



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY
2019-2 SPECIAL PURPOSE NOTICE OF FUNDING AVAILABILITY (NOFA):
PREDEVELOPMENT
FIRST AMENDMENT

THIS AMENDMENT CLARIFIES THAT COSTS RELATED TO A DEVELOPMENT SITE THAT ARE DISCOVERED TO BE INELIGIBLE UNDER 10 TAC §11.101 MAY BE CONSIDERED ELIGIBLE COSTS UNDER CERTAIN CIRCUMSTANCES. THIS AMENDMENT REPLACES IN ITS ENTIRETY SECTION 4(c). ALL OTHER SECTIONS OF THE 2019-2 NOFA REMAIN AS ORIGINALLY PUBLISHED.

- 4)c. Costs related to a Development Site that is ineligible under 10 TAC §11.101 related to Site and Development Requirements and Restrictions are ineligible costs, unless the Department's Governing Board has made a determination of eligibility , or ineligibility is the result of information gained from Third-Party Reports or other work completed under this NOFA. For Neighborhood Risk Factors (10 TAC 11.101(a)(3)) and any other site requirement or restriction impacting eligibility that an Applicant knows at Application, an Applicant must submit a request for pre-determination prior to or with its Application under this NOFA. If a site requirement or restriction that would make the site or development ineligible is discovered as a result of information gained from Third-Party Reports or other work completed under this NOFA, an Applicant must submit a request for determination before incurring other costs under its award.



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2019-2 SPECIAL PURPOSE NOTICE OF FUNDING AVAILABILITY (NOFA):
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- 1) Summary.** The Texas Department of Housing and Community Affairs (the Department) announces the availability of \$200,000 in Multifamily Tax Credit Assistance Program Repayment Funds (TCAP-RF) funding for eligible predevelopment activities for Applications to finance affordable multifamily rental housing for low-income Texans through the Department. Additional funds may be added in order to completely fund awards. Applications under this Special Purpose NOFA will be accepted starting at 8:00 a.m. Austin local time on March 11, 2019, through November 26, 2019, at 5:00 p.m. Austin local time (unless ended sooner by Board Action).
- 2) Eligible Applicants.** Each eligible Applicant (a private 501(c)3 or 501(c)4 nonprofit organization), including any staff or Board members of the organization, Affiliate entity, or any individual with control of the proposed Development, that has not received an award of funds from the Department for a multifamily development after January 1, 2009) may apply for a predevelopment grant in an amount of up to \$50,000. A nonprofit organization (inclusive of any Affiliate organization) may receive only one award under this NOFA.
- 3) Availability and Use of Funds.** Except as noted herein, if any provisions of this NOFA are in conflict with provisions of the following rules, as applicable, for which the use of these TCAP-RF grant funds are subject to, the applicable rule will control, as further described in Addendum A:

 - a. 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 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)

b. Texas Government Code.

Tex. Gov't. Code Chapter 2306

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

c. Fair Housing.

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

4) Eligible Costs.

- a. Costs eligible for reimbursement under this NOFA are limited to those which are necessary in order to ultimately submit an Application for Development Funding in accordance with 10 TAC Chapter 11 and/or Chapter 13. Examples of eligible costs include, but are not limited to: costs for Third-Party Reports, accounting fees, architectural and engineering fees, zoning change fees, land surveys, legal fees unrelated to Application preparation, fees related to obtaining site control (e.g. earnest money fees, extension fees), etc.
- b. All costs must be supported by a contract or similar agreement with the third party, the Applicant's internal costs of operation are not eligible. Costs for consultants and similar entities to prepare an Application are not eligible. Costs incurred prior to Application Acceptance Period are not eligible.
- c. Costs related to a Development Site that is ineligible under 10 TAC §11.101 related to Site and Development Requirements and Restrictions are ineligible costs, unless the Department's Governing Board has made a determination of eligibility. An Applicant must submit a request for pre-determination prior to or with its Application under this NOFA.
- d. Costs related to an Existing Development that is not able to meet the minimum Development size identified in 10 TAC §11.101(b)(2) are ineligible costs, unless the Department's Governing Board has made a determination of eligibility. An Applicant must submit a waiver request outlining conformance with the Development's Underwriting Rules and Guidelines as described in 10 TAC Chapter 11, Subchapter D.

4) Restrictions on Third Party Reports. Awardees under this NOFA will be required to receive the Department's explicit written consent to allow Third Party Reports paid for with funds awarded under this NOFA to be shared with any other public or private financing entities.

5) Priorities under this Special Purpose NOFA.

- a. **Date Received Priority.** All Applications under this NOFA will be prioritized based on the business day of receipt unless as specified otherwise herein until 5:00 pm, Austin local time on November 26, 2019 (unless earlier closed by Board action). Unless an Application qualifies for the Disaster Recovery or CHDO Priority, the earliest date of receipt will be March 13, 2019.
- b. **Disaster Recovery Priority.** Applications received under this NOFA with a Development Site in a county declared by the Federal Emergency Management Agency as of March 11, 2019, to be eligible for Individual Assistance (IA) in 2017, 2018, or 2019, will take priority over Applications with Development Sites in non-IA counties

from between March 11, 2019, and April 30, 2019. An Application that qualifies for this Priority will have a date of receipt of March 11, 2019.

- c. **CHDO Priority.** Secondary to the Disaster Recovery priority, Applications received under this 2019-2 Special Purpose NOFA from nonprofit organizations that can be certified as CHDOs 24 CFR §92.2 and the Department's rules will be prioritized over nonprofit organizations that cannot be certified as CHDOs between March 12, 2019, and April 30, 2019. An Application that qualifies for this Priority, but does not also qualify for the Disaster Recovery Priority will have a date of receipt of March 12, 2019.
- d. **All Applications.** All Applications with a date of receipt within the same Priority, will be ranked based on the greatest linear distance from the nearest Housing Tax Credit assisted Development that was awarded less than 15 years ago according to the Department's property inventory tab of the Site Demographic Characteristics Report.

6) Application Submission Requirements.

- a. **Summary.** Applications under this Special Purpose NOFA will be accepted starting at 8:00 a.m. Austin local time on March 11, 2019, through November 26, 2019, at 5:00 p.m. Austin local time (unless ended sooner by Board Action).
- b. **Fees.** Applicants are not required to remit a Predevelopment Application fee.
- c. **Required Materials for all Applications under this Special Purpose NOFA.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department's website at <https://www.tdhca.state.tx.us/multifamily/nofas-rules.htm> and <https://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>. An Application must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department. Applicant must submit the Application materials as detailed in the Multifamily Predevelopment Procedures Manual (Manual) in effect at the time the Application is submitted. An Application must be uploaded to the Department's secure web transfer server in accordance with 10 TAC §11.201(1)(C). Access to the ServU system is available with this request: <https://www.tdhca.state.tx.us/multifamily/docs/19-ElectronicFilingAgreement.xls>.
- d. **Required Materials for Priority Consideration under this Special Purpose NOFA.**
 - i. **Disaster Recovery Priority.** An Applicant must request consideration in the 2019 Predevelopment Application should it wish to be prioritized under the Disaster Recovery Priority of this Special Purpose NOFA.
 - ii. **Community Housing Development Organization (CHDO) Certification.** An Applicant must submit the 2019 CHDO Certification Packet with the 2019 Predevelopment Application if it wishes to be prioritized as a CHDO under this Special Purpose NOFA.

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

- a. An Applicant awarded under this Special Purpose NOFA will be required to fully execute and adhere to any and all requirements under the 2019 Multifamily Predevelopment Contract and related Certifications.
- b. Awarded Applicants may be required to meet additional documentation requirements in order to draw funds, in accordance with Previous Participation results and Contractual conditions.

8) Grant Agreement. An Applicant will be required to enter into a 2019 Multifamily Predevelopment Contract with the Department. The Contract will have up to an eighteen month period to pay for eligible predevelopment costs, and up to an additional six month period to submit draw requests for reimbursement of eligible predevelopment costs. The Contract performance period will five years (unless extended). If the Applicant (or any Affiliate or assignee) receives an award of credits, bonds, grants, or loan funds for the Site is identified in the Contract before the end of the performance period, Applicant will agree to put one TCAP-RF unit on the Development. That TCAP-RF Unit must meet the requirements for HOME-Match, as identified 24 CFR Part 92 and the Department's rules.

9) Miscellaneous.

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the TCAP-RF Program. For proper completion of the Application, the Department strongly encourages potential Applicants to review all State and Federal regulations.
- b. An award under this NOFA does not constitute a finding of eligibility with regard to Site and Development Requirements and Restrictions under future Department rules.
- 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) and the NOFA is open.
- d. For questions regarding this Special Purpose NOFA, please contact Andrew Sinnott, Multifamily Loan Program Administrator, at andrew.sinnott@tdhca.state.tx.us.

ADDENDUM A

Unless otherwise specified, the following is a list of relevant provisions of the Texas Administrative Code applicable to Applications proposing Predevelopment under this Special Purpose NOFA, as cited and enforceable upon approval of the TDHCA Governing Board:

Texas Administrative Code:

10 TAC Chapter 1 (Administration)

10 TAC Chapter 2 (Enforcement)

10 TAC Chapter 11 (Housing Tax Credit Program Qualified Allocation Plan)

Subchapter A – Pre-Application, Definitions, Threshold Requirements, and Competitive Scoring

§11.1 (General)

Subchapter B – Site and Development Requirements and Restrictions

§11.101(a) Site and Development Requirements and Restrictions

Subchapter C – Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules

§11.201(1)(General Requirements)

§11.202(1)(Ineligible Applicants)

§11.202(2) (Ineligible Applications)

§11.204(10)(Site Control)

§11.204(14)(Nonprofit Ownership)

§11.206 (Board Decisions)

§11.207 (Waiver of Rules)

Subchapter D – Underwriting and Loan Policy

§11.303 Market Analysis Rules and Guidelines

§11.304 Appraisal Rules and Guidelines

§11.305 Environmental Site Assessment Rules and Guidelines

§11.306 Property Condition Assessment Guidelines

Subchapter E – Fee Schedule, Appeals, and Other Provisions

§11.902 (Appeals Process)

§11.903 (Adherence to Obligations)

§11.904 (Alternative Dispute Resolution Policy)

10 TAC Chapter 13 (Multifamily Direct Loan Rule)

§13.1(Purpose)

§13.2(Definitions)

§13.3(Loan Requirements)

§13.4(Priorities)

§13.5(Award Process)

§13.11(n)(7) (Direct Loan Contract execution)

§13.11(p)(1), (5), (8), (9), and (11) (Disbursement and Draw Requests)