

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

August 9, 2019

TDHCA Governing Board Approved Draft of the
Proposed Rule Changes to
10 TAC 26, Texas Housing Trust Fund Rule

Notice for Public Comment

Disclaimer

Attached is a draft of the Proposed Rule Changes to 10 TAC 26, Texas Housing Trust Fund Rule, that was approved by the TDHCA Governing Board on July 25, 2019. This document, including its preambles, is scheduled to be published in the August 9, 2019, 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 Period

Starts at 8 AM Austin local time on August 9, 2019.

Ends at 5 PM Austin local time on September 9, 2019.

Comments received after 5 PM Austin local time on September 9, 2019, will not be accepted.

Written comments may be submitted to:

Texas Department of Housing and Community Affairs

Attn: Raul Gonzales, Rule Comments

P.O. Box 13941

Austin, Texas 78711-3941

Email: htf@tdhca.state.tx.us

Written comments may be submitted in hard copy 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 the 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, §§26.1 – 26.28, Texas Housing Trust Fund Rule. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this 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.

David Cervantes, Acting Director, has determined that, for the first five years the repeal will be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the Texas Housing Trust Fund Rule.
2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing Texas Housing Trust Fund Rule.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this 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 repeal and determined that the 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 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will 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. Cervantes has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no 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. Cervantes also has determined that for each year of the first five years the 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 August 9, 2019, to September 9, 2019, to receive input on the repealed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M., Austin local time, September 9, 2019.

STATUTORY AUTHORITY. The repeal is proposed pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules.

Except as described, herein the proposed repealed rule affects no other code, article, or statute.

Subchapter A, General Guidance

§26.1. Purpose.

§26.2. Definitions.

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Subchapter B, Amy Young Barrier Removal Program

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§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, including required analysis, 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, §§26.1 – 26.28, Texas Housing Trust Fund Rule. The purpose of the new rule is to make changes that bring the rule up to date, streamline language and simplify program guidelines for the Amy Young Barrier Removal Program with regards to purpose, geographic dispersion of funds, administrative requirements, reservation system requirements, household eligibility, property eligibility, construction requirements and project completion requirements.

Tex. Gov't Code §2001.0045(b) does apply to the rule being adopted because no exceptions apply, however, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this 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.

David Cervantes, Acting Director, has determined that, for the first five years the proposed rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule making changes to the Texas Housing Trust Fund Rule.
2. The new rule does not require a change in work that will require the creation of new employee positions, nor will the new rule reduce workload to a degree that any existing employee positions are eliminated.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The new rule repeal is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The new rule will not negatively nor 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 new rule and determined that it 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 new 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 new rule as to its possible effects on local economies and has determined that for the first five years the new rule will be in effect there will 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. Cervantes has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule would be to further clarify the purpose and use of the Texas Housing Trust Fund. There will be no economic costs to individuals required to comply with the new rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Cervantes also has determined that for each year of the first five years the new rule is in effect, enforcing or administering the rule 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 August 9, 2019, to September 9, 2019, to receive input on the new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M., Austin local time, September 9, 2019.

STATUTORY AUTHORITY. The new rule is proposed pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules.

Except as described, herein the proposed new rule affects no other code, article, or statute. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

CHAPTER 26 TEXAS HOUSING TRUST FUND RULE

SUBCHAPTER A GENERAL GUIDANCE

§26.1. Purpose.

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

§26.2. Definitions.

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

§26.3. Allocation of Funds.

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

(b) Pursuant to ~~Tex.as Governmen't~~ Code, §2306.202(b), use of the ~~S~~SHTF is limited to providing:

- (1) ~~assistance~~Assistance for individuals and families of low and very low income;
- (2) ~~t~~Technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;
- (3) ~~security~~Security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and
- (4) ~~subject~~Subject to the limitations in ~~Tex.as Governmen'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.as Governmen't~~ Code, §2306.202(a) and program guidelines:

- (1) ~~in~~In each biennium, the first \$2.6 million available through the ~~S~~SHTF 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~~Any additional funds may also be made available to for-profit organizations provided that at least 45% ~~percent~~ 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) ~~T~~The remaining portion shall be distributed to Nonprofit Organizations, for-profit organizations, and other eligible entities, pursuant to ~~Tex.as Governmen'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 SHTF 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 HTF plan in effect at the time.

(c) Use of excess loan repayments and interest earnings. The SHTF 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 SHTF loan repayments and interest earnings exceed the requirements under the SHTF interest earnings and loan repayments Rider in the General Appropriations Act, up to \$250,000 per biennium of these excess SHTF 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 SHTF funds, as determined by the Department, may not be currently ~~delinquent in delinquency~~ or in default with child support, government loans, or any other debt owed to the State of Texas, and/or government loans.

(b) The activities described in paragraphs (1) – ~~(8)~~(7) of this subsection are prohibited in relation to the origination of a SHTF loan, but may be charged as an allowable cost by a third ~~(3rd)~~ party lender for the origination of all other loans originated in connection with an HTF loan:

(1) ~~p~~Payment of delinquent property taxes or related fees or charges on properties to be assisted with SHTF funds;

(2) ~~l~~Loan origination fees;

(3) ~~a~~Application fees;

(4) ~~d~~Discount fees;

(5) ~~u~~Underwriter fees;

(6) ~~l~~Loan processing fees; ~~and~~

(7) ~~l~~Loan servicing fees; and

(8) ~~e~~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 Housing Trust Fund.

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 ~~of up to \$20,000~~ in combined Hard and Soft Costs to Persons with Disabilities in a Household qualified as Low-Income. Grants limits per household will be identified in the Notice of Funding Availability. Grants are for home modifications that increase accessibility, eliminate life-threatening hazards and correct unsafe conditions.

§26.21. Amy Young Barrier Removal Program Definitions.

The following words and terms used in this ~~Subchapter~~ subchapter shall have the following meanings, unless the context clearly indicates otherwise. Other definitions are found in Tex.as ~~Government~~ 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, Subchapter A of this ~~Title~~ (relating to Texas Housing Trust Fund).

(1) Administration 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 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) Qualified Inspector--Certified by the Administrator that the individual has professional certifications, relevant education or a minimum of ~~three~~ five years of experience in a field directly related to home inspection, which may include but is~~including but~~ 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.

(6) Reservation Agreement--A written Agreement including all amendments thereto between the Department and Administrator that authorizes the Administrator to reserve funds under the AYBRP.

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

(8)~~(7)~~ Soft Costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs, per Texas Administrative Code, Title 10, Part 1, Single Family Umbrella Rule §20.3 of

[this Title, relating to the Single Family Umbrella Rule.](#)

§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, For the first 90 days of the initial release of funds,~~ each state region will ~~be allocated~~~~receive~~ funding amounts for ~~its~~~~their~~ rural and urban subregions. ~~During this initial period For 90 days,~~ 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. For the next 90 days following the initial 90 days after the release date, any funds remaining in the rural and urban subregions will be combined into one balance for that state region. During this second period For 90 days,~~ these funds may be reserved only for Households located in that state region; ~~and-~~

(3) After ~~no more than the initial~~ 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 HTF loan repayments, interest earnings, deobligations, and ~~/or~~ other ~~SHTF~~ 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 ~~at~~ the state-wide pool for reservation.

§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~~~~by~~ the submission of a Reservation System Access Application. Eligible participants include ~~but are not limited to~~ Colonia Self-Help Centers established under ~~Tex.~~~~as~~ ~~Governmen'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~~~~Administrator~~ must enter into a Reservation 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~~~~The Applicant~~ 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 ~~on~~ throughout the agreement period to access the Reservation System.

(2) ~~A private Nonprofit Organization~~~~The Applicant~~ 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~~~~have the~~ capacity and experience ~~demonstrating at least two years experience~~ in housing rehabilitation in Texas. ~~The Applicant will be required to provide a summary~~~~Summary~~ of experience ~~that must~~~~will~~ describe the capacity of key staff members and their skills and experience in client intake, records management, and managing housing

rehabilitation. It ~~must~~will 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 certification from a Certified Public Accountant ~~and an audited financial statement from~~ for the most recent fiscal year, ~~or a current dated and signed financial statement for the period since last audit produced.~~ For a Nonprofit Organizations that does~~do~~ 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 ~~a~~Application and that certifies that the ~~accounting~~ procedures used by the organization conform to the requirements in 10 TAC §1.402, relating to Cost Principles and Administrative Requirements, Generally Accepted Accounting Principles (GAAP) and the Financial Accounting Standards Board (FASB), "Financial Statements of Not-For-Profit Organizations".

~~(5) Applicants who have previously received any TDHCA funding must be in compliance with all active Contracts and Agreements.~~

~~(5)(6)~~ An Applicant must submit a current roster of all Board Members, Council Members, Commissioners, or other Members of its legal governing body~~Board of Directors~~, including names and mailing addresses.

~~(6)(7)~~ The Applicant must submit a resolution from the Board of Directors, Council, ~~or~~ Commissioners, or other legal governing body that is signed and dated within the six months preceding the date of application submission. The resolution must state that the legal governing body has board, council or commissioners have approved the Applicant to access the Reservation System for TDHCA's Amy Young Barrier Removal Program; and must designate the name and title of the individual authorized to execute a written Reservation System Access Agreement.

~~(8) The Applicant must submit any past due Single Audit to the Department in a satisfactory format on or before the Application deadline.~~

~~(7)(9)~~ The Applicant's ~~compliance~~ history will be evaluated in accordance with 10 TAC Chapter 1, Subchapter ~~A1~~, §1.302 and §1.303, relating to Previous Participation Reviews for Department Program Awards. Access to funds may be subject to terms and conditions.

~~(8)(10)~~ 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 AYBRP activities. The Applicant must provide~~They must include~~ 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.~~An Administrator is ineligible to access the online Reservation System until any past due audits or Department audit certification forms have been submitted to the Department in a satisfactory format.~~

(b) Reservation Setups 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~~the Reservation~~ is incomplete ~~and~~ missing any of the required forms as prescribed by the current setup instructions, the Reservation Setup~~it~~ will be set back to "pending" status and funds will be released ~~and available~~ 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 ~~ten~~10 calendar days after notification has been sent to the Administrator, the Department may cancel the Household's Reservation~~reservation~~.

(e) 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 of \$20,000 in Project Costs and an Administration Fee equal to 10% of the combined Hard and Soft costs in the Housing Contract System on behalf of the Household.

\$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 Income.
- (c) The assisted Household's liquid assets shall not exceed \$20,000. 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 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) 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.
~~(1) 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.~~
~~(2) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least six consecutive months prior to the date of Application, or, must have qualified for an approved tax deferral plan, or has received a valid exemption from real property taxes.~~
- (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.
 - (2) The owner of record for the property shall provide a statement allowing accessibility modifications

~~to be made to the property. If the owner of record does not live in the subject property with the Person with Disability, the Department may consider it a renter occupied unit.~~

~~(3) If the property is family owned but the owner of record is not a Household member (or is deceased), the Department may consider it a renter occupied unit on a case by case basis.~~

~~(c)(4)~~ The following rental properties are ineligible for Program assistance:

~~(1A)~~ Property that is or has been developed, owned, or managed by that Administrator or an Affiliate;
~~(2B)~~ 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;

~~(3C)~~ Rental units that have life-threatening hazards or unsafe conditions identified in the initial inspection. Program funds may not be used to correct hazardous or unsafe conditions in rental units, but may be used for accessibility modifications only after the life-threatening hazards and unsafe conditions have been corrected by the property owner at the property owner's expense; or-

~~(4D)~~ 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.

(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.

(2) Accessibility modifications shall be made with consideration of the design standards established by the 2010 ADA Standards. Any variation from 2010 ADA Standards must be documented by the Administrator as necessary to meet the disability related needs of the Person with a Disability.

(3) Administrators must adhere to Chapter 21 of this Title, 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 conditions.

(1) Administrators may make repairs to eliminate life-threatening hazards and correct 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~~faulty or damaged~~ heating and cooling systems ~~or the absence of adequate heating and cooling system~~; faulty or damaged plumbing systems, including sanitary sewer systems; faulty, damaged or absent~~faulty or damaged~~ smoke, fire and carbon monoxide detection/alarm systems ~~or the absence of these 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) 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 correcting unsafe conditions may only exceed 25% by the amount of the following line item's cost:~~Because of the essential nature of the elimination of certain life-threatening hazards, the percentage of Project Hard Costs budget devoted to eliminate life-threatening hazards and correct unsafe conditions in the housing unit may exceed 25% if the work write-up and cost estimation includes the correction of inadequate, faulty, damaged or absent:~~ 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 these certain life threatening hazards with~~ the correction of any other unsafe conditions cannot exceed 40% of Project Hard Costs budget.

(4) All areas and components of the housing must be free of life-threatening hazards and unsafe conditions at project completion.

(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 Administrators ~~s~~ selects for award prior to the commencement of construction. Lump sum bids will not be accepted.

(g) Change orders. An ~~Administrators~~ seeking ~~a~~ change orders 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~~ninety 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, 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~~were beyond the Administrator's control.

(b) The Department will reimburse the Administrator in one, single payment after the Administrator's successful submission of the Project and Administrative draw request per Department instructions.

Interim draws will not be permitted. The Department reserves the right to delay 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 ~~for~~ the Administrators and ~~their~~ its subcontractors.