

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
**TDHCA Governing Board Approved Draft of  
10 TAC Chapter 26, Texas Housing Trust Fund Rule**

Attached is a draft of the proposed 10 TAC Chapter 26, Texas Housing Trust Fund Rule 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  
HTF Rule Public Comment  
P.O. Box 13941  
Austin, Texas 78711-3941  
Email: [abigail.versyp@tdhca.state.tx.us](mailto: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 26, Texas Housing Trust Fund Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 26, Texas Housing Trust Fund 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 The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.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 Housing Trust Fund.
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 the Texas Housing Trust Fund.
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 26, Texas Housing Trust Fund Rule**

### **SUBCHAPTER A          GENERAL GUIDANCE**

- §26.1 Purpose
- §26.2 Definitions
- §26.3 Allocation of Funds
- §26.4 Use of Funds
- §26.5 Prohibited Activities
- §26.6 Administrator Eligibility and Requirements
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SUBCHAPTER B          AMY YOUNG BARRIER REMOVAL PROGRAM

- §26.20          Amy Young Barrier Removal Program Purpose
- §26.21          Amy Young Barrier Removal Program Definitions
- §26.22          Amy Young Barrier Removal Program Geographic Dispersion
- §26.23          Amy Young Barrier Removal Program Administrative Requirements
- §26.24          Amy Young Barrier Removal Program Reservation System Requirements
- §26.25          Amy Young Barrier Removal Program Household Eligibility Requirements
- §26.26          Amy Young Barrier Removal Program Property Eligibility Requirements
- §26.27          Amy Young Barrier Removal Program Construction Requirements
- §26.28          Amy Young Barrier Removal Program Project Completion Requirements

## **Attachment B: Preamble for proposed new 10 TAC Chapter 26, Texas Housing Trust Fund Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 26, Texas Housing Trust Fund 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 Housing Trust Fund.
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 20 rural communities currently participating in the Texas Housing Trust Fund 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 or 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 programs funded with the Texas Housing Trust Fund 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](mailto: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 26 TEXAS HOUSING TRUST FUND RULE**

### **§26.1 Purpose**

This chapter clarifies the administration of the Texas Housing Trust Fund Program ~~(Texas HTF or SHTF)~~. The ~~SHTF~~Texas HTF provides loans, grants or other comparable forms of assistance to income-eligible individuals, families and households. The ~~SHTF~~Texas HTF is administered in accordance with Tex. Gov't Code, Chapter 2306, Chapter 20 of this ~~titlePart~~ (relating to Single Family Programs Umbrella Rule), and Chapter 24 of this ~~titlePart~~ (relating to Texas Bootstrap Loan Program Rule).

### **§26.2 Definitions**

~~(a)~~

(Definitions may be found in Tex. Gov't Code, Chapter 2306; Chapter 1 of this ~~titlePart~~ (relating to Administration), Chapter 2 of this ~~titlePart~~ (relating to Enforcement), Chapter 20 of this ~~titlePart~~ (relating to Single Family Programs Umbrella Rule), Chapter 21 of this ~~titlePart~~ (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 24 of this ~~titlePart~~ (relating to Texas Bootstrap Loan Program Rule), unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

~~(b) Qualified Inspector—Certified by the Administrator that the individual has professional certifications, relevant education or a minimum of three years of experience in a field directly related to home inspection, which may include but is not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing and electrical systems found in Single Family Housing Units, as evidenced by inspection logs, certifications, training courses or other documentation.~~

### **§26.3 Allocation of Funds**

(a) The Department administers all ~~SHTF~~Texas HTF funds provided to the Department in accordance with Tex. Gov't Code, Chapter 2306. The Department may solicit gifts and grants to endow the fund.

(b) Pursuant to Tex. Gov't Code §2306.202(b), use of the ~~SHTF~~Texas HTF is limited to providing:

- (1) Assistance for individuals and families of low and very low income;
- (2) Technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) Security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) Subject to the limitations in Tex. Gov't Code §2306.251, the Department may also use the fund to acquire property to endow the fund.

(c) Set-Asides. In accordance with Tex. Gov't Code §2306.202(a) and program guidelines:

(1) In each biennium, the first \$2.6 million available through the ~~SHFF~~Texas HTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for Local Units of Government, Public Housing Authorities, and Nonprofit Organizations;

(2) Any additional funds may also be made available to for-profit organizations provided that at least 45% of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to Nonprofit Organizations; and

(3) The remaining portion shall be distributed to Nonprofit Organizations, for-profit organizations, and other eligible entities, pursuant to Tex. Gov't Code §2306.202.

#### **§26.4 Use of Funds**

(a) Use of additional or Deobligated Funds. In the event the Department receives additional funds, such as loan repayments, donations or interest earnings, the Department will redistribute the funds in accordance with the ~~SHFF~~Texas HTF plan in effect at the time the additional funds become available.

(b) Reprogramming of Funds. If funding for a program is undersubscribed or funds not utilized, within a timeframe as determined by the Department, remaining funds may be reprogrammed at the discretion of the Department consistent with the Texas HTF plan in effect at the time.

(c) Use of excess loan repayments and interest earnings. The ~~SHFF~~Texas HTF may be used to respond to unanticipated challenges that may arise in the course of implementing approved single family Program Contracts, activities, or assets that are not readily addressed with federal funds. In the event that ~~SHFF~~Texas HTF loan repayments and interest earnings exceed the requirements under the ~~SHFF~~Texas HTF interest earnings and loan repayments Rider in the General Appropriations Act, up to \$250,000 per biennium of these excess ~~SHFF~~Texas HTF loan repayments and interest earnings may be used for this purpose. If a balance exists from the previous biennium, the Department shall transfer only the necessary amount to replenish this fund to a maximum balance of \$250,000 at the start of the biennium. These funds may be used as described in this subsection.

(1) Funds are to be used for internal disposition.

(2) Neither Households nor Program Administrators are eligible to apply for these funds.

(3) Any funds used under this subsection requires authorization of the Executive Director.

(4) Uses for the funds must meet at least one of the following criteria:

(A) For Households previously assisted by the Department with Department funds, for which the Department has confirmed that further work is still required, and for which the original source of funds is no longer able to be used; or

(B) Properties previously owned by Households assisted by the Department, having been foreclosed upon by the Department, and requiring additional carrying costs or improvements to sell the property or transfer the property for an affordable purpose.

#### **§26.5 Prohibited Activities**

(a) Persons receiving or benefiting from ~~SHFF~~Texas HTF funds, as determined by the Department, may not be currently delinquent or in default with child support, government loans, or any other debt owed to the State of Texas.



(b) The activities described in paragraphs (1) - (8) of this subsection are prohibited in relation to the origination of a ~~SHHF~~State Texas HTF loan, but may be charged as an allowable cost by a third party lender for the origination of all other loans originated in connection with ~~an~~a Texas HTF loan:

- (1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with ~~SHHF~~State Texas HTF 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.

### **§26.6 Administrator Eligibility and Requirements**

Administrator must enter into a written Agreement with the Department in order to be eligible to access the ~~State~~State Texas Housing Trust Fund.

### **§26.7 Conflict of Interest**

In addition to the conflict of interest requirements in UGMS or TXGMS (as applicable to the Contract), no person who is an employee, agent, consultant, officer, trustee, director, member of a governing board or other oversight body, elected official or appointed official of the Administrator who exercises or has exercised any functions or responsibilities with respect to Texas HTF activities under the State Act, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a Texas HTF assisted activity, or have an interest in any Texas HTF Contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

## **SUBCHAPTER B            AMY YOUNG BARRIER REMOVAL PROGRAM**

### **§26.20 Amy Young Barrier Removal Program Purpose**

The Amy Young Barrier Removal Program (the Program or AYBRP) provides one-time grants in combined Hard and Soft Costs to Persons with Disabilities in a Household qualified as Low-Income. Grant limits per household will be identified in the Notice of Funding Availability- (NOFA). Grants are for home modifications that increase accessibility; and eliminate ~~life threatening hazards and correct unsafe~~substandard conditions.

### **§26.21 Amy Young Barrier Removal Program Definitions**

The following words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Other definitions are found in Tex. Gov't Code, Chapter 2306,

Chapter 1 of this ~~titlePart~~ (relating to Administration), Chapter 2 of this ~~titlePart~~ (relating to Enforcement), Chapter 20 of this ~~titlePart~~ (relating to Single Family Programs Umbrella Rule), Chapter 21 of this ~~titlePart~~ (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26, Subchapter A of this ~~titlePart~~ (relating to Texas Housing Trust Fund Rule).

(1) ~~Administration~~Administrative Fee--Funds equal to 10% of the Project Costs (combined Hard and Soft Costs) paid to an Administrator upon completion of a project.

(2) Hard Costs--Site-specific costs incurred during construction, including but not limited to: general requirements, building permits, jobsite toilet rental, dumpster fees, site preparation, demolition, construction materials, labor, installation equipment expenses, etc.

(3) Low-Income--Household income does not exceed the greater of 80% of the Area Median Family Income or 80% of the ~~Statewide~~State Median Family Income Limits, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

(4) Project Costs--Program funds (combined Hard and Soft Costs) that directly assist a Household.

(5) ~~Reservation Agreement~~System Participant (RSP)--Administrator who has executed a written Agreement including all amendments thereto ~~between~~with the Department and Administrator that ~~authorizes~~allows for participation in the Administrator to reserve funds under the AYBRP.

~~(6) Reservation Setups--The submission of all required documents to the online Reservation System in order to reserve Program funds for an eligible Household~~System.

(7) Soft Costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs, per §20.3 of this ~~titlePart~~, (relating to Definitions).

## **§26.22 Amy Young Barrier Removal Program Geographic Dispersion**

(a) The process to promote geographic dispersion of program funds is as follows:

(1) For a published period not ~~to exceed 90 calendar days~~less than 30 days and in accordance with the NOFA, each state region will be allocated funding amounts for its rural and urban subregions. During this initial period, these funds may be reserved only for Households located in these rural and urban subregions;

(2) After the initial release of funds under paragraph (1) of this subsection, each state region will combine any remaining funds from its rural and urban subregions into one regional balance for a second published period not to exceed 90 calendar days. During this second period, these funds may be reserved only for Households located in that state region; and

(3) After no more than 180 calendar days following the initial release date, any funds remaining across all state regions will collapse into one state-wide pool. For as long as funds are available, these funds may be reserved for any Households anywhere in the state on a first-come, first-served basis.

(b) If any additional funds beyond the original program allocations that derive from Texas HTF loan repayments, interest earnings, deobligations, and/or other ~~SHFT~~Texas HTF funds in excess of those funds required under Rider 8 or the Department's appropriation made under the General Appropriations Act may be ~~placed directly into a state-wide pool for reservation~~reprogrammed at the discretion of the Department.

## **§26.23 Amy Young Barrier Removal Program Administrative Requirements**

(a) To participate in the Program, an eligible participant must first be approved as an Administrator by the Department through the submission of a Reservation System Access Application. Eligible participants include, but are not limited to: Colonia Self-Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; Councils of Government; Units of Local Government; Nonprofit Organizations; Local Mental Health Authorities and Public Housing Authorities. An eligible participant may be further limited by NOFA.

(b) The Applicant must enter into a ~~Reservation~~ RSP Agreement (Agreement) with the Department in order to be eligible to reserve funds for the Amy Young Barrier Removal Program.

(1) A Nonprofit Organization must submit a current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective throughout the ~~agreement period~~ term of the RSP Agreement to access the Reservation System.

(2) A private Nonprofit Organization 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.

(3) The Applicant must demonstrate at least two years of capacity and experience in housing rehabilitation in Texas. The Applicant will be required to provide a summary of experience that must describe the capacity of key staff members and their skills and experience in client intake, records management, and managing housing rehabilitation. It must also describe organizational knowledge and experience in serving Persons with Disabilities.

(4) The Applicant must provide evidence of adherence to applicable financial accountability standards, demonstrated by an audited financial statement by a Certified Public Accountant for the most recent fiscal year. For a Nonprofit Organizations that does not yet have audited financial statements, the Department may accept a resolution from the Board of Directors that is signed and dated within the six months preceding the Application and that certifies that the procedures used by the organization conform to the requirements in 10 TAC §1.402, (relating to Cost Principles and Administrative Requirements).

(5) An Applicant must submit a current roster of all Board Members, Council Members, Commissioners, or other Members of its legal governing body, including names and mailing addresses.

(6) The Applicant must submit a resolution from the ~~Board of Directors, Council, Commissioners, or other legal~~ Applicant's direct governing body that authorizes the submission of the Application and is signed and dated within the six months preceding the date of application submission. The resolution must ~~state that the legal governing body has approved the Applicant to access the Reservation System for TDHCA's Amy Young Barrier Removal Program; and must designate~~ include the name and title of the individual authorized to execute a ~~written Reservation System Access~~ RSP Agreement.

(7) The Applicant's history will be evaluated in accordance with 10 TAC Chapter 1, Subchapter A, §1.302 and §1.303, (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter, and Executive Award and Review Advisory Committee (EARAC), respectively). Access to funds may be subject to terms and conditions.

(8) If applicable, the Applicant must submit copies of executed contracts with consultants or other organizations that are assisting in the implementation of the applicant's ~~AYBR~~ PAYBR Program activities. The Applicant must provide a summary of the consultant or other organization's experience in housing rehabilitation and/or serving Persons with Disabilities.

(c) Administrators must follow the processes and procedures as required by the Department through its governing statute (Chapter 2306 of the Government Code), Administrative Rules (Texas Administrative Code, Title 10, Part 1), Reservation Agreement, Program Manual, forms, and NOFA.

#### **§26.24 Amy Young Barrier Removal Program Reservation System Requirements**

~~(a) The Department will not process a Reservation Setup or draw for any Administrator with a past due Single Audit or pending Audit Certification Form.~~

~~(b) Reservation Setups~~(a) Terms of Agreement. The term of an RSP Agreement will not exceed the lesser of 36 months, or the term limitation defined in the NOFA. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this chapter in effect as of the date of submission by the Administrator.

(b) Limit on Number of Reservations. The limitation on the number of Reservations will be established in the NOFA.

(c) Administrator must remain in good standing with the Department and the state of Texas. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

(d) Reservations will be processed in the order submitted on the Reservation System. Submission of a Reservation Setup consisting of support documentation on behalf of a Household does not guarantee funding.

~~(c) If an Administrator submits a Reservation Setup for a Household that is incomplete or missing any of the required forms as prescribed by the current setup instructions, the Reservation Setup will be set back to "pending" status and funds will be released for reservation.~~

~~(d) If support documentation for a Reservation Setup for a Household needs correction or additional information, the Department will notify the Administrator of the deficiencies. If any deficiencies remain uncured within 10 calendar days after notification has been sent to the Administrator, the Department may cancel the Household's Reservation.~~

~~(e)~~

(e) Reservations may be submitted in stages, and shall be processed though each stage as outlined in the Program Manual.

(f) Administrator must submit a substantially complete request for each stage of the Reservation as outlined in the Program Manual. Administrators must upload all required information and verification documentation in the Contract System. Requests determined to be substantially incomplete will not be reviewed and may be disapproved by the Department. If the Department identifies administrative deficiencies during review, the Department will allow a cure period of 14 calendar days beginning at the start of the first day following the date the Administrator is notified of the deficiency. If any administrative deficiencies remain after the cure period, the Department, in its sole discretion, may disapprove the request. Disapproved requests shall not constitute a Reservation of Funds.

(g) If a Household is determined to be eligible for assistance from the Department, the Department will reserve up to the maximum award amount permitted under the NOFA in Project Costs and an ~~Administration~~Administrative Fee equal to 10% of the combined Hard and Soft costs in the ~~Housing~~ Contract System on behalf of the Household, funding permitting.

### **§26.25 Amy Young Barrier Removal Program Household Eligibility Requirements**

(a) At least one Household member shall meet the definition of Persons with Disabilities.

(b) The assisted Household ~~shall not have Household income that exceeds 80% of Area Median Family~~must be qualified as Low Income.

(c) The assisted Household's liquid assets shall not exceed \$~~20~~25,000. Liquid assets are considered to be cash deposited in checking or savings accounts, money markets, certificates of deposit, mutual funds or brokerage accounts; the net value of stocks or bonds that may be easily converted to cash; and the net cash value calculated utilizing the appraisal district's market value for any real property that is not a principal residence. Funds in tax deferred accounts for retirement or education savings (e.g., Individual Retirement Accounts, 401Ks, 529 plans) and whole life insurance policies are excluded from the liquid assets calculation.

(d) The Household may be ineligible for the program if there is debt owed to the State of Texas, including a tax delinquency; a child support delinquency; a student loan default; or any other delinquent debt owed to the State of Texas.

### **§26.26 Amy Young Barrier Removal Program Property Eligibility Requirements**

(a) Owner-occupied homes are eligible for Program assistance. In owner-occupied homes, the owner of record must reside in the home as their permanent residence unless otherwise approved by the Department. If the property is family-owned and the owner of record is deceased or not a Household member, the Department may deem the property renter-occupied unless satisfactory documentation is provided to the Department that confirms otherwise.

(b) Certain rental units are eligible for Program assistance and must meet the following requirements:

(1) In rental units, all Household occupants, including the Person with Disability, must be named on the Program intake application and ~~Household Income Certification~~household income certification.

(2) The owner of record for the property shall provide a statement allowing accessibility modifications to be made to the property.

(c) The following rental properties are ineligible for Program assistance:

(1) Property that is or has been developed, owned, or managed by that Administrator or an Affiliate;

(2) Rental units in properties that are financed with any federal funds or that are subject to 10 TAC Chapter 1, Subchapter B, §1.206 (relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973);

(3) Rental units that have ~~life-threatening hazards or~~substandard and unsafe conditions identified in the initial inspection. Program funds may not be used to correct ~~hazardous~~substandard or unsafe conditions in rental units, but may be used for accessibility modifications only after the ~~life-threatening~~

~~hazards substandard~~ and unsafe conditions have been corrected ~~by the property owner~~ at the property owner's expense; or

(4) Rental units owned by a property owner who is delinquent on property taxes associated with the property occupied by the Household.

### **§26.27 Amy Young Barrier Removal Program Construction Requirements**

(a) Inspections.

(1) Initial inspection arranged by the Administrator is required and must identify the accessibility modifications needed by the Person with Disability; assess and document the condition of the property; and identify all deficiencies ~~that constitute life-threatening hazards and unsafe conditions~~. listed in the Texas Minimum Construction Standards (TMCS).

(2) Final inspection arranged by the Administrator is required and must verify, assess and document that all construction activities have been repaired, replaced and/or installed in a professional manner consistent with all applicable building codes and Program requirements, and as required in the Work Write-Up as described in subsection (e) of this section.

~~(3) Initial and final inspections must be completed by a Qualified Inspector.~~

~~(4) All On-Site Sewage Facilities (OSSF or septic system) shall be inspected by a Texas Commission on Environmental Quality authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366, and the rules adopted under that chapter, unless waived by the Department on a case-by-case basis.~~

(b) A Manufactured Housing Unit may be eligible for Program assistance if it was constructed on or after January 1, 1995. The Department may allow Manufactured Housing Units older than January 1, 1995, to receive only exterior accessibility modifications (i.e., ramps, handrails, concrete flatwork) as long as the Administrator can verify that the unit itself will be free of hazardous and unsafe conditions.

(c) Construction standards.

~~(1) Administrators must follow all applicable sections of their local building codes and ordinances, pursuant to Section 214.212 of the Local Government Code. Where local codes do not exist, the 2015 International Residential Code (IRC), including Appendix J for Existing Buildings and Structures, is the applicable code for the Program.~~

~~(1) Administrators must follow the requirements of TMCS.~~

2) Accessibility modifications shall be made with consideration ~~of the design standards established by the to 2010 American Disability Act (ADA) Standards. Any variation, but may vary from 2010~~ the ADA Standards must be documented by the Administrator as necessary in order to meet the disability related specific accessibility needs of the Person with a Disability household as requested and agreed to by the assisted household.

(3) Administrators must adhere to Chapter 21 of this ~~title~~ Part, (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities).

(4) Administrators and/or subcontractors must honor a twelve-month warranty on all completed items in their scope of work.

(d) ~~Life-threatening hazards and unsafe~~ Substandard conditions.

(1) Administrators may make repairs to eliminate ~~life-threatening hazards and correct~~substandard, unsafe conditions in the housing unit as long as no more than 25% of the Project Hard Costs budget is utilized for this purpose, unless otherwise approved by the Department.

~~(2) Life threatening hazards and unsafe conditions include, but are not limited to: faulty or damaged electrical systems; faulty or damaged gas fueled systems; faulty, damaged or absent heating and cooling systems; faulty or damaged plumbing systems, including sanitary sewer systems; faulty, damaged or absent smoke, fire and carbon monoxide detection/alarm systems; structural systems on the verge of collapse or failure; environmental hazards such as mold, lead-based paint, asbestos or radon; serious pest infestation; absence of adequate emergency escape and rescue openings and fire egress; and the absence of ground fault circuit interrupters (GFCI) and arc fault circuit interrupters (AFCI) in applicable locations.~~

~~(3)~~(2) If the work write-up addresses any of the following line items, the percentage of Project Hard Costs devoted to eliminating ~~life-threatening hazards and correctings~~substandard, unsafe conditions may only exceed 25% by the amount of the following line item's cost: emergency escape, rescue openings and fire egress; ground fault circuit interrupters (GFCI); arc fault circuit interrupters (AFCI); and smoke, fire and carbon monoxide detection/alarm systems. The combination of these line items plus the correction of any other unsafe conditions cannot exceed 40% of Project Hard Costs budget.

~~(4)~~(3) All areas and components of the housing must be free of ~~life-threatening hazards and unsafe conditions at project completion~~all identified deficiencies listed in the initial inspection except that correction of cosmetic issues, such as paint, wall texture, etc., will not be required if acceptable to the Household.

(e) Work-Write Ups. The Department shall review work-write ups (also referred to as "scope of work") and cost estimates prior to the Administrator soliciting bids.

(f) Bids. The Department shall review all line item bids Administrator selects for award prior to the commencement of construction. Lump sum bids will not be accepted.

(g) Change orders. An Administrator seeking a change order must obtain written Department approval prior to the commencement of any work related to the proposed change. Failure to get prior Departmental approval may result in disallowed costs.

### **§26.28 Amy Young Barrier Removal Program Project Completion Requirements**

(a) The Administrator has 90 calendar days from the date the Department approves the line item contract bid the Administrator selected for award to complete all construction activities and submit the Project and Administrative ~~draw request~~Draw Request, with required supporting documentation, in the Housing Contract System for reimbursement by the Department. The Department may grant a one-time, 30-calendar day extension to the Project completion deadline. The Department may grant additional extensions due to extenuating circumstances that are beyond the Administrator's control.

~~(b)~~(b) The Administrator must submit evidence with the final Draw that the builder has provided a one-year warranty specifying at a minimum that materials and equipment used by the contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those

inherent in the work as specified, and the work will conform to the requirements of the contract documents.

(c) The Administrator must provide the Household all warranty information for work performed by the builder and any materials purchased for which a manufacturer or installer's warranty is included in the price.

(d) The Department will reimburse the Administrator in one, single payment after the Administrator's successful submission of the Project and Administrative ~~draw request~~ Draw Request per Department instructions. Interim ~~draws will~~ Draws may not be permitted. The Department reserves the right to delay ~~draw~~ Draw approval in the event that the Household expresses dissatisfaction with the work completed in order to resolve any outstanding conflicts between the Household, and the Administrator and its subcontractors.