



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2019-1 NOTICE OF FUNDING AVAILABILITY (NOFA)
ANNUAL NOFA

- 1) **Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to **\$34,557,797** in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. Applicants under the 2019-1 NOFA will be accepted from January 14, 2019 to November 29, 2019 (if sufficient funds remain). The availability and use of these funds are subject to the following rules, as applicable:

Texas Administrative Code

- 10 TAC Chapter 1 (“Administration”)
- 10 TAC Chapter 2 (“Enforcement”)
- 10 TAC Chapter 10 (“Uniform Multifamily Rules”)
- 10 TAC Chapter 11 (“Qualified Allocation Plan”)
- 10 TAC Chapter 12 (“Multifamily Housing Revenue Bonds”)
- 10 TAC Chapter 13 (“Multifamily Direct Loan Rule”)

Texas Government Code

Tex. Gov’t. Code Chapter 2306

U.S. Department of Housing and Urban Development (“HUD”) Program Regulations

- 24 CFR Part 92 (“HOME Investment Partnerships Program Final Rule”)
- 24 CFR Part 93 (“Housing Trust Fund Interim Rule”)
- 24 CFR Part 570, as modified by Federal Register Notice (“Neighborhood Stabilization Program Round 1”)

Fair Housing

Federal Fair Housing Act, 42 U.S.C. 3601-19.

Other Federal laws and regulations may that apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME and NSP1 PI must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

Labor Standards

HOME and NSP1 PI funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

Employment Opportunities

HOME, NHTF, and NSP1 PI require compliance with 24 CFR Part 135 (“Section 3”).

Except as otherwise noted in this NOFA, Applicants proposing development of affordable multifamily rental housing should assume HOME, NSP1 PI and/or NHTF funds will be awarded and be prepared to comply with applicable regulations. An Applicant must familiarize itself with all of the applicable state and federal rules that govern the program. If HOME, NSP1 PI and/or NHTF funds are used and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.

An Applicant that proposes refinancing with minimal rehabilitation must have a Market Analysis in accordance with 10 TAC §11.303 (unless an exception applies under 10 TAC §13.5(d)), and a PCA in accordance with 10 TAC §11.306, both of which must support the proposed level of rehabilitation. The Applicant must receive a waiver from the Board of the rehabilitation amounts listed in 10 TAC §11.101(b)(3). An Application proposing Refinancing with Minimal Rehabilitation, or that requests supplemental funds for an Application that has received funding or allocation in a previous year, generally will only receive Tax Credit Assistance Program Repayment Funds (“TCAP RF”), but, except as otherwise noted in this NOFA, may receive HOME, NSP and/or NHTF funds if it is an eligible activity for a federal fund source. An award to a Development that proposes to refinance with minimal rehabilitation, or to obtain supplemental financing, will not be made in amount that exceeds the amount necessary to replace lost funding or maintain the anticipated levels of feasibility in the original Application, as determined by the Board.

- 2) **Set-Asides.** All funds are currently available on a statewide basis within each set-aside. Applications under any and all set-asides may or may not be layered with 9% or 4% Housing Tax Credits (“HTC”). Within each set-aside, Applications not layered with 2019 9% HTC with development sites in counties declared by the Federal Emergency Management Agency to be eligible for Individual Assistance (“IA”) in 2017, 2018, or 2019 will be prioritized through March, 1, 2019. The funds made available under this NOFA are available under the following set-asides:

- a. CHDO Set-Aside. At least \$6,615,058 in HOME funds are set aside for nonprofit organizations that can be certified as Community Housing Development Organizations (“CHDOs”).
- b. Supportive Housing/Soft Repayment Set-Aside. Up to \$11,638,041 (\$2,000,000 in TCAP RF and \$9,638,041 in NHTF) is available in this set-aside. Applicants proposing new construction within this set-aside must restrict all Direct Loan-assisted units to 30% AMI, whereas Applicants proposing rehabilitation and targeting a Supportive Housing population may restrict Direct Loan units beyond 30% AMI up to 60% AMI.
- c. Preservation Set-Aside. Up to \$4,000,000 in TCAP RF is available in this set-aside. Eligible activities under this set-aside: (1) acquisition and rehabilitation; (2) rehabilitation without acquisition; and (3) refinancing with minimal rehabilitation (less than \$30,000 per unit).
- d. General Set-Aside. All remaining TCAP RF, HOME, and NSP1 PI funds available, currently anticipated to be \$12,304,698.

Set-Aside	Eligible Activities	Amount Available		Maximum Request ¹
CHDO	NC, A/R, R	HOME	\$6,615,058	\$4,000,000
Supportive Housing / Soft Repayment	A/R, R, Refi MR	TCAP RF	\$2,000,000	\$2,000,000
	NC	NHTF	\$9,638,041	
Preservation	A/R, R, Refi MR	TCAP RF	\$4,000,000	\$2,000,000
General	NC	HOME	\$2,304,698	\$4,000,000
		TCAP RF	\$5,500,000	
		NSP1 PI	\$4,500,000	

Key:

NC – New Construction

R – Rehabilitation

A/R – Acquisition/Rehabilitation

Refi MR – Refinancing with Minimal Rehabilitation

3) Priorities within Set-Asides.

- a. Disaster Recovery Priority within all Set-Asides. For Applications received in all set-asides, Applications with a development site in a county declared by the Federal Emergency Management Agency to be eligible for Individual Assistance (“IA”) in 2017, 2018, 2019 will take priority over applications with development sites in non-IA counties from January 14, 2019, through March 1, 2019.

¹ This total includes any other Multifamily Direct Loan Funds previously awarded to the Applicant by the Department.

- b. An Application that has a priority within a set-aside that is submitted by March 1, 2019, will have a received by date of January 14, 2019.

3) Interest Rates.

- a. All Direct Loan requests structured as construction-to-permanent loans will be required to use the minimum required interest rate listed in the table below depending on the Set-Aside, Activity, whether or not HTC are also being requested, and whether or not the Direct Loan will be in first lien position during the permanent period. If the Debt Coverage Ratio is less than the minimum 1.15 with the minimum required interest rate as applicable, staff will make adjustments to the financing structure in accordance with 10 TAC §11.302(d)(4)(D)(i) with the exception of 10 TAC §11.302(d)(4)(D)(i)(II)(-a-).

Set-Aside	Activity	HTC layered	Direct Loan 1 st Lien during Permanent Period	Minimum Required Interest Rate
CHDO or General	NC	Y	Y	2.0%
			N	2.5%
		N	Y	3.0%
			N	3.5%
CHDO or Preservation	A/R, R	Y	Y	0%
			N	1.0%
		N	Y	1.5%
			N	2.0%
Supportive Housing/ Soft Repayment	NC, A/R, R, Refi MR	Y or N	Y or N	0%

- b. All Direct Loan requests structured as construction only loans, regardless of the Set-Aside and Activity, may request an interest rate as low as 0% with the principal amount of the Direct Loan due upon the end of the 24 month development period.

- 4) Maximum Per Unit Subsidy Limits.** The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the table below:

Bedrooms	Non-elevator property	Elevator-served property
0 bedroom	\$131,022	\$137,882
1 bedroom	\$151,072	\$158,063
2 bedroom	\$182,196	\$192,204
3 bedroom	\$233,217	\$248,652
4 bedroom or more	\$259,814	\$272,941

Smaller per unit subsidies are allowable and incentivized as point scoring items in 10 TAC §13.6.

- 5) Potential waivers of rules for Applications proposing Acquisition/Rehabilitation, Rehabilitation, or Refinancing with Minimal Rehabilitation.** The Department will consider waivers of the following rules in 10 TAC Chapter 11 on a case-by-case basis for Applications

proposing Acquisition/Rehabilitation, Rehabilitation without acquisition, or Refinancing with Minimal Rehabilitation in order to further advance preservation goals: 10 TAC §11.101(b)(2) relating to Development Size Limitations and 10 TAC §11.101(b)(3) relating to Rehabilitation Costs. Regardless of whether or not such waivers are granted for an Application, all Applications must meet 10 TAC §11.101(b)(4) relating to Mandatory Development Amenities, 10 TAC §11.101(b)(5) relating to Common Amenities, and 10 TAC §11.101(b)(5) relating to Development Accessibility Requirements.

6) Application Submission Requirements.

- a. Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on January 14, 2019 through November 29, 2019, at 5:00 p.m. Austin local time (if sufficient funds remain).**
- b.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department’s website at www.tdhca.state.tx.us. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD.
- c.** An Applicant may have only one active Application per Development at a time and may only have that Development apply under one set-aside at a time.
- d.** An Application must be on forms provided by the Department, and cannot be altered or modified, and must be in final form before submitting it to the Department. An Applicant must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (“MPPM”) in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the MPPM in effect at the time the Application is submitted.
 - i. If an Applicant has an active Application (i.e. the Board has not made a Direct Loan Award), but wishes to apply for additional funds, it must withdraw that Application and submit a new Application.
 - ii. Applicants for Developments that have received an award of Multifamily Direct Loan Funds or Housing Tax Credits prior to the date of the Application under this NOFA, should consult 10 TAC §13.5(h) regarding Eligibility Criteria, and provide the additional information required by 10 TAC §13.5(h)(2)(B), including clear evidence of the circumstances beyond their control that materially impair their ability to provide affordable housing. Evidence will include information from verifiable third-party sources that allows the Board to make an informed decision regarding eligibility.
- e.** The 2019 CHDO Certification Packet must be submitted with the 2019 Uniform Multifamily Application for Applicants applying under the CHDO Set-Aside.
- f.** All 4% HTC-layered applications must provide evidence of a Reservation within 30 days of MFDL Application submission.
- g.** The request for funds under the CHDO, Supportive Housing/Soft Repayment, Preservation, and General Set-Asides may not be less than \$300,000, regardless of the set-aside under which an application is being submitted. However, if the underwriting report indicates that the Development will be feasible with an award of less than \$300,000, staff may recommend a lower award.
- h.** All Applicants must provide Match in the amount of at least 5 percent of the Direct Loan funds requested. Except for Match in the form of the net present value of a below market

interest rate loan or a property tax exemption under Sections 11.111, 11.18, 11.181, 11.182, 11.1825, or 11.1827 of Texas Property Tax Code, Match must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of Direct Loan funds.

- i.** Each CHDO that is awarded HOME funds may also be eligible to receive a CHDO operating grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies. An award of HOME funds under the CHDO Set-Aside does not guarantee that a CHDO will receive a grant for CHDO Operating Expenses.
- j.** An Applicant under the CHDO, Supportive Housing/ Soft Repayment, Preservation, and General Set-Asides who are not also simultaneously applying for 2019 9% or 4% Housing Tax Credits are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Tex. Gov't Code §2306.147(b) requires the Department to waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the Multifamily Direct Loan Program.
- k.** An Application must be uploaded to the Department's secure web transfer server in accordance with 10 TAC §11.201(1)(C).

7) Post Award Requirements. Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC Chapter 10, Subchapter E, Post Award and Asset Management Requirements and 10 TAC Chapter 13, as well as the Compliance Monitoring requirements in 10 TAC Chapter 10, Subchapter F.

- a.** Awarded Applicants may, at the Department's discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
- b.** An Applicant will be required to record a Land Use Restriction Agreement ("LURA") limiting residents' income and rent for the greater amount of Units required by the Direct Loan Unit Calculation Tool, or as represented in the Application for the term of the LURA.
- c.** An Applicant must have a current Data Universal Numbering System ("DUNS") number and be registered in the federal System for Award Management prior ("SAM") prior to execution of a Direct Loan contract. Applicants may apply for a DUNS number at dnb.com). Once you have the DUNS number, you can [register with the SAM](#).
- d.** An awarded Applicant may be required to meet additional documentation requirements in order to draw funds, in accordance with its Previous Participation results.

8) Miscellaneous.

- a.** This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME, NSP1, TCAP RF, and NHTF fund sources. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations.

- b.** All Applicants must comply with public notification requirements in 10 TAC §11.203.
- c.** The Board may on a case by case basis, or in whole, waive procedural provisions of this NOFA where such waiver or exception to the provision(s) are warranted and documented and where such exception is not in violation with any state or federal requirement(s).
- d.** For questions regarding this NOFA, please contact Andrew Sinnott, Multifamily Loan Program Administrator, at andrew.sinnott@tdhca.state.tx.us.

Attachment A

Rules and Resource Links

State of Texas

Texas Administrative Code

10 TAC Chapter 1 (“Administration”)

10 TAC Chapter 2 (“Enforcement”)

10 TAC Chapter 10 (“Uniform Multifamily Rules”)

10 TAC Chapter 11 (“Qualified Allocation Plan”)

10 TAC Chapter 12 (“Multifamily Housing Revenue Bonds”)

10 TAC Chapter 13 (“Multifamily Direct Loan Rule”)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

Texas Government Code

Tex. Gov’t. Code Chapter 2306

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

Department of Housing and Urban Development (“HUD”)

HUD Program Regulations (HOME)

24 CFR Part 92 (“HOME Final Rule”)

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title24/24cfr92_main_02.tpl

HUD Program Regulations (NHTF)

24 CFR Part 93 (“NHTF Interim Rule”)

http://www.ecfr.gov/cgi-bin/text-idx?SID=222584118d192eb177d111b97b45cda8&mc=true&tpl=/ecfrbrowse/Title24/24cfr93_main_02.tpl

HUD Program Regulations (NSP1 PI)

24 CFR Part 570, as modified by Federal Register Notice (“Neighborhood Stabilization Program Round 1”)

<https://www.hudexchange.info/programs/nsp/nsp-laws-regulations-and-federal-register-notices/>

Federal Cross-Cutting Requirements

Visit <https://www.tdhca.state.tx.us/program-services/training.htm> for TDHCA training regarding the following requirements:

- Fair Housing
<https://www.tdhca.state.tx.us/fair-housing/index.htm>
- Environmental Review and Clearance
<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>
- Davis-Bacon & Labor Standards
<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>
- Minimizing Resident Displacement
<https://www.tdhca.state.tx.us/program-services/ura/index.htm>
- Employment Opportunities for Low-Income People: HUD Section 3
<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>