



Texas Department of Housing and Community Affairs

Summary of Fifth Minor Amendment to the 2020-2024 State of Texas Consolidated Plan

September 2021

Amendment to add language conforming to changes made in NOFAs to meet the needs of NHTF applicants experiencing increased costs due to the COVID-19 Pandemic.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.320(k)(1,2,3)

Housing Trust Fund (HTF) Reference 24 CFR 91.320(k)(5)

3. If distributing HTF funds by selecting applications submitted by eligible recipients,

c. Describe the selection criteria that the grantee will use to select applications submitted by eligible recipients. If not distributing funds by selecting applications submitted by eligible recipients, enter “N/A”.

Selection criteria typically only applies when funds are oversubscribed; in cases where the application is layered with 9% Housing Tax Credits, for instance, scoring in 10 TAC §11.9 would be applicable. To the extent that two or more applications for NHTF have the same received by date and the funds are oversubscribed, the scoring criteria listed in [the 2020 or 2021 Multifamily Direct Loan Rule \(10 TAC Chapter 13\)](#), link located in attachments, will apply [\(as applicable\)](#).

If applications for NHTF are not combined with 9% HTC or do not need to be prioritized in a regional allocation formula, they will be prioritized based on the Application Acceptance Date and reviewed to ensure they meet the Department's threshold criteria, which takes into account all of the selection criteria in 24 CFR §91.320(k)(5)(i).

The Texas Department of Housing and Community Affairs’ Multifamily Division awards or allocates more than \$1 billion annually of debt and equity in an efficient and compliant manner. Our processes for Application selection are comprehensive, and assure that the resulting Developments meet the highest standards for financial feasibility and long-term stability. Our Compliance Monitoring Division assures that all properties meet these standards for the duration of their affordability period, and is frequently cited as one of the best Compliance divisions nationally. Our threshold requirements for site selection assure that projects will be located in safe communities with ample opportunity for residents, and our stringent underwriting requirements assure they will be viable throughout the affordability period.

There is a well-developed set of requirements within the Texas Administrative Code that have the force of law. The Uniform Multifamily Rules, Qualified Allocation Plan, and Multifamily Direct Loan Rule are all updated annually through an extensive public input process. Additionally, the QAP is approved annually by the Governor. All of the selection criteria described in §91.320(k)(5)(i) are met by some portion of our rules, although they will not all be contained in a single section dedicated to NHTF. We endeavor to hold all Applications for multifamily funds to the same strict standards through the application of consistent requirements across all fund sources.

All Applications for NHTF funds must meet threshold criteria in 10 TAC Chapter 11, Subchapters A through D, and the Multifamily Direct Loan Rule, which address Definitions, Site and Development requirements, Applicant and Application requirements, and loan structure and underwriting requirements. Without meeting all of the applicable criteria in rules, the Application will not be successful. Therefore, the selection criteria applied to NHTF Applications will be met by passing multiple review points – threshold state and federal program reviews, underwriting reviews, and compliance/ previous participation reviews – that confirm these rules are being met.

To address statewide increases in construction costs, TDHCA issued a Notice of Funding Availability (NOFA

2021-3) in June 2021 for HTF Program Year 2021 funding in the amount of \$37,575,662. The purpose of the NOFA was to provide 2019 and 2020 HTC awardees a means to address unanticipated cost increases in construction materials, a result of supply chain interruption caused by the COVID-19 pandemic. These increases jeopardized the ability of many 2019 and 2020 HTC proposals to timely reach place in service deadlines.

The 2021-3 NOFA included a streamlined, uniform method of review and distribution for all eligible applicants. The following waivers from standard requirements were employed to expedite review of these previously approved applications:

- i. 10 TAC §11.101(a)(2) related to Undesirable Risk Features, to the extent that the undesirable feature was disclosed at original Application;
- ii. 10 TAC §11.101(a)(3)(B)(iii) related to blight and 10 TAC §11.01(a)(3)(B)(iv) related to schools, including disclosure requirements, to the extent that the risk factor was disclosed at original Application;
- iii. 10 TAC §11.205 related to Required Third Party Reports, with the exception that the Department may request updates to any Report deemed necessary to evaluate an Application under this NOFA;
- iv. 10 TAC §13.1(c)(1) related to Waivers for Layered Developments, instead Applicant requested Waivers will be treated under 10 TAC §13.1(c)(2);
- v. 10 TAC §13.4(s)(1)(A)(ii)(III) related to 30% units restricted by Housing Tax Credits;
- vi. 10 TAC §13.5(c) related to Market Analysis;
- vii. 10 TAC §13.5(g)(2) and (3)(A)-(C) related to eligibility determinations;
- viii. 10 TAC §13.5(i) related to Effective Rules, except that the requirements of the 2019 or 2020 Qualified Allocation Plan 10 TAC §11.101(4) Mandatory Development Amenities, 10 TAC §11.101(5) Common Amenities, 10 TAC §11.101(6) Unit Requirements, and 2020 10 TAC §11.101(7) Resident Supportive Services will instead apply;
- ix. 10 TAC §13.6 relating to scoring. No scoring outlined in Chapter 11 will be used, instead the only scoring will be that outlined in 10 TAC §13.6.
- x. 10 TAC §13.11(c)(2) related to submission of environmental review, the 90 day requirement will be 30 days from the Application Acceptance Date.

[An additional amendment was approved by the Governing Board on September 2, 2021, after early review of applications resulted in some 2021-3 Applications being unable to meet NHTF requirements, while others did not appear financially feasible due to NHTF requirements. Since the primary intent of the 2021-3 NOFA is to assist 2019 and 2020 Applicants that have experienced increased costs due to the COVID-19 pandemic, the NOFA was amended to better meet the needs of the known applicant pool](#)

[First, the amendment transferred \\$11 million in HOME funds from the 2021-1 NOFA in order to assist 2021-3 Applications unqualified for NHTF but still suffering from severe cost overruns.](#)

[Additionally, the NOFA previously prohibited consideration of proposals in construction, and after consulting with HUD staff, TDHCA determined to allow proposals in construction to apply under certain conditions:](#)

- [HOME funding would be considered where there is a prior Part 50 or 58 review with the appropriate update to the environmental clearance](#)

- NHTF funding would be considered if the applicant agreed to cease construction upon application and until full clearance was received.

Finally, given the pressing need for supportive housing, the NOFA was amended to provide up to \$6,000,000 in NHTF for adaptive reuse for supportive housing.

Commitments under the 2021-3 NOFA ~~would follow receipt of the PY 2021 HTF Grant Agreement, and could~~ include commitment of remaining PY 2020 funds or PY 2021 Grant Funds.

Please see response to 3a for additional detail on selection criteria.