



Texas Department of Housing and Community Affairs HOME Investment Partnerships Program

Notice of Funding Availability (NOFA) Rental Housing Development Open Funding Cycle

The Texas Department of Housing and Community Affairs (“the Department”) announces the availability of approximately \$5,000,000 in federal funding from the HOME Investment Partnerships Program (HOME) to develop affordable rental housing for low-income Texans. The availability and use of these funds is subject to the State HOME Rules at 10 TAC Chapter 53 (“HOME Rules”) in effect at the time the NOFA is released, the federal regulations governing the HOME program (24 CFR Part 92), and Chapter 2306, Texas Government Code.

Allocation of Funds

The Department has set-aside approximately \$5,000,000 in HOME Investment Partnership Program Funds from its 2006 federal allocation for rental development activities. All funds released under this NOFA are to be used for the creation of affordable rental housing for low-income Texans earning 80 percent or less of the Area Median Family Income (AMFI) for the locality where the proposed development is located. At least \$2,000,000 of these funds are specifically set-aside for rental development proposals which involve the acquisition and rehabilitation of existing affordable housing that is at-risk of losing the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive. The remaining \$3,000,000 in funds will be available to all eligible applicants for rental development activities. The Department will begin accepting application on December 6, 2005, and continue to accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays, on an ongoing basis until such time as all funding has been committed, or until the current state fiscal year ends on August 31, 2006.

Applications for the Preservation Set-Aside must include evidence that any stipulation to maintain affordability in the contract granting the subsidy is at-risk of expiring, or that the federally insured mortgage on the Development is eligible for prepayment, within the next 24 months from the date of application submission. An Application for a Development that includes the demolition of the existing units which have received any of the previously listed benefits will not qualify as a Preservation Development unless the redevelopment will include the same site and is supplemented with HOPE VI funding or funding from the Local Housing Authority’s capital grant fund.

The Department awards HOME funds, typically as a loan, to eligible recipients for the provision of rental housing for low, very low and extremely low-income individuals and families. Award amounts are limited to no more than \$3 million per development. Applicants must be able to demonstrate that at least ten percent of the total development costs will be leveraged by additional private or public financing resources. The per unit subsidy may not exceed the per unit dollar limits established by the U.S. Department of Housing and Urban Development (HUD) under §221(d)(3) of the National Affordable Housing Act which are applicable to the area in which the development is located, and as published by HUD. The minimum loan amount is \$1,000 per unit. Rental developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per unit in direct hard costs unless the property is also being financed by the U.S. Department of Agriculture’s Rural Development program. Funds will be

awarded in accordance with the rules and procedures as set forth in the State of Texas HOME Program rules at 10 TAC §§53.50-53.62. The Department may, at its discretion and based upon review of the financial feasibility of the development, determine to award HOME funds as either a loan or as a grant. Loans can not exceed amortization of more than 40 years.

Each development will have a two-tier affordability term. The first tier will entail the federally required affordability term. For new construction or acquisition of new housing, this term is 20 years. For rehabilitation or acquisition of existing housing, the term is 5 years if the HOME investment is less than \$15,000 per unit; 10 years if the HOME investment is \$15,000 to \$40,000 per unit; and 15 years if the HOME investment is greater than \$40,000 per unit. This first tier is subject to all federal laws and regulations regarding HOME requirements, recapture, net proceeds and affordability. The second tier of affordability is the additional number of years required to bring the total term of affordability up to 30 years (for example, the second tier of affordability on a 10 year federal affordability term, is 20 additional years). The second tier, or remaining term, is subject only to state regulations and affordability requirements. Properties will be restricted under a Land Use Restriction Agreement (“LURA”), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

Eligible Activities

Eligible activities will include those permissible under the Federal HOME Rule at 24 CFR §92.205, the State HOME Rules at 10 TAC §§53.55 & 56, and are limited by this NOFA to activities which involve the acquisition, rehabilitation and construction of affordable rental housing. Refinancing of federally financed properties or use of HOME funds for properties constructed within five years of the submission of an Application for assistance will not be permissible. Rental development funds will be eligible for use in a participating jurisdiction, in accordance with §2306.111(c) of the Texas Government Code, which states that the Department shall expend at least 95 percent of its HOME funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from HUD. All funds not set aside under this subsection shall be used for the benefit of persons with disabilities who live in areas other than small cities and rural areas. Additionally, qualified CHDOs working in local PJs located in Counties that have been determined to be Federal Disaster Areas due to Hurricane Rita are not limited to serving persons with disabilities, at this time. This exception may be revoked by the Department.

Applicants should be aware that there are minimum affordability standards necessary for HOME assisted rental developments. At a minimum, at least 20% of HOME assisted units should be affordable to persons earning 50% of the AMFI or less of the AMFI; all remaining units must be affordable to persons earning 80% or less of the AMFI. These minimum requirements affect only those units which are HOME assisted and do not supercede the minimum affordability requirements for applicants jointly applying for HOME and Housing Tax Credits under §42(i)(E) of the Internal Revenue Code or any other federal, state or local affordable housing programs.

Eligible Applicants

The Department provides HOME funding from the federal government to qualified nonprofit organizations, for-profit entities, sole proprietors, public housing authorities and units of local government. Applicants may be ineligible for funding if they meet any of the criteria listed in

§53.53(b) of the Department's HOME rule. Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application.

Match Requirements

Applicants will be required to submit documentation on all financial resources to be used in the development that may be considered match to the Department's federal HOME requirements. Applicants must provide firm commitments as defined in accordance with the Federal HOME rules at 24 CFR §92.218 and will be provided with the appropriate forms and instructions on how to report eligible match.

Development Requirements

Housing units subsidized by HOME funds must be affordable to low, very-low or extremely low income persons. Mixed Income rental developments may only receive funds for units that meet the HOME program affordability standards. All applications intended to serve persons with disabilities must adhere to the Department's Integrated Housing Rule at 10 TAC §1.15. Applicants serving local Participating Jurisdictions may only receive funding for those units which are specifically set-aside for persons with disabilities, in accordance with §2306.111(c) of the Texas Government Code. Qualified CHDOs working in local PJs located in Counties that have been determined to be Federal Disaster Areas due to Hurricane Rita are not limited to serving persons with disabilities, at this time. This exception may be revoked by the Department.

All applications will be required to meet Section 8 Housing Quality Standards detailed under 24 CFR §92.401, as well as the accessibility requirements to meet Fair Housing Accessibility Standards and Section 504 of the Rehabilitation Act of 1973. Developments must also meet all local building codes or standards that apply. If the development is located within a jurisdiction that does not have building codes, developments must meet the most current International Building Code. Applicants for rental development programs may also be required to meet the applicable development standards of the Housing Tax Credit program rules at §50.6, as further detailed in the application manual.

Resolution Requirements

The Department requires that all applications submitted must include a resolution from the applicant's direct governing body (Board of Directors or Sole Proprietor) authorizing the submission of the application and detailing the correct signatory authority and title block for all contracts and commitments.

Audit Requirements

An applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application submission date per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore, applications that have past due audits will be disqualified. Staff will not recommend applications for funding to the Department's Governing Board unless all unresolved audit findings, questioned or disallowed costs are resolved per 10 TAC §1.3(c).

Review Process

The Department will be accepting applications on an ongoing basis. Applications will be accepted, starting on December 6, 2005, from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays, on an ongoing basis until such time as all funding has been committed, or until the current

state fiscal year ends on August 31, 2006. Applications will be accepted, reviewed and recommended to the Department's Board in accordance with Department's process for handling Open Cycle Applications detailed at §53.58(b) of the HOME Rule.

All applications must be submitted, and provide all documentation, as described in this NOFA, 10 TAC §53.58 of the HOME Rule and as further detailed in the appropriate HOME Rental Application Manual. Applicants should refer to the application manual, for the appropriate threshold criteria.

The HOME Rental Application Manual, all required application documents, a HOME Reference Manual, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us/home.htm. Applications 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.

Because applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HOME funds before an application has completed all phases of its review. In the case that all HOME funds are committed before an application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for 90 days in its current phase. If new HOME funds become available, applications will continue onward with their review without losing their received date priority. If HOME funds do not become available within 90 days of the notification, the Applicant will be notified that their application is no longer under consideration. The applicant must reapply to be considered for future funding. If on the date an application is received by the Department, no funds are available under this NOFA, the applicant will be notified that no funds exist under the NOFA and the application will not be processed.

The Department may decline to consider any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a development. The Department reserves the right to negotiate individual elements of any application.

An Applicant may appeal decisions made by staff in accordance with 10 TAC §§1.7-1.8.

Parties interested in submitting an application are required to attend the appropriate HOME application workshop, or arrange a pre-application meeting with Department staff before submitting an application. The workshop schedules will be posted on the Department's website at www.tdhca.state.tx.us.

To arrange a meeting on rental development applications, Applicants should contact David Danenfelzer, Multifamily Housing Administrator at (512) 475-3865, or by email at david.danenfelzer@tdhca.state.tx.us.

Application Submission

Application materials must be organized and submitted in the manner detailed in the application submission manual. Applicants must submit one complete printed copy of all application materials and one complete scanned copy of the application materials as detailed in the appropriate application manual. All scanned copies must be scanned in accordance with the guidance provided in the application manuals.

Applicants are required to remit a non-refundable application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$500.00 per application. Please send check, cashier's check or money order. Do not send cash. §2306.147(b) of the Texas Government Code requires the Department to waive application fees for 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 an allowable or reimbursable cost under the HOME Program. Applications must be sent after December 6, 2005 to:

**Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410**

or via the U.S. Postal Service to:

**Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
Post Office Box 13941
Austin, TX 78711-3941**

***NOTE:** This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular HOME CHDO Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations.*