, 2022**

72	BPAS-21-105	Waite, Peggy	22	10/20/2021	3:17 PM	00375000-000000
<b>Market Rate Owner Occupied Pool</b>						
<b>RANK</b>	<b>ROGO/BPAS NUMBER</b>	<b>NAME</b>	<b>BPAS SCORE</b>	<b>DATE ENTERED</b>	<b>TIME ENTERED</b>	<b>RE NUMBER</b>
1	BPAS-22-4	Taute, Robert Jr	73	1/11/2022	1:38 PM	00354050-000000
2	BPAS-21-41	Leatherwood, Tyrone	72	2/16/2021	1:20 PM	00353980-000000
3	BPAS-22-26	McCabe, James	72	10/26/2022	9:57 AM	00330070-000100
4	BPAS-22-18	Yeider, Tim	71	5/20/2022	11:19 AM	00101120-000000
5	BPAS-23-7	Padron, Olga	67	4/17/2023	3:14 PM	00335360-000100
		<i>Awards</i>	<i>Available</i>	<i>Recommended</i>	<i>Remaining</i>	
		<b>General</b>	<b>2</b>	<b>2</b>	<b>0</b>	
		<b>Owner Occupied</b>	<b>2</b>	<b>2</b>	<b>0</b>	

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Any application submitted, perserverence points or changes made after July 13, 2021 will not be reflected on this list.

		AFFORDABLE	YEAR 31	PERIOD 2		
<b>Affordable General Pool</b>						
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	RE NUMBER
1	BPAS-20-14	Adkins, Michael	63	10/13/2020	1:02 PM	00373830-000000
2	BPAS-21-80	GEM Homes	60	12/2/2020	5:04 AM	00101340-000000
3	BPAS-21-81	GEM Homes	60	12/2/2020	5:05 AM	00101340-000000
4	BPAS-21-82	GEM Homes	60	12/2/2020	5:06 AM	00101340-000000
5	BPAS-21-83	GEM Homes	60	12/2/2020	5:07 AM	00101340-000000
6	BPAS-21-84	GEM Homes	60	12/2/2020	5:08 AM	00101340-000000
7	BPAS-21-89	QOF, Inc	42	7/21/2020	9:05 AM	00350630-000000
8	BPAS-21-90	QOF, Inc	42	7/21/2020	9:05 AM	00350630-000000
9	BPAS-21-91	QOF, Inc	42	7/21/2020	9:05 AM	00350630-000000
<b>Community Workforce Housing</b>						
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	RE NUMBER
1	BPAS-21-111	Sexton, Matt	27	11/25/2021	3:30 PM	00371010-000000
2	BPAS-22-9	Sexton, Matt	27	2/22/2022	10:28 AM	00371010-000000
3	BPAS-22-10	Sexton, Matt	27	2/22/2022	10:31 AM	00371010-000000
4	BPAS-22-11	Sexton, Matt	27	2/22/2022	10:36 AM	00371010-000000
5	BPAS-22-12	Sexton, Matt	27	2/22/2022	10:38 AM	00371010-000000
6	BPAS-22-13	Sexton, Matt	27	2/22/2022	10:41 AM	00371010-000000
7	BPAS-22-14	Sexton, Matt	27	2/22/2022	10:43 AM	00371010-000000
8	BPAS-22-15	Sexton, Matt	27	2/22/2022	10:46 AM	00371010-000000
9	BPAS-23-2	Vastola, Jeff	26	1/9/2023	9:46 AM	00375960-000000
10	BPAS-23-3	Vastola, Jeff	26	1/9/2023	9:48 AM	00375960-000000
11	BPAS-23-4	Vastola, Jeff	26	1/9/2023	9:49 AM	00375960-000000
12	BPAS-23-5	Vastola, Jeff	26	1/9/2023	9:50 AM	00375960-000000
<b>TBR Affordable Pool</b>						
RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	RE NUMBER
1	BPAS-21-44	Andrew George	42	3/18/2021	10:20 AM	00341720-000000
2	BPAS-21-46	Blanco	42	3/18/2021	11:10 AM	00102830-000401
3	BPAS-21-61	Rice, David and Mary	42	6/28/2021	1:11 PM	00341860-000000
4	BPAS-21-74	Rice, David and Mary	42	6/28/2021	1:11 PM	00341860-000000
5	BPAS-21-110	Ahearn, Justin	31	11/10/2021	10:05AM	00344270-000000
6	BPAS-21-40	212 Lindahl LLC-	27	9/21/2020	3:40 PM	00333370-000000
7	BPAS-21-92	212 Lindahl LLC	27	9/21/2020	3:40 PM	00333370-000000
8	BPAS-21-93	212 Lindahl LLC	27	9/21/2020	3:40 PM	00333370-000000
9	BPAS-21-94	212 Lindahl LLC	27	9/21/2020	3:40 PM	00333370-000000
10	BPAS-21-47	Cameron	27	3/30/2021	1:11 PM	00350490-000000
11	BPAS-21-48	Cameron	27	3/30/2021	1:11 PM	00350490-000000
12	BPAS-21-49	Cameron	27	3/20/2021	1:11 PM	00350490-000000



RANK	ROGO/BPAS NUMBER	NAME	BPAS SCORE	DATE ENTERED	TIME ENTERED	RE NUMBER
13	BPAS-21-54	Matlock	27	4/20/2021	9:00 AM	00338880-000000
14	BPAS-21-55	Matlock	27	4/20/2021	9:00 AM	00333880-000000
15	BPAS-21-56	Griffith	27	6/1/2021	7:56 AM	00320460-000000
16	BPAS-21-57	Griffith	27	6/1/2021	7:56 AM	00320460-000000
17	BPAS-21-58	Griffith	27	6/1/2021	7:56 AM	00320460-000000
18	BPAS-21-59	Griffith	27	6/1/2021	7:56 AM	00320460-000000
19	BPAS-21-115	Dovelle, Frank	26	12/10/2021	12:37PM	00333520-000000
20	BPAS-21-116	Dovelle, Frank	26	12/10/2021	12:38PM	00333530-000000
		<i>Awards</i>	<i>Available</i>	<i>Recommended</i>	<i>Remaining</i>	
		<b>General</b>	<b>1</b>	<b>1</b>	<b>0</b>	
		<b>Workforce</b>	<b>0</b>	<b>0</b>	<b>0</b>	
		<b>TBR</b>	<b>0</b>	<b>0</b>	<b>0</b>	

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