

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Action for
10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule

Disclaimer

Attached is a rule action for 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule, that was approved by the TDHCA Governing Board on January 12, 2023.

Under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, this rule is now required to be evaluated. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule will be made available for public comment from January 27, 2023, through February 27, 2023, and returned to the Board for final approval.

This document, including its preamble, is expected to be published in the January 27, 2023, 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>.

In compliance with §2001.023, Texas Government Code, a summary of the rule and action follows for each section:

10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule clarifies the administration of the Texas Single Family Neighborhood Stabilization Program ("Texas SFNSP"). The Texas SFNSP awards funding to Subgrantees to acquire foreclosed, abandoned, or vacant property in order to redevelop it and prevent it from becoming a source of blight which could contribute to declining property values. No changes are being made to this section.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on January 27, 2023
End: 5:00 p.m. Austin local time on February 27, 2023

Comments received after 5:00 p.m. Austin local time on February 27, 2023, 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
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

DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS
Acción aprobada por la Junta Directiva del TDHCA para
el capítulo 29 ["Regla del Programa de Estabilización de Vecindarios Unifamiliares de Texas"]
del título 10 del Código Administrativo de Texas (TAC)

Descargo de responsabilidad

Se adjunta una acción de regla para el capítulo 29 ["Regla del Programa de Estabilización de Vecindarios Unifamiliares de Texas"] del título 10 del Código Administrativo de Texas (TAC), que fue aprobada por la Junta Directiva del TDHCA el 12 de enero de 2023.

En virtud de la sección (§) 2001.039 del Código de Gobierno de Texas, que exige que las agencias estatales revisen una regla cada cuatro años para evaluar si continúan existiendo las razones para adoptar inicialmente la regla, ahora se exige que se evalúe esta regla. El personal ha determinado que existe una necesidad continua de la existencia de esta regla y que actualmente no se justifican revisiones. La Secretaría de Estado exige que la regla se publique para un período de comentarios públicos, incluso cuando no se propongan revisiones. Por lo tanto, la regla estará disponible para comentarios públicos desde el 27 de enero de 2023 hasta el 27 de febrero de 2023, y se remitirá a la Junta para su aprobación final.

Se espera que este documento, incluyendo su preámbulo, se publique en la edición del *Texas Register* del 27 de enero de 2023. Esa versión publicada constituirá la versión oficial para fines de comentarios públicos y se puede encontrar en el siguiente enlace: <https://www.sos.texas.gov/texreg/index.shtml>.

De conformidad con la sección (§) 2001.023 del Código de Gobierno de Texas, se incluye a continuación un resumen de la regla y la acción correspondiente para cada sección:

el capítulo 29 ["Regla del Programa de Estabilización de Vecindarios Unifamiliares de Texas"] del título 10 del Código Administrativo de Texas (TAC) precisa la administración del Programa de Estabilización de Vecindarios Unifamiliares de Texas ("Texas SFNSP"). El SFNSP de Texas adjudica fondos a los subconcesionarios para adquirir propiedades en ejecución hipotecaria, abandonadas o desocupadas con el fin de rehabilitarlas y evitar que se conviertan en una fuente de deterioro urbano que podría contribuir a la disminución del valor de las propiedades. No se están efectuando cambios en esta sección.

Comentarios del público

Periodo de comentarios del público: Inicio: 8:00 a. m., hora local de Austin, del 27 de enero de 2023
Fin: 5:00 p. m., hora local de Austin, del 27 de febrero de 2023

No se aceptarán los comentarios que se reciban después de las 5:00 p. m., hora local de Austin, del 27 de febrero de 2023.

Los comentarios por escrito pueden presentarse en formato impreso, por fax o por correo electrónico dentro del período designado de comentarios del público así:

Departamento de Vivienda y Asuntos Comunitarios de Texas
Correo electrónico: brooke.boston@tdhca.state.tx.us

Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la norma, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario.

Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

Dirección: 221 East 11th Street, Austin, TX 78701

Dirección postal: P.O. Box 13941, Austin, TX 78711-3941

Número principal: 512-475-3800 Número gratuito: 1-800-525-0657

Correo electrónico: txhaf@tdhca.state.tx.us Web: www.tdhca.state.tx.us

Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule. 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 have rules in effect that govern the activities of the Neighborhood Stabilization Program (NSP) single family activities. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for re-adoption 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 January 27, 2023, through February 27, 2023. 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, February 27, 2023.

Attachment 2: Text of Rule as Currently in Effect for 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule

§29.1 Purpose

This chapter clarifies the administration of the Texas Single Family Neighborhood Stabilization Program (“Texas SFNSP”). Texas SFNSP funds are administered by the Department. The Texas SFNSP awards funding to Subgrantees to acquire foreclosed, abandoned, or vacant property in order to redevelop it and prevent it from becoming a source of blight which could contribute to declining property values.

§29.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (“NOFA”) indicates otherwise. Lack of capitalization of a term or word in this chapter does not indicate that the term is undefined. Other definitions may be found in Tex. Gov’t Code, Chapter 2306; Chapter 1 of this title (relating to Administration); and Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

- (1) Developer--A nonprofit entity that receives Texas SFNSP assistance for the purpose of:
 - (A) Acquiring homes and residential properties to rehabilitate for residential purposes; and
 - (B) Constructing new housing in connection with the redevelopment of demolished or vacant properties.
- (2) Expended--For the purposes of contract milestones and thresholds, "Expended" means that a complete draw request is submitted with adequate back-up documentation; it is not necessary for staff to have processed a draw to meet a benchmark. For all other purposes, "Expended" means that an eligible cost was incurred and staff has processed a draw to reimburse the expense with Texas SFNSP funds.
- (3) Land Bank--A governmental or nongovernmental nonprofit organization established, at least in part, to assemble, temporarily manage and dispose of vacant land for the purposes of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.
- (4) Obligated--When Texas SFNSP funding has been encumbered through contracts for goods, services or acquisition of property, or other forms of similar transactions requiring payment that have been determined by the Department to meet Texas SFNSP requirements.
- (5) Subgrantee--A Subrecipient or a Developer.
- (6) Subrecipient--Units of General Local Government and nonprofit organizations with whom the Department contracts and provides funding in order to undertake activities eligible for such assistance.
- (7) Texas SFNSP--Texas Single Family Neighborhood Stabilization Program.

§29.3 General Provisions

- (a) All assisted properties must be located in eligible areas as defined by HUD and by the applicable NOFA.
- (b) The Contract term is based upon varying types of activities included in the Contract between the Department and the Department's Subgrantee. Exhibit C, Project Implementation Schedule, of the Contract, provides an outline of specific timelines, milestones and thresholds. Performance under the Contract will be evaluated according to the benchmarks described in each Contract.

(c) Administrative Threshold. Administrative draw requests are funded from the administration or developer fee line item in Exhibit B, Budget, of the Contract. Reimbursement of eligible administrative expenses is regulated as described in paragraphs (1) - (3) of this subsection:

(1) Threshold 1. Cumulative administrative draw requests may allow up to 10 percent of the administration or developer fee line item to be drawn prior to the start of any project activity included in the performance statement of the Contract (provided that all pre-draw requirements, as described in the Contract, for administration have been met). This draw may be limited by NOFA, underwriting report, or by Contract. Subsequent administrative expenditures will be reimbursed in the percentage amounts indicated, provided that all Contract benchmark requirements have been met, as identified in Exhibit C, Project Implementation Schedule, described in subsection (b) of this section;

(2) Threshold 2. Subsequent administrative draw requests are allowed in proportion to the direct project funds drawn on the Contract, up to 90 percent of the total administration or developer fee line item. The cumulative total percentage of administrative funds requested may not exceed the cumulative total percentage of project funds expended for hard and/or soft costs directly attributable to activities under the Contract;

(3) Threshold 3. The final 10 percent of the administration or developer fee line item is the administrative retainage. The final 10 percent may be drawn after the final loan closing or upon Contract close-out.

(d) Forbearances. Contract expenditure thresholds and milestones are included in Exhibit C, Project Implementation Schedule, of the Contract; violations of which will subject the Subgrantee to the requirements found in this chapter. At the Department's discretion, forbearances of thresholds and milestones may be granted upon request and documentation of extenuating circumstances.

(e) Waivers. Program administrative regulations set forth in any Texas SFNSP NOFA by the Department's Governing Board or terms in the Contract may be waived by the Department, acting by and through its Executive Director or his/her designee, up to the limits of Texas SFNSP regulations and guidance as previously established, periodically updated, or updated in the future by HUD. The Executive Director or his/her designee may waive the Texas SFNSP purchase discount to the limits of the purchase discount as allowed by the NSP Bridge Notice. The Texas NSP NOFA and the NSP *Federal Register* Notice (Docket No. FR-5255-N-01) published in the *Federal Register* (73 FR 58330), require a minimum discount of five percent for any individual property and 15 percent for a portfolio of properties to be acquired utilizing Texas SFNSP funds. (If only acquiring one property, the one property constitutes a portfolio.) The NSP Bridge Notice allows for up to a one percent discount for individual properties and portfolios.

§29.4 Reassignment of Funds

Deobligated funds may either be reassigned utilizing the amendment process described 10 TAC §20.14 of this title (relating to Single Family Programs Umbrella Rule), or be subject to redistribution through a methodology to be approved by the Board.