



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2021-3 NOTICE OF FUNDING AVAILABILITY (NOFA)
2nd Amendment
Effective October 15, 2021

1) Summary. This Amendment extends the period for accepting Applications to November 11, 2021, and provides that the Department will reserve funds for Applications proposing FHA-insured financing in the permanent structure until March 31, 2022, by amending Sections 1, 2, 5 and 7. The Texas Department of Housing and Community Affairs (the Department) announces the availability of **\$48,875,662¹** for the development of affordable multifamily rental housing for low-income Texans. Applicants in the General or HOME Set-Aside must have received a Low Income Housing Tax Credit allocation in 2019 or 2020, or have received an NHTF award under a 2019 or 2020 NOFA. The maximum Application request is \$5,000,000, unless the Application qualifies for the Supportive Housing Set-Aside, in which case the maximum request is \$6,000,000. Applications under the 2021-3 NOFA will be accepted from June 21, 2021, through ~~October 15, 2021~~ November 11, 2021 (if sufficient funds remain). Developments that receive funds under this NOFA will be considered 2021 Developments on the Department's Site Inventory, unless the Development also receives force majeure treatment under 10 TAC §11.6(5).

The capitalized words in this NOFA, and the availability and use of these funds are subject to the following rules, as applicable:

- a. Texas Administrative Code (with the exception of waivers in Section 3 of this NOFA)**
 - 10 TAC Chapter 1 (Administration)
 - 10 TAC Chapter 2 (Enforcement)
 - 10 TAC Chapter 10 (Uniform Multifamily Rules)
 - 10 TAC Chapter 11 (Qualified Allocation Plan)

¹ NHTF funds under this NOFA are subject to federal Commitment deadlines, and the Board may require a Contract Execution Deadline to enable the Department to meet these federal Commitments regardless of any other time period listed in the Texas Administrative Code. Currently, the next commitment deadline for funds awarded under this NOFA is anticipated to be July 29, 2022. Failure to meet that Contract Execution Deadline, could result in the Applicant having the award reduced in whole or in part.

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)

b. Texas Government Code

Tex. Gov't. Code Chapter 2306
<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

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

24 CFR Part 92 (HOME)
24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

d. Fair Housing

Federal Fair Housing Act, 42 U.S.C. 3601-19.
<https://www.tdhca.state.tx.us/fair-housing/index.htm>

e. Other Federal laws and regulations that apply: Environmental Compliance

All federal sources must have some type of environmental review in accordance with
24 CFR Part 58 (HOME)
24 CFR Part 93 (NHTF)
<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD Handbook 1378. HOME funds must follow Section 104d of the Housing and Community Development Act of 1974.
<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Employment Opportunities

NHTF requires compliance with 24 CFR Part 135 (Section 3).
<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>
NOTE – the Section 3 requirements have changed, Applicants should review the changes to assure they can meet the new hiring and reporting requirements.

If Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.

- f.** HUD approval of an amendment to the 2020 Action Plan and HUD approval of the 2021 Action Plan may be required prior to the Department awarding

funds. The amendments to the Consolidated Plan/Action Plan required by the original NOFA were accepted by HUD on August 24, 2021.

2) Priorities

- a. Applications submitted by July 20, 2021, that request less than RAF amount in Attachment A for the region in which the Development Site is located will have an Application Acceptance Date of July 20, 2021. Applications submitted by July 20, 2021, that request greater than RAF amount in Attachment A for the region in which the Development Site is located or if there were insufficient funds to award an application under Priority 2a, will have an Application Acceptance Date of July 21, 2021.
- b. Applications in the General Set-Aside received between July 21 and ~~October 15, 2021~~November 11, 2021, will have an Application Acceptance Date the later of July 22, 2021, or the business day the Application is received.
- c. Applications received under the Supportive Housing Set-Aside will have an Application Acceptance Date of the latter of September 17, 2021, or the business day the Application is received.
- d. Applications received under the HOME Set-Aside will have an Application Acceptance Date of the latter of September 17, 2021, or the business day the Application is received.
- e. All Application Acceptance Dates will be determined in accordance with 10 TAC §13.5(b).
- f. Per 10 TAC §13.1(c), Applications granted an administrative waiver by the Governing Board will have a new Application Acceptance Date of the date the rule waiver was granted (if an amendment to the Consolidated Plan/Action Plan is not required) or the date that the Consolidated Plan/Action Plan amendment is approved by HUD.

5) Loan Terms.

- a. **Construction-to-Permanent Loans in the General Set-Aside and the Supportive Housing Set-Aside.** Loans will be structured as deferred-forgivable, deferred-payable, Surplus Cash (sometimes referred to as cash-flow), or with must pay monthly provisions, as required to optimize assistance to the Development, as recommended by Real Estate Analysis (REA). For Federal Housing Administration layered transactions subject to the MAP Guide, only the Surplus Cash option is available. The term of the loan and the amortization period (not to exceed 40 years) will match any superior debt, with an interest rate as low as 0% interest.²

~~²The Department does not currently have an agreement with FHA regarding its Subordination Agreement or Riders and thus at present cannot make awards to Applications layered with FHA funds that are subject to the MAP Guide in the permanent financing structure. The Department will reserve funds for these Developments through at least November 30, 2021~~March 31, 2021, (or other date approved by the Executive Director, but not later than February 28, 2022). While the Department does not have an approved agreement with FHA, the Applicant may replace its FHA funds without receiving a new Application Acceptance Date.

- b. **FHA Financing.** The Department does not currently have an agreement with FHA regarding its Subordination Agreement or Riders and thus at present cannot execute commitments for Applications layered with FHA funds that are subject to the MAP Guide in the permanent financing structure, except that HUD has agreed to consider use of the old form when the Development was in HUD's portfolio on or before August 31, 2022. The Department will reserve funds for these Developments through ~~at least March 31, 2022, (or other date approved by the Executive Director, but for NHTF Developments not later than July 29, 2021).~~ While the Department does not have an approved agreement with FHA, the Applicant may replace its FHA funds without receiving a new Application Acceptance Date.
- c. **Construction to Permanent Loans in the HOME Set-Aside.** Applicants may only apply for loans structures allowed under 10 TAC §13.8(a)(2) with an **interest rate of up to 2.5% interest rate**, even if sources and uses appear unbalanced. REA may recommend a lower interest rate, a deferred-forgivable, or a deferred payable option, as required to meet the federal rules or the Administrative Rules.
- d. **Construction-Only Loans.** Requests structured as construction-only loans will have an interest rate of 0% with the principal amount of the Direct Loan due upon the end of the construction loan term as established in 10 TAC §13.8(e)(1).

7) Application Submission Requirements.

- a. **Application Acceptance Period.** Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on June 21, 2021, through ~~October 15, 2021~~ **November 11, 2021**, at 5:00 p.m. Austin local time (if sufficient funds remain). Applications requesting rule waivers or amendment to the Consolidated Plan or Action Plan will be accepted through September 17, 2021, at 5:00 p.m. Austin local time. An Applicant may have only one active Application per Development at a time under this or any other Department NOFA.
- b. **Application Submission Materials.** 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/apply-for-funds.htm>. 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. Waiver of specific rules is made through this NOFA and accompanying Board Action Item.
- c. The following Application materials are required for the HOME and General Set-Aside 2021-3 NOFA.
 - i. Fully executed 2021 Development Owner Certification, Applicant Eligibility Certification(s), and Multifamily Direct Loan Certification;
 - ii. Tab 6b – Multifamily Direct Loan Self-score;
 - iii. Tab 7, Sections 7 and 8 - Floodplain, Prime Farmland Designation, Site and Neighborhood Standards;
 - iv. Tabs 11 and 12, Section 3 Site Information Form Part III and Support

- Documentation to the extent that it might have changed from the original Application, and if the Applicant does not own the property the contract for sale with the required language in 10 TAC §13.5(e).
- v. Tab 17 - Development Narrative, including description of any value – engineering from the original Application, the loan type requested, and if requesting a deferred-forgivable loan, a description of how the loan is treated with respect to Eligible Basis;
 - vi. Tab 19, Section 2 – Rent Levels of Residents;
 - vii. Tab 21 – Occupied Developments, Uniform Relocation Act section, if applicable;
 - viii. Tab 22 – Architectural Drawings, only to the extent that they may have changed from the original Application;
 - ix. Tab 23 – Building/Unit Configuration, only to the extent that they may have changed from the original Application;
 - x. Tab 23 - Rent Schedule reflecting 2021 rent limits;
 - xi. Tab 26 – Annual Operating Expenses;
 - xii. Tab 27 – 15 Year Rental Housing Operating Pro Forma;
 - xiii. Tab 30 – Development Cost Schedule supported by a draft Construction Contract and Schedule of Values;
 - xiv. Tab 31 – Schedule of Sources reflecting current financing structure, including required Match Funds proposed to offset development cost, as applicable
 - xv. Tab 32 – MF Direct Loan Financial Capacity;
 - xvi. Tab 33 – Match Funds;
 - xvii. Tab 35 – Supporting Documents evidencing the current financing as shown by executed loan documents or current term sheets, as applicable;
 - xviii. Tab 41 – Applications involving one or more nonprofit organization, housing finance corporation, governmental entity, public housing, or public facility corporation in Control should submit the printout showing the that the most recent Single Audit or Audits required by 2 CFR §200.501 was submitted to the Federal Audit Clearinghouse; if not required to have a federal Single Audit, but required to have a State Single Audit, a copy of the State Single Audit, or a statement that the entity/entities are not required to have a Single Audit; Amendment request, if applicable per the [Post Award Activities Manual](#); and
 - xix. Additional information as requested by the Department in its sole discretion.

d. — Applicants in the Supportive Housing Set-Aside must submit a full Application.