

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Rule Review for
§1.12 Negotiated Rulemaking

Disclaimer

Attached is 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking, that was approved by the TDHCA Governing Board on February 10, 2022 for rule review. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years. At this time, the Department has determined that there continues to be a need for this rule and has also determined that no changes to this rule as currently in effect are necessary. This document, including its preamble, is expected to be published in the February 25, 2022, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on February 25, 2022
End: 5:00 p.m. Austin local time on March 25, 2022

Comments received after 5:00 p.m. Austin local time on March 25, 2022, will not be accepted.

Written comments may be submitted, in hard copy or electronic formats within the designated public comment period to:

Texas Department of Housing and Community Affairs
Attn: Brooke Boston
Rules Comments
P.O. Box 13941
Austin, Texas 78711-3941
Email: brooke.boston@tdhca.state.tx.us

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
Street Address: 221 East 11th Street, Austin, TX 78701
Mailing Address: PO Box 13941, Austin, TX 78711-3941
Main Number: 512-475-3800 Toll Free: 1-800-525-0657
Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage negotiated rulemaking. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from February 25, 2022, through March 25, 2022. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to bboston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, March 25, 2022.

Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.12, Negotiated Rulemaking

(a) Purpose. In accordance with Tex. Gov't Code §2306.082, the Department encourages the use of negotiated rulemaking procedures for the adoption of Department rules. Tex. Gov't Code Chapter 2008 describes the procedures for negotiated rulemaking including appointment of a convener; publishing notice of proposed negotiated rulemaking and requesting comments on the proposal; appointing a negotiated rulemaking committee; appointing an impartial third party facilitator; and proposing the resulting draft rule for public comment.

(b) Request for Negotiated Rulemaking Process.

(1) Any person or organization that would like for the Department to use negotiated rulemaking for the adoption of a Department rule may submit such a request to the Department's Board Secretary. The proposal must identify: the rule proposed for negotiated rulemaking, potential participants for the negotiated rulemaking committee, possible third party facilitators, and a suggested timeline for the process. The Department may also on its own propose to use negotiated rulemaking.

(2) In determining whether a proposed negotiated rulemaking is appropriate in a particular situation, the Department and interested parties may consider any relevant factors, including:

(A) The number of identifiable interests that would be significantly affected by the proposed rule;

(B) The probability that those interests would be adequately represented in a negotiated rulemaking;

(C) The probable willingness and authority of the representatives of affected interests to negotiate in good faith;

(D) The probability that a negotiated rulemaking committee would reach a unanimous or a suitable general consensus on the proposed rule;

(E) The probability that negotiated rulemaking will not unreasonably delay notice and eventual adoption of the proposed rule;

(F) The adequacy of agency and public resources to participate in negotiated rulemaking; and

(G) The probability that the negotiated rulemaking committee will provide a balanced representation among all interested and affected parties. (Tex. Gov't Code §2008.052(d)).

(3) The Department generally will respond to the request within seven calendar days. If the negotiated rulemaking is not pursued, the Department will provide the party making the request with an explanation for the basis of the decision.

(c) If the Department decides to proceed with a negotiated rulemaking, it shall follow the process outlined in Tex. Gov't Code Chapter 2008 and costs associated with the negotiated rulemaking process will be handled as specified in Tex. Gov't Code §2008.003.