Texas Department of Housing and Community Affairs

Summary of HOME Multifamily and National Housing Trust Fund (NHTF) First Amendment to the 2021 State of Texas Consolidated Plan One Year Action Plan

March 2022

With the release of the 2022 Notice of Funding Availability (NOFA), the loan products, available interest rates, and per-development funding request limits have been expanded from what were previously reported in the One-Year Action Plan (OYAP). In addition, this update clarifies that funds from the HOME-American Rescue Plan (HOME-ARP) Program will not be included when calculating subsidy limits for the National Housing Trust Fund (NHTF) program.

In addition, the most recently published Max Per Unit Subsidies Calculation are included as an attachment to this amendment.

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

5. Summary of public comments

No public comment was received on the 2021 One-Year Action Plan. Comment was received on 10 TAC Chapter 13, which is the Department's Multifamily Direct Loan Rule, in November 2021. Commenters requested the following changes:

- That units set aside for Multifamily Direct Loan use and occupancy be permitted to be layered with Project-Based Vouchers issued under 24 CFR Part 983 in situations where no program requirements would be violated.
- That the Soft Repayment Set-Aside be made available more broadly to developments which provide supportive housing or which create extremely low income and rent restrictions that would not exist otherwise.
- That "Equipment required for construction" as an ineligible cost be more clearly defined, and that certain soft costs be allowed.
- That the rule more clearly define how other federal funds are included in the per-unit subsidy calculation.

6. Summary of comments or views not accepted and the reasons for not accepting them

No public comment was received on the 2021 One-Year Action Plan. TDHCA made responsive changes to the Chapter 13 rule or in the NOFA as a result of these comments

AP-30 Methods of Distribution – 91.320(d)&(k)

Introduction:

Given that Texas is the second largest state in the nation by total area, the method of distribution of its funds has to take into account a very large area. To serve this large area it is necessary for the State to use subrecipients to administer the programs funded under CPD. The selection processes for these entities are generally described below.

Distribution Methods

Table 8 - Distribution Methods by State Program

10	**State Program Name:**	HOME Multifamily Development
	Funding Sources:	HOME
	Describe the state program addressed by the Method of Distribution.	The Multifamily Direct Loan Program awards HOME loans to for-profit and nonprofit multifamily developers to construct and rehabilitate affordable rental housing. These loans typically carry a 0% to~~.~~ 5% interest rate and have terms ranging from 15 years to 40 years. The vast majority of the loans are made in conjunction with awards of 4% or 9% HTCs.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	TDHCA's Texas Administrative Code Chapters 10, 11, and 13 set forth the minimum requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, appropriate zoning for the site, and a market and environmental study. Additionally, the development must also meet financial feasibility and subsidy layering requirements. After a period of Regional Allocation, HOME funds are typically awarded on a first-come, first-served basis, as long as the criteria above are met. After a certain date, for HOME Multifamily Development applications layered with 9% HTCs, the highest scoring applications in the 9% cycle that also request HOME funds are prioritized according to 9% criteria.

	Describe how resources will be allocated among funding categories.	A maximum of 85% of HOME Multifamily Funds, are available for general activities and at least 15% for Community Housing Development Organizations (CHDOs). The HOME Multifamily Direct Loan Program may make funds available annually or through a special purpose NOFA under the General, Supportive Housing/Soft Repayment, and CHDO Set-Asides. TDHCA has also created a COVID Impact set-aside to assist developments which received funding from the Department in 2020 or 2021, and which have documentable increases to building and site work costs attributable to the impact of COVID-19.
	Describe threshold factors and grant size limits.	TDHCA's Qualified Allocation Plan set forth a minimum set of requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, experience of the developer, appropriate zoning for the site, and a market and environmental study. The development must also meet financial feasibility and subsidy layering requirements. Awards of HOME Multifamily Direct Loan Program funds range from approximately \$500,000 to \$6,000,000 per application typically in the form of a loan, but these amounts may change and the caps may be ~~higher~~ lower than \$6 million if so reflected in a published NOFA.
	What are the outcome measures expected as a result of the method of distribution?	Assistance to LMI households.
12	**State Program Name:**	National Housing Trust Fund
	Funding Sources:	Housing Trust Fund

	Describe the state program addressed by the Method of Distribution.	The NHTF Program awards loans to for-profit and nonprofit multifamily developers to construct/rehabilitate multifamily affordable housing. Because the NHTF is required to benefit ELI households at or below the greater of 30% of AMI or the poverty rate, the units will likely not be able to service a debt payment. The constraints on NHTF dictate that the funds typically be available as construction--only loans, ~~0-.5%%~~ 0% interest rate permanent loans with fixed monthly payments, deferred payment, ~~or~~ deferred forgivable permanent loans, ~~or~~ partially amortizing loans (with the amount not in a fixed payment due at sale, refinance, or at the end of the loan term), or 75% cash flow loans (FHA only) ~~or as 0% interest cash flow loans~~, if required, to leverage with tax credits or other financing mechanisms. Loan types may be further limited by NOFA.

	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	TDHCA's Texas Administrative Code Chapters 10, 11 and 13 set forth a minimum set of requirements that document a project owner's readiness to proceed with the development. The Development must also meet financial feasibility requirements. After the NHTF regional allocation formula is applied, the funds are awarded on a first-come, first-served basis, as long as the criteria above are met. TDHCA will review and recommend NHTF (referred to under the umbrella term MFDL below) applications in accordance with 10 TAC Chapter 13, the Multifamily Direct Loan Rule, as follows: (1) Priority 1: Applications not layered with current year 9% Housing Tax Credits (HTC) that are received prior to the current year Market Analysis Delivery Date as described in 10 TAC §11.2 (relating to Program Calendar for Housing Tax Credits). Priority 1 Applications may be prioritized based on score within their respective Set-Aside for a certain time period, for certain populations, or for certain geographical areas, as further described in the NOFA. (2) Priority 2: Applications layered with current year 9% HTC will be prioritized based on their recommendation status and score for an HTC allocation under the provisions of the Qualified Allocation Plan (QAP). All Priority 2 applications will be deemed received on the Market Analysis Delivery Date identified in 10 TAC §11.2 (relating to Program Calendar for Housing Tax Credits). Priority 2 Applications will be recommended for approval of the MFDL award at the same meeting when the Board approves the 9% HTC allocations. 9% HTC allocations are not guaranteed the availability of MFDL funds, as further provided in 10 TAC §13.5(f). (3) Priority 3: Applications that are received after the Market Analysis Delivery Date, generally have a first come first served access to any remaining funds, until the final deadline identified in the annual NOFA. Applications that will create new ELI units without preexisting vouchers or other rental subsidy may be prioritized, and additional criteria may be imposed for applications not layered with tax credits.

		In 2021 and 2022, TDHCA will review and recommend 2021 NHTF applications in accordance with the Multifamily Direct Loan Rule and the annual NOFA as follows: Program year 2021 NHTF will initially be programmed through the annual NOFA. These funds will be allocated to regions based on a Regional Allocation Formula (RAF). The end date for the RAF will be identified in the NOFA, but in no instance shall it be less than 30 days from the date a link to the Board approved NOFA or NOFA Amendment is published on the Department's website. Complete Applications received during the period of the RAF will be prioritized for review and recommendation to the Board, if sufficient funds are available in the region. If insufficient funds are available in the region to fund all applicants meeting the criteria in 10 TAC Chapters 11 and 13, applications will be scored according to the criteria in 10 TAC §13.6. Remaining NHTF may then be made available statewide in the annual NOFA, or transferred to a special purpose NOFA.
	Describe how resources will be allocated among funding categories.	NHTF will not be allocated among funding categories. The NHTF funds are provided ~~under the Soft Repayment set-aside~~ for multiple uses, to meet the requirement to serve ELI households.
	Describe threshold factors and grant size limits.	TDHCA's Texas Administrative Code Chapters 10, 11 and 13 set forth a minimum set of requirements that document a project owner's readiness to proceed with the development as evidenced by site control, notification of local officials, the availability of permanent financing, experience of the developer, appropriate zoning for the site, and a market and environmental study. Additionally, the development must have certain unit amenities and common development amenities. Developments must also meet financial feasibility requirements. Award funds may range up to $6,000,000 per application in the form of a loan for this program, but which may be capped at a lower amount in the NOFA.
	What are the outcome measures expected as a result of the method of distribution?	Assistance to ELI households.

Discussion:

The distribution process for 4% HTC Program, 9% HTC Program, HHSP, State Housing Trust Fund Program, MCC Program, My First Texas Home Program, NSP PI Program, Section 8 HCV Program, Section 811 PRA Program, and TCAP RF can be found in the documents that govern these programs, all available at http://www.tdhca.state.tx.us/. The CDBG Colonia Set-Aside Methods of Distribution will be included in Action Plan Section 48, which is specifically about colonias.

Along with selecting appropriate entities to administer funding, the State must ensure that the funding is appropriately spent. For example, in addition to an output measure of the number of clients/households supported with HOPWA housing subsidies assistance, AAs routinely monitor Project Sponsors' for compliance and performance. DSHS monitors the AAs and annually compiles AAs' and Project Sponsors program progress reports and reviews cumulative data for number of households assisted compared to goals, expenditures, and stability outcomes of households served. More information on CPD Programs monitoring efforts are described in Strategic Plan Section 80, Monitoring.

Additional information for Allocation of CDBG program income and deobligated funds has been provided as an attachment.

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)

1. **How will the grantee distribute its HTF funds? Select all that apply:**
   ☑ Applications submitted by eligible recipients
   ☐ Subgrantees that are HUD-CPD entitlement grantees

2. **If distributing HTF funds through grants to subgrantees, describe the method for distributing HTF funds through grants to subgrantees and how those funds will be made available to state agencies and/or units of general local government. If not distributing funds through grants to subgrantees, enter "N/A".**

   N/A

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

a. Describe the eligibility requirements for recipients of HTF funds (as defined in 24 CFR § 93.2). 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 Multifamily Direct Loan Rule (10 TAC Chapter 13), found in the attachments, will apply. 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 satisfy strong 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.

Program requirements are outlined in the Texas Administrative Code the Qualified Allocation Plan and Multifamily Direct Loan Rule are updated annually through an open and transparent public input process. Additionally, the QAP is approved annually by the Governor. All of the selection criteria described in 24 CFR §91.320(k)(5)(i) are addressed by the rules, although not necessarily contained in one rule dedicated solely to NHTF. We hold all Applications for multifamily funds to the same 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.

b. Describe the grantee's application requirements for eligible recipients to apply for HTF funds. If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

Texas' application requirements can be found in 10 TAC Chapter 11, Subchapter C: Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules; as well as 10 TAC Chapter 13 (Multifamily Direct Loan Rule). See link in attachments to rules.

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 linked Multifamily Direct Loan Rule (10 TAC Chapter 13) in the attachments, will apply.

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).

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.

~~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.~~ The 2022-1 NOFA includes a COVID Impact Set-Aside for previously awarded applications that have received a HTC allocation or award of MFDL funds in 2020 or 2021 with documentable increases to building costs and site work costs attributable to the impact of COVID-19. This set-aside is initially funded with $10,000,000 in HOME funds; however, NHTF funding may be made available if sufficient demand exists and if approved by the Board. The following waivers from standard requirements are available for this set-aside:

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

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iii. 10 TAC §11.205 related to Required Third Party Reports, except if the Market Study needs to be revised to reflect further income or rent limitations in the Application. Also, 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;10 TAC §13.5(h)(2) and (3)(A)-(C) related to eligibility determinations;

vii. 10 TAC §13.5(i) related to Effective Rules, only to the extent that the requirements of the applicable 2020 or 2021 QAP requirements for prior HTC or Multifamily Direct Loan awards will instead be utilized for 10 TAC §11.101(4) Mandatory Development Amenities, 10 TAC §11.101(5) Common Amenities, 10 TAC §11.101(6) Unit Requirements, and 10 TAC §11.101(7) Resident Supportive Services.

viii. 10 TAC §13.6 relating to scoring, only to the extent that scoring in 10 TAC §11.9 will not apply.

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

d. Describe the grantee's required priority for funding based on geographic diversity (as defined by the grantee in the consolidated plan). If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

As described in SP-10 Geographic Priorities the Texas NHTF will distribute NHTF funds through a competitive NOFA process. As reflected in 10 TAC §13.4(b) the funds will initially be available geographically, based on the proportion of Extremely Low Income Renter households to the total population of Renter Households in each of thirteen State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by thirteen, and available competitively within each region for at least the first 30 days after a NOFA is published prior to being collapsed into a statewide competition.

Thereafter, consideration of geographic diversity will not be a factor in evaluating applications. Please see attached Multifamily Direct Loan Rule for text of 10 TAC §13.4(b). Also attached are estimated Regional Allocation amounts based on the 2020 NHTF Allocation as well as a map of the Uniform State Service Regions.

e. Describe the grantee's required priority for funding based on the applicant's ability to obligate HTF funds and undertake eligible activities in a timely manner. If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

Applicants must provide evidence of their experience in developing and managing multifamily developments as required under 10 TAC §11.204(6) if layered with other fund sources, or 10 TAC §13.5(h~~d~~)(1) if MFDL only. Both 10 TAC §11.204(6) or 10 TAC §13.5(h~~d~~)(1) are mentioned in the table HTF Funding Priorities Question 3a.

Application criteria including readiness to proceed as evidenced by site control, appropriate zoning, architectural plans, and evidence of financing will be considered.

Furthermore, 10 TAC §13.11(c~~b~~)(3) through (4) states:

"(3) After a Development receives environmental clearance (if applicable), the Department will draft a Contract to be emailed to the Direct Loan awardee. Direct Loan awardees must execute and return a Contract to the Department within 30 calendar days after receipt of the Contract.

(4) Loan closing must occur and construction must begin on or before the date described in the Contract. If construction has not commenced within 12 months of the Contract Effective Date, the award may be terminated."

Execution of a Contract fulfills the Commitment definition in 24 CFR §93.2 in that the Contract is the "legally binding written agreement (that includes the date of the signature of each person signing the agreement) with an eligible recipient for a project that meets the definition of 'commit to a specific local project.'" Additionally, 10 TAC §13.11(c~~b~~)(13~~0~~) states: "Termination of the Direct Loan award and repayment of all disbursed funds will be required for any Development that is not completed within four years of the effective date of a Direct Loan Contract." Finally, the Department may impose a two year ban on applying for MFDL for any applicant that fails to meet commitment and/or expenditure requirements in accordance with 10 TAC §13.11(a) and (b), which states: "Direct Loan awardees must satisfactorily complete the following Post-Award Requirements after the Board approval date. If a Direct Loan award is declined by the Direct Loan awardee and returned after Board approval, or if the Direct Loan awardee or affiliates fail to timely enter into the Contract, close the loan, begin and complete construction, or leave a portion of the Direct Loan award unexpended, penalties may apply under 10 TAC §11.9(f)(relating to Competitive HTC Selection Criteria), and/or the Department may prohibit the Applicant and all Affiliates from applying for MFDL funds for a period of two years." See attachments for full text of referenced TDHCA 10 TAC rules.

f. Describe the grantee's required priority for funding based on the extent to which the rental project has Federal, State, or local project-based rental assistance so that rents are affordable to extremely low-income families. If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

Of highest priority in the evaluation of applications will be the creation of new units serving ELI households that would not otherwise exist. While the availability of project-based rental assistance will be considered, only applications that demonstrate the ability to meet Underwriting requirements will be funded.

The State of Texas will consider project based rental assistance to the extent that the existence of it allows or the lack of it does not allow an application to meet TDHCA's underwriting requirements. A development that would otherwise be characterized as infeasible may be deemed feasible if the following criteria, as described in 10 TAC §11.302(i)(5~~6~~)(B) are applicable. See link in the attachments for 10 TAC Chapter 11.For Applications layered with 9% credits, leveraging is a scoring item under 10 TAC §11.9(e)(4). See link in the attachments for 10 TAC Chapter 11.If an application is not layered with 9% credits, it must have other sources of funding, such as project based vouchers, in order to be viable over the affordability period.

10 TAC §13.8 from the Multifamily Direct Loan Rule and 10 TAC §§11.301 through .306 of the Uniform Multifamily Rule will comprise TDHCA's underwriting requirements.

g. Describe the grantee's required priority for funding based on the financial feasibility of the project beyond the required 30-year period. If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

No priority for funding based on the feasibility of the project beyond the required 30-year period will be given except in instances where a first-lien loan ahead of an NHTF loan or grant has a term greater than 30 years that would result in the NHTF loan or grant having a term greater than 30 years. Texas Government Code §2306.185(c) further limits the length of the affordability period that the State can impose, stating: "The department shall require that a recipient of funding maintains the affordability of the multifamily housing development for households of extremely low, very low, low, and moderate incomes for the greater of a 30-year period from the date the recipient takes legal possession of the housing or the remaining term of the existing federal government assistance. In addition, the agreement between the department and the recipient shall require the renewal of rental subsidies if available and if the subsidies are sufficient to maintain the economic viability of the multifamily development." In other words, absent scoring considerations, unless an FHA-insured loan or similar type of federal government-insured loan with a term greater than 30 years is part of the financing, the longest NHTF affordability period that the State will impose is 30 years.~~.~~ Additionally, for bond layered transactions the NHTF state affordability period will match the length of the affordability period required for the bonds.

h. Describe the grantee's required priority for funding based on the merits of the application in meeting the priority housing needs of the grantee (such as housing that is accessible to transit or employment centers, housing that includes green building and sustainable development features, or housing that serves special needs populations). If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

The State of Texas will prioritize HTF funding for the needs of ELI households in accordance with its 2019

State of Texas Analysis of Impediments (AI) recommendations and high opportunity measures of the QAP.

Threshold requirements for all multifamily projects are found in 10 TAC Chapter 11 Subchapter B, which include criteria such as Mandatory Development Amenities, Common Amenities, Unit Requirements, Tenant Supportive Services requirements, and Development Accessibility Requirements. 10 TAC Chapter 11 Subchapter B also includes threshold requirements such as Undesirable Site Features and Undesirable Neighborhood Characteristics. Additionally, Applications layered with 9% Tax Credits are scored on proximity to desirable community features, as are Direct Loan Applications if the fund source or set-aside is over-subscribed.

NHTF applicants are allowed to claim points as detailed in §13.6~~(a)(1)~~ of the Multifamily Direct Loan Rule and under 10 TAC §11.9(c)(4) related to the Opportunity Index. See link in the attachments for 10 TAC Chapter 11.

i. Describe the grantee's required priority for funding based on the extent to which the application makes use of non-federal funding sources. If not distributing funds by selecting applications submitted by eligible recipients, enter "N/A".

It is anticipated that Applications for NHTF will require multiple funding sources in order to meet threshold feasibility requirements. While the State primarily plans on providing NHTF funds as deferred forgivable loans or similarly soft repayment loans, other sources will be required to meet both development and operating needs. Additionally, if NHTF is oversubscribed, the amount of subsidy per unit is a scoring factor as described in 10 TAC §13.6(4), thereby requiring less NHTF funding. See the attached Multifamily Direct Loan Rule for text of 10 TAC §13.6(4).

Without other fund sources, this range of subsidy level will not be possible, so other funding sources – whether owner equity if NHTF is the only source of Department funding or, more likely, Housing Tax Credits since NHTF works best as gap financing – are required. Finally, although not federally required, 10 TAC §11.204(7)(E) discusses documentation requirements for HOME Match funds of requested Direct Loan funds. See link in attachments for text of 10 TAC Chapter 11.

Applications layered with 9% Housing Tax Credits will be subject to scoring in 10 TAC §11.9(e)(4) - Leveraging of Private, State, and Federal Resources - which states:

(A) An Application may qualify to receive up to three (3) points if at least 5% of the total Units are restricted to serve households at or below 30% of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses (i) - (iv) of this subparagraph: (i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9% of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or

(ii) If the Housing Tax Credit funding request is less than seven 9% of the Total Housing Development Cost (3 points); or

(iii) If the Housing Tax Credit funding request is less than eight 10% of the Total Housing Development Cost (2 points); or

(iv) If the Housing Tax Credit funding request is less than nine 11% of the Total Housing Development Cost (1 point).

(B) The calculation of the percentages stated in subparagraph (A) of this paragraph will be based strictly on the figures listed in the Funding Request and Development Cost Schedule. Should staff issue an Administrative Deficiency that requires a change in either form, then the calculation will be performed again and the score adjusted, as necessary. However, points may not increase based on changes to the Application. In order to be eligible for points, no more than 50% of the Developer Fee can be deferred. Where costs or financing change after completion of underwriting or award (whichever occurs later), the points attributed to an Application under this scoring item will not be reassessed unless there is clear evidence that the information in the Application was intentionally misleading or incorrect.

4. **Does the grantee's application require the applicant to include a description of the eligible activities to be conducted with HTF funds? If not distributing funds by selecting applications submitted by eligible recipients, select "N/A".**

Yes

5. **Does the grantee's application require that each eligible recipient certify that housing units assisted with HTF funds will comply with HTF requirements? If not distributing funds by selecting applications submitted by eligible recipients, select "N/A".**

Yes

6. **Performance Goals and Benchmarks.** The grantee has met the requirement to provide for performance goals and benchmarks against which the grantee will measure its progress, consistent with the grantee's goals established under 24 CFR 91.315(b)(2), by including HTF in its housing goals in the housing table on the SP-45 Goals and AP-20 Annual Goals and Objectives screens.

Yes

7. **Maximum Per-unit Development Subsidy Amount for Housing Assisted with HTF Funds.** Enter or attach the grantee's maximum per-unit development subsidy limits for housing assisted with HTF funds.

The limits must be adjusted for the number of bedrooms and the geographic location of the project. The limits must also be reasonable and based on actual costs of developing non-luxury housing in the area.

If the grantee will use existing limits developed for other federal programs such as the Low Income Housing Tax Credit (LIHTC) per unit cost limits, HOME's maximum per-unit subsidy amounts, and/or Public Housing Development Cost Limits (TDCs), it must include a description of how the HTF maximum per-unit development subsidy limits were established or a description of how existing limits developed for another program and being adopted for HTF meet the HTF requirements specified above.

TDHCA adopted the Section 234 Condominium Housing Basic Mortgage Limits (Section 234 Condo Limits) published by HUD, subject to the High Cost Adjustment as allowed for all jurisdictions in Fort Worth HUB, for 2020 PY awards made through the Multifamily 2021 NOFA. While TDHCA does not make any FHA-insured loans, the department has adopted the per unit limits for substantial rehab for our Direct Loans (HOME, NHTF, TCAP RF, NSP1 PI) for 2020 and 2021. The attached limits do not vary based on geographic location in Texas since the limits were approved by HUD for use throughout the state. They will be used statewide for ease of use both for applicants and TDHCA staff.

Additional limits may apply if the NHTF funds are used in conjunction with other affordable housing programs. Also, these subsidy limits may be subject to stricter limits in NOFAs.

Funds from the HOME-American Rescue Plan Program will not be included when evaluating subsidy layering.

See the attached justification as to why the State will not establish separate maximum limitations on the total amount of NHTF.

8. **Rehabilitation Standards.** The grantee must establish rehabilitation standards for all HTF-assisted housing rehabilitation activities that set forth the requirements that the housing must meet upon project completion. The grantee's description of its standards must be in sufficient detail to determine the required rehabilitation work including methods and materials. The standards may refer to applicable codes or they may establish requirements that exceed the minimum requirements of the codes. The grantee must attach its rehabilitation standards below.

In addition, the rehabilitation standards must address each of the following: health and safety; major systems; lead-based paint; accessibility; disaster mitigation (where relevant); state and local codes, ordinances, and zoning requirements; Uniform Physical Condition Standards; and Capital Needs Assessments (if applicable).

Rehabilitation Standards are attached.

9. **Resale or Recapture Guidelines.** Below, the grantee must enter (or attach) a description of the guidelines that will be used for resale or recapture of HTF funds when used to assist first-time homebuyers. If the grantee will not use HTF funds to assist first-time homebuyers, enter "N/A".

N/A

10. **HTF Affordable Homeownership Limits.** If the grantee intends to use HTF funds for homebuyer assistance and does not use the HTF affordable homeownership limits for the area provided by HUD, it must determine 95 percent of the median area purchase price and set forth the information in accordance with §93.305. If the grantee will not use HTF funds to assist first-time homebuyers, enter "N/A".

☑ The grantee has determined its own affordable homeownership limits using the methodology described in § 93.305(a)(2) and the limits are attached.

N/A

11. **Grantee Limited Beneficiaries or Preferences.** Describe how the grantee will limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population to serve unmet needs identified in its consolidated plan or annual action plan. If the grantee will not limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population, enter "N/A."

Any limitation or preference must not violate nondiscrimination requirements in § 93.350, and the grantee must not limit or give preferences to students. The grantee may permit rental housing owners to limit tenants or give a preference in accordance with § 93.303(d)(3) only if such limitation or preference is described in the action plan.

The State will limit beneficiaries and/or give preferences to the segments of the extremely low-income population in accordance with AP-25 of the 2021 One-Year Action Plan.

12. **Refinancing of Existing Debt.** Enter or attach the grantee's refinancing guidelines below. The guidelines describe the conditions under which the grantee will refinance existing debt.

The grantee's refinancing guidelines must, at minimum, demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing. If the grantee will not refinance existing debt, enter "N/A."

TDHCA may use NHTF funds to refinance existing debt secured by multifamily housing that is being rehabilitated with NHTF funds as described in 24 CFR §93.201(b). TDHCA shall use its underwriting and evaluation standards, site and development requirements, and application and submission requirements found in 10 TAC Chapters 11 and 13, for refinanced properties in accordance with its administrative rules. The NOFA may allow for lower per unit rehabilitation costs than those described at 10 TAC §13.7(c), and the Board may waive the rehabilitation minimums at 10 TAC §11.101(b)(3). At a minimum:

- Rehabilitation costs must be the primary eligible activity for developments involving refinancing of existing debt so the NHTF eligible rehabilitation costs – whether funded entirely or partially by TDHCA's NHTF funds – are greater than the total refinancing costs (i.e. payoff amount plus closing and title costs);
- The proportional rehabilitation cost per NHTF unit must be greater than the proportional amount of debt per NHTF unit that is being refinanced; and
- The proposed NHTF rent on a unit at application must be less than the greater of actual rent being collected from tenants at application or the tenant's portion of the rent payment, as restricted by any entity through a project-based contract, operating subsidy, or by a use agreement.

Discussion:

The State is not proposing to use any form of investment in its NHTF Program that is not already listed as an eligible for investment in 24 CFR §93.201(b). As described above, TDHCA may use NHTF funds to refinance existing debt secured by multifamily housing that is being rehabilitated as described in 24 CFR §93.201. TDHCA will use its underwriting and evaluation standards, site and development requirements, and application and submission requirements found in 10 Texas Administrative Code, Chapters 11 and 13, for refinanced properties in accordance with its administrative rules.

2022 Max Per Unit Subsidies Calculation

234 Condo Limit (240% High Cost Adjustment as allowed for all jurisdictions in Fort Worth HUB)

	Bedrooms	Non-elevator	Elevator	Non-elevator x 240%	Elevator x 240%
	0	$ 60,702	$ 63,881	$ 145,685	$ 153,314
	1	$ 69,991	$ 73,230	$ 167,978	$ 175,752
	2	$ 84,411	$ 89,049	$ 202,586	$ 213,718
Effective and published in 9/09/2021 Fed. Reg.	3	$ 108,050	$ 115,201	$ 259,320	$ 276,482
	4	$ 120,372	$ 126,454	$ 288,893	$ 303,490

Bedrooms	Non-elevator	Elevator
0	$ 54,628	$ 59,010
1	$ 62,013	$ 67,649
2	$ 74,959	$ 82,262
3	$ 94,085	$ 106,418
4	$ 106,314	$ 116,817

by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This notice merely designates DDAs and QCTs as required under IRC Section 42, as amended, for the use by political subdivisions of the states in allocating the LIHTC. This notice also details the technical methods used in making such designations. As a result, this notice is not subject to review under the order.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2021–19498 Filed 9–8–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6274–N–01]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs; Annual Indexing of Substantial Rehabilitation Threshold

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: In accordance with Section 206A of the National Housing Act, HUD is providing notice of adjustment to the Basic Statutory Mortgage Limits for Multifamily Housing Programs for Calendar Year 2021. HUD is also providing notice of adjustment to the per unit cost threshold for determining substantial rehabilitation in the Multifamily Housing Programs pursuant to its administrative guidance for Calendar Year 2021.

DATES: Effective January 1, 2021.

FOR FURTHER INFORMATION CONTACT: Patricia M. Burke, Director, Office of Multifamily Production, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000, telephone (202) 402–5693 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 206A of the National Housing Act (12 U.S.C. 1712a) provides authority for the annual adjustment for the following FHA multifamily statutory dollar limits:

I. Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));
II. Section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));
III. Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));
IV. Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));
V. Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and
VI. Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

Section 206A goes on to state that the preceding

> ''Dollar Amounts'' shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.
>
> (b) Notification
>
> The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the **Federal Register** of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.

Note that 206A has not been updated to reflect the fact that HOEPA has been revised to use $1,000 as the basis for the adjustment rather than $400, and the Consumer Finance Protection Bureau has replaced the Federal Reserve Board in administering the adjustment. These changes were made by the Dodd-Frank Wall Street Reform and Consumer Protection Act's amendments to the Truth in Lending Act, as further explained in the regulatory implementation of said changes found in 78 FR 6856, 6879 (Jan. 31, 2013).

The percentage change in the CPI–U used for the HOEPA adjustment is a 0.3 percent increase and the effective date of the HOEPA adjustment is January 1, 2021. The Dollar Amounts under Section 206A have been adjusted correspondingly and have an effective date of January 1, 2021.

These revised statutory limits may be applied to FHA multifamily mortgage insurance applications submitted or amended on or after January 1, 2021, so long as the loan has not been initially endorsed.

The adjusted Dollar Amounts for Calendar Year 2021 are shown below. To implement the Consumer Finance Protection Bureau's adjustment, a one-time proration is required to the 0.3 percent figure, which was computed from April 2019 to April 2020 (see 85 FR 50944, Aug. 19, 2020). Because HUD's previous Dollar Amounts utilized CPI–U data through December 2019, only interim CPI–U data from January 2020 through April 2020 is reflected in the table calculations. The overall impact of this adjustment resulted in no change for Calendar Year 2021, because CPI–U showed minor inflation of 1 percent in January and February 2020, but was fully offset by minor deflation of 1% in March and April 2020, associated with COVID–19 pandemic economic disruptions.

Moving forward in future years HUD will continue to utilize the CFPB's time period (April to April) used for the HOEPA CPI–U adjustment, which is typically published in the August preceding the following January effective date.

Basic Statutory Mortgage Limits for Calendar Year 2021 Multifamily Loan Program

Section 207—Multifamily Housing;

Section 207 pursuant to Section 223(f)—Purchase or Refinance Housing; and,

Section 220—Housing in Urban Renewal Areas

Bedrooms	Non-elevator	Elevator
0	$54,892	$64,026
1	60,807	70,944
2	72,633	86,990
3	89,525	108,951
4+	101,352	123,193

Section 213—Cooperatives

Bedrooms	Non-elevator	Elevator
0	$59,488	$63,342
1	68,592	71,764
2	82,723	87,265
3	105,887	112,895
4+	117,966	123,927

Section 234—Condominium Housing

Bedrooms	Non-elevator	Elevator
0	$60,702	$63,881
1	69,991	73,230
2	84,411	89,049
3	108,050	115,201
4+	120,372	126,454

Section 221(d)(4)—Moderate Income Housing

Bedrooms	Non-elevator	Elevator
0	$54,628	$59,010
1	62,013	67,649
2	74,959	82,262
3	94,085	106,418
4+	106,314	116,817

Section 231—Housing for the Elderly

Bedrooms	Non-elevator	Elevator
0	$51,937	$59,010
1	58,063	67,649
2	69,336	82,262
3	83,443	106,418
4+	98,101	116,817

Section 207—Manufactured Home Parks Per Space—$25,200

Indexing of Per Unit Limit for Substantial Rehabilitation for Calendar Year 2021

The 2016 Multifamily Accelerated Processing (MAP) Guide established a base amount of $15,000 per unit to define substantial rehabilitation for FHA insured loan programs. Section 5.1.2.A.2.b of the 2020 MAP guide requires that this base amount be annually adjusted for inflation based on the percentage change published by the Bureau of Labor Statistics of the Department of Labor or other inflation cost index. Applying the HOEPA adjustment to the base amount, the 2021 base amount per dwelling unit to determine substantial rehabilitation for FHA insured loan programs is $16,299.

This per unit cost threshold for substantial rehabilitation may be applied to FHA multifamily mortgage insurance applications submitted or amended on or after January 1, 2021, so long as the loan has not been initially endorsed.

Environmental Impact

This issuance establishes mortgage and cost limits that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Lopa P. Kolluri,

Principal Deputy Assistant Secretary for the Office of Housing—Federal Housing Administration.

[FR Doc. 2021–19496 Filed 9–8–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–C–48]

30-Day Notice of Proposed Information Collection: Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings Among Private Litigants; OMB Control No.: 2510–0014

AGENCY: Office of the Chief Information Officer, Housing and Urban Development (HUD).

ACTION: Notice: Correction.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment. This notice corrects the notice that was published on September 3, 2021 to remove forms that do not pertain to this collection.

DATES: *Comments Due Date:* October 12, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 14, 2021 at 86 FR 31521.

A. Overview of Information Collection

Title of Information Collection: Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings Among Private Litigants.

OMB Approval Number: 2510–0014.

Type of Request: Extension of a currently approved collection.

Form Number: None—Please see 24 CFR 15.203.

Description of the need for the information and proposed use: Section 15.203 of HUD's regulations in 24 CFR specify the manner in which demands for documents and testimony from the Department should be made. Providing the information specified in 24 CFR 15.203 allows the Department to more promptly identify documents and testimony which a requestor may be seeking and determine whether the Department will be able to produce such documents and testimony.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
§ 15.203	106.00	1.00	106.00	1.50	159.00	$53.00	$8,427.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of