

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**TDHCA Governing Board Approved Draft of**  
**10 TAC Chapter 24, Texas Bootstrap Loan Program Rule**

## **Disclaimer**

Attached is a draft of the proposed 10 TAC Chapter 24, regarding the Texas Bootstrap Loan Program that was approved by the TDHCA Governing Board on September 2, 2021. This action includes repeal of the current rule, and adoption of a new rule in its place. However, the document attached reflects all changes proposed in tracked changes to facilitate review. This document, including its preamble, is scheduled to be published in the September 17, 2021 edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment. The version herein is informational only and should not be relied upon as the basis for public comment.

## **Public Comment**

**Public Comment Period:** Starts: 8:00 a.m. Austin local time on September 17, 2021  
Ends: 5:00 pm. Austin local time on October 18, 2021

Comments received after 5:00 p.m. Austin local time on October 18, 2021 will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs  
Attn: Abigail Versyp  
Bootstrap Rule Public Comment  
P.O. Box 13941  
Austin, Texas 78711-3941  
Email: abigail.versyp@tdhca.state.tx.us

Written comments may be submitted in hard copy, fax, or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
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**Attachment A: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, administration of the Texas Bootstrap Loan Program.
2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The proposed repeal does not require additional future legislative appropriations.
4. The proposed repeal does not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.
5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, the administration of the Texas Bootstrap Loan Program.
7. The proposed repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The proposed repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).—Mr. Wilkinson has also determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the proposed repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 17, 2021, to October 18, 2021, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email HOME@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, October 18, 2021.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed repealed sections affect no other code, article, or statute.

## **10 TAC Chapter 24, Texas Bootstrap Loan Program Rule**

§24.1 Purpose

§24.2 Definitions

§24.3 Allocation of Funds

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**§24.10 Owner-Builder Qualifications**

**§24.11 Property Guidelines and Related Issues**

**§24.12 Administrator Certification**

## **Attachment B: Preamble for proposed new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule. The purpose of the proposed new sections is to implement a more germane rule and better align administration to state requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed new rule would be in effect:

- 1.- The proposed rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to administration of the Texas Bootstrap Loan Program
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed rule changes do not require additional future legislative appropriations.
4. The proposed rule changes will not result in an increase in fees paid to the Department nor a decrease in fees paid to the Department.
5. The proposed rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed rule will not expand or repeal an existing regulation.
7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability.
8. The proposed rule will not negatively or positively affect the state's economy.

### **b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.** The Department, in drafting this proposed rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.111.

1.—The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. There are approximately 10 rural communities currently participating in the Texas Bootstrap Loan Program that are subject to the proposed rule for which no economic impact of the rule is projected during the first year the rule is in effect.

3. The Department has determined that because the rule serves to clarify and update existing requirements and does not establish new requirements for which there would be an associated cost, there will be no economic effect on small or micro-businesses or rural communities

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule has no economic effect on local employment because the rule serves to clarify and update existing requirements and does not establish new requirements or activities that may positively or negatively impact local economies.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that participation in the Texas Bootstrap Loan Program is at the discretion of the eligible subrecipients, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be a more germane rule that better aligns administration to state requirements. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the rule updates and clarifies existing requirements and does not impose new requirements.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 17, 2021, to October 18, 2021, to receive input on the new proposed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 8711-3941, by fax to (512) 475-0220, or email abigail.versyp@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, October 18, 2021.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

## **CHAPTER 24 TEXAS BOOTSTRAP LOAN PROGRAM RULE**

### **§24.1 Purpose**

(a) This chapter clarifies the Texas Bootstrap Loan Program, administered by the Texas Department of Housing and Community Affairs (the Department), also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(b) The Texas Bootstrap Loan Program is a ~~Self-Help~~self-help housing construction Program ~~that is~~ designed to provide ~~very low income~~Very Low Income families an opportunity to help themselves attain homeownership or repair their existing homes ~~through sweat equity. All under~~ applicable building codes and housing standards~~are adhered to under this Program.~~

### **§24.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(1) Capital Recovery Fee--A charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes

amortized charges, lump-sum charges, contributions in aid of construction, and any other fee that functions as described by this definition.

(2) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Participant Administrator that authorizes the Participant Administrator to originate certain loans under the Texas Bootstrap Loan Program.

(3) ~~NOHP Nonprofit Owner Builder Housing Provider~~

(3) New Construction--A Single Family Housing Unit that is newly built on a previously vacant lot that will be occupied by an Income Eligible Household.

(4) Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a Contract for Deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(5) ~~Participant An NOHP or Colonia Self Help Center that is certified by the Department to participate in the Program.~~

(6) ~~Program Texas Bootstrap Loan Program also known as the Owner Builder Loan Program.~~

(7) ~~Self Help Housing Construction The Self Help Housing process enables Owner Builders to Rehabilitate, Reconstruct or construct their own homes, usually working together in groups on other eligible Owner Builder's houses at the same time. Owner Builders use their own "sweat equity" to reduce the cost of their homes.~~

(5) Rehabilitation--The improvement, including reconstruction, or modification of an existing Single Family Housing Unit through an alteration, addition, or enhancement on the same lot.

(6) Very Low Income--Household income does not exceed the greater of 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

### **§24.3 Allocation of Funds**

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF.

(b) The Department may make loans for the Texas Bootstrap Loan Program from:

(1) Available funds in the Texas Housing Trust Fund established under Tex. Gov't Code, §2306.201; or

(2) Federal block grants that may be used for the purposes of this chapter.

(c) Each state fiscal year the Department shall transfer at least \$3 million (or another amount if so required by Tex. Gov't Code and/or the General Appropriations Act) to the Texas Bootstrap Loan Program from money received under federal block grants or from available funds in the Texas Housing Trust Fund.

(d) The Department may use up to 10% of Program funds available per state fiscal year to enhance the ability of tax-exempt organizations described by Tex. Gov't Code, §2306.755(a), to increase the number of such organizations that are able to implement the Program. The Department shall use that available revenue to provide financial assistance, technical training and management support.

#### **§24.4 ParticipantAdministrator Requirements**

(a) Eligible Participants-Administrators. The following organizations or entities are eligible to become Participants in Administrators of the Texas Bootstrap Loan Program:

- (1) Colonia Self Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; or
- (2) ~~NOHPS~~Nonprofit Organizations certified by the Department pursuant to Tex. Gov't Code, §2306.755.

(b) Eligibility requirements. The ParticipantAdministrator must enter into a Loan Origination Agreement with the Department in order to be eligible to submit an Activity through the Reservation System. The ParticipantAdministrator must have the capacity to administer and manage resources as evidenced by previous experience of managing state and/or federal programs.

#### **§24.5 Program Activities**

(a) Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, ~~new construction, reconstruction~~New Construction, or ~~rehabilitation~~Rehabilitation) of single family residential housing. ~~All eligible organizations that satisfy the requirements of this chapter~~Administrators may reserve funds by submitting a loan application on behalf of an Owner-Builder Applicant for the Texas Bootstrap Loan Program.

(b) Manufactured Housing Units are not eligible housing types for the Texas Bootstrap Loan Program.

(c) All Bootstrap Program Loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following Activities are permitted by the Department under the Program:

(1) Purchase Money Loans. All Program funds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property. The Department makes a loan to the Owner-Builder and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds;

(2) Residential Construction Loans. This transaction is treated as a purchase money loan and is a one-time closing with the Owner-Builder. Construction period may be up to 12 months;

(3) Interim Construction (Closing with Administrator) Loans. Interim construction is a commercial transaction between the Administrator and the Department that is with respect to a specific Owner-Builder. The construction period may be up to 12 months. Once the construction of the home is completed, the closing with the Owner-Builder will take place as a purchase money loan; and

(4) Purchase of Mortgage Loans. The Department may purchase and take assignments from Mortgage lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this section or for residential construction transactions as described in paragraph (2) of this section.

#### **§24.6 Prohibited ActivitiesFees**

The fees described in paragraphs (1) - (8) of this section are prohibited Program ~~expenditures~~fees and may not be charged directly to the Owner-Builder; however, these ~~expenses~~fees may be charged as an allowable ~~cost~~fee by a third party lender or servicer for a Texas Bootstrap loan:

- (1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;
- (2) Loan origination fees;
- (3) Application fees;
- (4) Discount fees;
- (5) Underwriter fees;
- (6) Loan processing fees;
- (7) Loan servicing fees; and
- (8) Other fees not approved by the Department in writing prior to expenditure.

#### **§24.7 Distribution of Funds**

(a) Set-Asides. In accordance with Tex. Gov't Code §2306.753(d), at least two-thirds of the dollar amount of Program loans made in each fiscal year must be made to Owner-Builders whose real property is located in a census tract that has a median household income that is not greater than 75% of the median state household income for the most recent year for which statistics are available.

(b) Balance of State. The remaining one-third of the dollar amount of Program loans made may be made to Owner-Builders anywhere in the state.

(c) Loan Priority. The Department may allow a ParticipantAdministrator access to the Reservation System 24 hours prior to all other ParticipantsAdministrators for reservations for Owner-Builder Applicants that meet the following criteria:

(1) Annual household income is less than \$17,500; or

(2) Real property is located in a county and/or municipality that agrees in writing to waive the Capital Recovery Fees, building permit fee or other fees related to the house(s) to be built with the loan proceeds. Owner-Builder Applicant will not receive priority if there are none of the above fees imposed by the county and/or municipality or water supply company.

#### **§24.8 Criteria for Funding and Reservations**

(a) The Department will distribute Program funds in accordance with the Texas Housing Trust Fund (SHTFTexas HTF) Plan in effect at the time. The Department will publish an announcement for a NOFA in the Texas Register and post the NOFA on the Department's website. The rules referenced in §24.1 of this chapterChapter (relating to Purpose) and the NOFA will establish and define the terms, conditions, and maximum Reservation amounts allowed per ParticipantAdministrator. The Department may also set a deadline for receiving Reservations and/or Applications. The NOFA will indicate the approximate amount of available funds. The Department may increase the amount of funds made available through the NOFA from time to time without republishing the NOFA in the Texas Register. Such increases will be reflected on the Department's website.

(b) Any Reservation containing false information will be disqualified. The Department will review and process all Reservations in the order received.

(c) Reservations received by the Department in response to a NOFA will be handled as described in paragraphs (1) - (5) of this subsection.

(1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.

(2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.

(3) Reservations must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in this chapter. Reservations that do not comply with such requirements may be disqualified. The ParticipantAdministrator will be notified in writing of any cancelled and/or disqualified Reservations.

(4) If a Reservation contains deficiencies which, in the determination of the Department, require clarification or correction of information submitted at the time of the Reservation, the Department may request clarification or correction in the form of a deficiency notice to the Participant Administrator. If the Participant Administrator is unable to cure any deficiencies within 1514 calendar days, the Department may decline to fund the Reservation. The Department may provide one 1514 calendar - day extension to the curative deadline outlined in the deficiency notice.

(5) Prior to issuing an Applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Reservation which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has issued an Applicant eligibility letter to the Owner-Builder Applicant, but the Participant and/Administrator or Owner-Builder Applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the Participant and/Administrator or Owner-Builder Applicant has satisfied all requirements of the Program.

#### **§24.9 Program Administration**

(a) Pursuant to Tex. Gov't Code §2306.754(b), the Department shall not exceed \$45,000 in household assistance for any Texas Bootstrap Loan Program loan. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds, excluding Texas HTF.

(b) The Department shall make loans for Owner-Builder Applicants to enable them to:

(1) Build new residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity; or

(2) Improve existing residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity.

(c) Upon approval by the Department, the Participant Administrator shall enter into, execute, and deliver to the Department the Loan Origination Agreement. The Department may terminate the Loan Origination Agreement in whole or in part if the Participant Administrator has not performed as outlined in the Program Rule, NOFA, Loan Origination Agreement, and/or Program Manual.

(d) If the Owner-Builder Applicant qualifies for the Program, the Department will issue an Applicant eligibility letter which reserves up to \$45,000 in funds for 12 months from the date of the Applicant eligibility letter. The Owner-Builder Applicant will not be required to re-qualify if the Owner-Builder

Applicant closes by the expiration date on the Applicant eligibility letter. If an Owner-Builder Applicant does not close by the expiration date, the Owner-Builder Applicant must re-qualify for the Program; however, the Department may grant an extension of up to 180 days from the expiration date on the original Applicant eligibility letter. If the Owner-Builder Applicant fails to close on the loan after the extension is granted the Reservation ~~and/or~~ loan will be cancelled.

(e) Roles and responsibilities for administering the Program Contract. ~~Participants~~Administrators are required to:

- (1) Qualify potential Owner-Builders for loans;
- (2) Provide Owner-Builder homeownership education classes;
- (3) Supervise and assist Owner-Builders to build ~~and/or~~ Rehabilitate housing;
- (4) Facilitate loans made or purchased by the Department under the Program; and
- (5) Implement and administer the Program on behalf of the Department.

(f) Loan Servicing Agreement. ~~If the Participant wishes to~~Administrators may service ~~the~~Program loans originated on behalf of the Department ~~it~~— Administrators servicing Program loans on behalf of the Department must obtain prior approval and enter into a ~~Loan Servicing Agreement~~loan servicing agreement with the Department. A Participant's approval to begin ~~Loan servicing loans~~agreements may be reevaluated from time to time and/or to continue servicing loans is ~~may be terminated~~ at the written discretion of the Department.

(g) First Year Consultation Agreement. If the Department notifies the ~~Participant~~Administrator that an Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents, within the first 12 months of funding, the ~~Participant~~Administrator must meet with the Owner-Builder and provide counseling to assist in bringing the payments current. After such consultation and in the event that the Department and ~~Participant~~Administrator are not able to bring the Program loan current, the Department in accordance with its administrative rules, may apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participation in the Program.

(h) Administrative Fee. The ~~Participant~~Administrator will be granted a 10% ~~administration~~administrative fee upon completion of the house and funding of each Mortgage loan.

(i) ~~Blueprints~~Construction Plans. If the activity is ~~new construction~~, ~~Participant~~New Construction or reconstruction, ~~Administrator~~ must submit a legible copy of the proposed ~~blueprints~~construction plans for approval by the Department prior to the ~~Participant~~Administrator accepting applications for Owner-

Builder Applicants. ~~Blueprints must include the construction requirements pursuant to Tex. Gov't Code §2306.514, and be prepared and executed by an architect or engineer licensed by the state of Texas.~~

(j) Work Write-up. If ~~Participant's~~Administrator's activity is ~~rehabilitation~~, ~~Participant~~Rehabilitation, ~~Administrator~~ must adhere to TMCS and submit work write-ups and cost ~~estimation~~estimates for Department approval prior to construction.

(k) Loan Program ~~requirements~~Requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as described in paragraphs (1) - (76) of this subsection:

(1) Pursuant to Tex. Gov't Code §2306.754(b), the maximum Texas Bootstrap Loan Program loan amount per Household shall not exceed \$45,000. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds;

(2) Minimum loan amount is \$1,000;

(1) Minimum loan amount is \$1,000;

(2) Loan term may not exceed 30 years;

(3) Loan term may not exceed 30 years;

(4) Loan term may not be less than five years;

(5) (4) Loan must be at zero percent (0% non-%) interest for the entire loan term;

(65) When refinancing a Contract for Deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property; and

(76) Owner-Builder must have resided in Texas for the preceding six months prior to the date of loan application.

(l) Loan Assumption. A Program loan is assumable if the Department determines that the Owner-Builder Applicant complies with all Program requirements in effect at the time of the assumption.

(m) Forgivable Loan. The term for a Forgivable Loan may not exceed 15 years from the date of closing.

## **§24.10 Owner-Builder Qualifications**

The Owner-Builder must:

- (1) Own or be purchasing a piece of real property ~~through~~ with the conveyance of said property evidenced by a warranty deed or Contract for Deed;
- (2) ~~Not have an annual household income that exceeds 60% of the greater of the state or local area median family income~~ Be qualified as determined by HUD's current income table. Very Low Income. Eligibility Income is calculated utilizing the total Household income including all income (salary, tips, bonus, overtime, alimony, child support, benefits, etc.) received by the Owner-Builder Applicant, co-Applicant and/or any other persons living in the home. This income is used to determine whether the household income exceeds 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, whichever is greater. No income is excluded in this calculation.
- (3) Execute a ~~Self Help Agreement~~ self-help agreement committing to specify and satisfy one of the criteria provided for in subparagraphs (A) - (D) of this paragraph:
- (A) Provide at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified ~~Participant Administrator~~;
- (B) Provide an amount of labor equivalent to 65% in connection with building or rehabilitating housing for others through a state-certified ~~Participant Administrator~~;
- (C) Provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified ~~Participant Administrator~~; or
- (D) If due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified ~~Participant Administrator~~;
- (4) Successfully complete an Owner-Builder homeownership education class prior to loan funding;
- (5) Not have any outstanding judgments and/or liens on the property; and
- (6) ~~The Owner-Builder must occupy~~ Occupy the residence as a Principal Residence within 30 days of the end of the construction period or the closing of the loan, whichever is later. If the Owner-Builder fails to do so, the Department may declare the loan in default and accelerate the note. Any additional habitable structures must be removed from the property prior to closing; however, a portion of the structure may be utilized as storage upon the Department's written approval prior to closing.

#### **§24.11 —— Types of Funding Transactions**

All Mortgage Loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following transaction types are permitted by the Department under the Program.

(1) Purchase Money. All Program funds are used to finance the purchase of a single family dwelling unit and/or a piece of real property. The Department makes a permanent loan to the Owner Builder and the Owner Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds.

(2) Residential Construction. This transaction is treated as a purchase and is a one time closing with the Owner Builder. Construction period may be up to 12 months.

(3) Interim Construction (Closing with Participant). Interim construction is a commercial transaction between the Participant and the Department that is with respect to a specific Owner Builder. The construction period may be up to 12 months. Once the construction of the home is completed, the closing with the Owner Builder will take place as a purchase money transaction.

(4) Purchase of Mortgage loans. The Department may purchase and take assignments from Mortgage lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this section or for residential construction transactions as described in paragraph (2) of this section.

## **§24.12 Property Guidelines and Related Issues**

- (a) A final appraisal is required by the Department on each property prior to loan closing.
- (b) Loan to value ratio may not exceed 95% of the appraised value. The lien amounts of Forgivable Loans and/or Grants will not be included in the loan to value calculation.
- (c) Combined loan to value ratio, which will be calculated to include the amounts of Forgivable Loans, may not exceed 100% of the appraised value.
- (d) Improvement Surveys are required on each property.
- (e) Category 1A (Texas Society of Professional Surveyors) lot surveys are required for all interim and residential construction loans. Upon Department approval a recorded subdivision plat may be used in lieu of lot surveys for interim construction loans only. Upon completion of construction an Improvement Survey must also be provided.
- (f) Title Commitment.(b) Title Commitment.
  - (1) A copy of the preliminary title report including complete legal description and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required. The preliminary title report should not be more than 30 days old at the time the of submission or funding package is sent to the Department, and must list the Department's Loan not be more than 90 days old.

(g) Existing Property. A2) Title commitments must list the Department's Loan.

(3) The final title commitment or title report submitted to the Department to draft Loan documents should not be more than 30 days old at the time of the submission in order to remain valid and effective at the date of the loan closing.– Title commitments older than 90 days are no longer valid and must be updated prior to the date of loan closing.

(c) For acquisition of existing Single Family Housing Unit that will not be rehabilitated, a property inspection will be required to be completed by a professionalan inspector licensed by the Texas Real Estate Commission for all existing properties. A copy of the inspection report must be submitted and any deficiencies listed on the report must be corrected prior to closing. Cosmetic issues such as paint, wall texture, etc. may not be required to be corrected if utilizing a Self Helpself-help construction Program. A copy of the inspection report must be provided to the Owner-Builder Applicant and the Department. The Participant and/Administrator or the Owner-Builder Applicant will be responsible for the selection and/or the fee of the licensed inspector.

#### **§24.13 Nonprofit Owner-Builder Housing Program**12 **Administrator Certification**

(a) The term, Applicant, when used in this section, shall mean a Nonprofit Organization that is an NOHP or has submitted a request to the Department for certification as an NOHP in order to participate in the Texas Bootstrap Loan Program.

(a) An Administrator must be certified prior to execution of a loan origination agreement or a loan servicing agreement.– Administrator certification expires after three years, after which an Administrator must apply for recertification.

(b) Application Procedures for NOHP Initial Certification or NOHP Recertification. An entity requesting NOHP Initial certification or a Participant requesting recertification must submit an Application prior to submitting an Application for the Texas Bootstrap Loan Program Reservation system. Initial NOHP certification for entities must meet all of the criteria listed in paragraphs (1) –(6) subsections (d) - (n) of this section.

(c) Recertification. Recertification for loan origination requires that an Administrator be in good standing with the Department.– Submission of the criteria listed subsections (d)-(j) of this subsection. NOHP recertification must occur every three years. NOHP recertification section is only required if any changes have occurred. Recertification for only the purposes of loan servicing activities will only require requires that the NOHPAdministrator be in good standing with the Department and that they complete an annual recertification to the loan servicing agreement.– NOHP recertification for loan origination requires that the NOHP be in good standing with the Department; submission of the criteria listed in paragraphs (1) –(6) of this subsection is only required if any changes have occurred.

(d) An Application for certification or recertification must be submitted in the format required by the Department.

(e) If the Applicant is a Nonprofit Organization, Applicant must demonstrate:

~~(1) The entity legal status must satisfy all Applicant is registered and in good standing with Office of the criteria in subparagraphs (A) – (E)Secretary of this paragraph:~~

~~(A) Must be organized~~(State and the State Comptroller's Office) as a nonprofit ~~organization~~corporation under the Texas Business Code or a nonprofit organization under any other state not-for-profit/nonprofit statute as evidenced by charter or Certificate of Formation, or must be a Colonia Self Help Center;

~~(B) Must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the state of Texas;~~

~~(C) No part of the Nonprofit Organization's~~(2) The net earnings of the Applicant may not inure to the benefit of any member, founder, contributor, or individual, as evidenced by charter or Certificate of Formation;

~~(D) Must have the following~~3) The Applicant has been granted 501(c)(3) tax-exempt status and a pending application for 501(c)(3) status cannot be used to comply with this requirement;

~~(i) by submission~~ of a current letter of determination from the Internal Revenue Service (IRS) ~~under §501(c)(3), as a charitable, nonprofit corporation, or as a subordinate organization of a central nonprofit corporation under §501(c)(3)~~ of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as an ~~NOHP; or Administrator~~.

~~(ii) classification as a subordinate of a central Nonprofit Organization under the Internal Revenue Code §501(c)(3), as evidenced by a current group exemption letter dated 1986 or later; and~~

~~(E) Must~~(4) The Applicant have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's charter, Certificate of Formation, Resolutions, or Bylaws.

~~(2f) The entity~~Applicant must:

~~(A) Conform~~ conform to the United States Generally Accepted Accounting Principles (GAAP) as evidenced by a:

~~(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department; or~~ or certification from a Certified Public Accountant.

~~(iii) certification from a Certified Public Accountant; and~~

~~(Bg) If the entity will be utilizing~~ Applicant proposes to provide interim or residential construction funds, it must provide an audited financial statement for the most recent fiscal year or a signed and dated financial statement for the period since last published audit. If the ~~entity~~Applicant does not have audited financial statements or a signed and dated financial statement for the period since last published audit must provide a resolution from the Board of Directors that is signed and dated within 6 months from the date of ~~application~~Application and certifies that the accounting procedures used by the organization conform to the GAAP. ~~Participants that are certified NOHPs and Administrators that do not have audited financial statements or a signed and dated financial statement for the period since last published audit are restricted to only originating permanent loans and will be ineligible for any interim or residential construction loans,~~ until the Department has reviewed the most current audited financial statements.

~~(C) Have a demonstrated~~ h) The Applicant must demonstrate capacity of ~~at least one year~~ for carrying out Mortgage ~~loan~~Loan origination and ~~Self Help~~self-help housing construction Activities, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization. ~~If applying for NOHP recertification the organization is in good standing as determined by the Department, the organization will not be required to submit any additional information regarding experience.~~

~~(3) Must submit a current roster of all Board of Directors, including names and mailing addresses.~~

~~(4) A local or state government and/or public agency cannot qualify as an NOHP, but may sponsor the creation of an NOHP.~~

~~(5j) Religious or Faith-based Organizations (RFOs) may sponsor an NOHP~~Applicant if the ~~NOHP~~Applicant meets all the requirements of this section. While the governing board of an ~~NOHP~~Applicant sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the ~~religious or faith based organization~~RFO may retain control over appointments to the board. ~~Subparagraphs (A) – (C) of this paragraph also apply~~Additionally, RFOs must comply with the following:

~~(A1) Housing developed must be made available exclusively for the residential use of Program beneficiaries, and must be made available to all persons regardless of religious affiliations or beliefs;~~

~~(B2) Texas Bootstrap Loan Program funds may never be used to support any explicitly religious activities such as worship, religious instruction, or proselytizing; and~~

~~(C3) Compliance with subparagraphs (A) through (B) of this paragraph~~2 must be evidenced by the Bylaws, charter or Certificate of Formation.

~~(6) A Colonia Self Help Center as defined under Tex. Gov't Code, Chapter 2306, Subchapter Z is not required to complete the NOHP Certification process as long as it provides a letter from the unit of local government demonstrating performance is in good standing.~~

(c)(j) Program Design. ~~Must~~ The Applicant must have policies for how the Owner-Builders participating in its ~~program~~Program will meet the ~~65% sweat equity requirement~~self-help requirements.

(d) ~~Must~~(k) The Applicant must provide to the Department the number of houses they are proposing to build, type of proposed financing structure and construction timelines, to evidence its ability to carry out the Program.

(e) ~~Must~~(l) The Applicant must provide copies of Program guidelines and homebuyer course curriculum to evidence its experience in qualifying potential Owner-Builders and in providing education classes, counseling and training.

(f) ~~Must~~m) The Applicant must be in compliance with 10 TAC §1.403, (relating to Single Audit Requirements), and 10 TAC §20.98, (relating to Fair Housing, Affirmative Marketing and Reasonable Accommodations), at the time of Application.

(g) ~~Must~~(n) The Applicant must be in compliance with any existing Contracts awarded by the Department and is subject to the Department's Previous Participation Review process provided for in 10 TAC §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC) of this ~~title~~-Part).