HOME American Rescue Plan Handbook

Texas Department of Housing and Community Affairs
221 E. 11th Street, Austin, TX 78745

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Introduction

The Texas Department of Housing and Community Affairs (TDHCA) was allocated approximately $132 million in HOME American Rescue Plan (ARP) funds in a one-time allocation from the U.S. Department of Housing and Urban Development (HUD). HOME-ARP is based on HUD's HOME Investment Partnerships Program annual funding infrastructure. HOME-ARP also has significant differences compared to the HOME annual program.

About This Handbook

This HOME-ARP Handbook is meant to offer some basic information about HOME-ARP and guidance for administering the program. As such, there may be updates from time to time. Readers are advised to make sure they have the most current copy by visiting https://www.tdhca.state.tx.us/HARP.htm. If there are any conflicts among the HOME-ARP Handbook and state or federal rules or regulations, the state or federal rules and regulations take precedence.

Readers of this Handbook may find more information or details in the governing regulations and documents for TDHCA HOME-ARP which include, but are not limited to, the following:

a) Texas Administrative Code
10 TAC Chapter 1 (Administration)
10 TAC Chapter 2 (Enforcement)
10 TAC Chapter 10 (Uniform Multifamily Rules)
10 TAC Chapter 12 (Multifamily Housing Revenue Bond Rules)
10 TAC Chapter 11 (Qualified Allocation Plan)
10 TAC Chapter 13 (Multifamily Direct Loan Rule)
https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1

b) Texas Government Code
Tex. Gov't. Code Chapter 2306 http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm

c) U.S. Department of Housing and Urban Development (HUD) Program
24 CFR Part 92 (HOME Investment Partnerships Program Final Rule)
HUD CPD Notice 21-10 and Appendix: Waivers and Alternative Requirements for Implementation of the HOME-ARP Program https://www.hudexchange.info/resource/6479/notice-cpd-2110-requirements-for-the-use-of-funds-in-the-home-arp-program/

d) Other federal requirements:
2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1

All federal sources must have some type of environmental review in accordance with24 CFR or 24 CFR Part 58 as applicable. https://www.tdhca.state.tx.us/program-services/environmental/index.htm

e) HOME-ARP Allocation Plan
HUD approved amendment to the 2021 Action Plan for the HOME-ARP Allocation Plan.
https://www.tdhca.state.tx.us/HARP.htm

In addition, many waivers/alternate requirements may apply to the state regulations and rules. Some of these waivers/alternative requirements are included in this Handbook, and some waivers will be released at a later date.

Uses of TDHCA HOME-ARP Funding

Per the HUD-approved HOME-ARP Allocation Plan, TDHCA has programmed funds into the HOME-ARP activities in the chart below. Because TDHCA programmed funds into specific HOME-ARP eligible activities, and not every activity available, this Handbook will only cover the activities with funding.

Activity	Approx. Funding Amount*	Percent
Non-Congregate Shelters	$56,511,887	42.5%
Affordable Rental Housing Incl. Capitalized Operating Reserves	$56,511,887	42.5%
Non-Profit Operating/Non-Profit Capacity Building	$6,648,458	5%
Administration and Planning	$13,296,915	10%
Total HOME-ARP Allocation	$132,969,147	100%

* Based on the applications received, these amounts and percentages may fluctuate.

For questions on this Handbook or the TDHCA HOME-ARP Program, contact Tiara Hardaway, HOME-ARP Manager, at Tiara.Hardaway@tdhca.state.tx.us or 512.475.4227.

Contents

1. Qualifying Populations and Preferences

HOME-ARP projects for rental housing or non-congregate shelter must serve qualifying populations (QP). The Texas Department of Housing and Community Affairs (TDHCA) was permitted as a grantee to establish potential preferences among QPs, so long as those preferences were included in our Allocation Plan submitted to HUD. TDHCA noted that those preferences in our Allocation Plan provide projects with the flexibility to request use of one or more of those preferences for the planned project's leasing criteria. Projects would need to indicate these preferences during the application process.

For rental Developments, not all HOME-ARP units are required to house a QP household. Of the units designated as HOME-ARP units, at least 70% must be occupied by QP households, while the remaining 30% must only be for low income households who do not have to qualify as a QP household. This guidance provides an overview of the main criteria of QP and preferences as applicable to those 70% of units, as well as the documentation required to be maintained by the Development to support the determination made.

Documentation of Qualifying Population Status

Developments or shelters must attempt to obtain eligibility documentation using the following tiers:

- First, third-party documentation should be requested;
- Second, *if unable to gather third-party documentation*, intake worker observations; and
- Third, *if unable to gather third-party documentation or intake worker observations*, certification from the person seeking assistance.

An exception is permitted when a written observation by the intake worker would jeopardize the safety of the individual or family in a domestic violence situation.

Referral Method

There are several referral methods permitted for HOME-ARP developments, including accepting applications at the project, using expanded Coordinated Entry (CE), or accepting referrals from CE and other sources. CE is developed by a Continuum of Care, which is a HUD program that uses several of the same definitions as QPs. More guidance on referrals can be found in this Handbook under "Qualified Populations Referral Methods." If using expanded CE only or accepting referrals, some of the documentation steps above may have been performed by the referring organization; however, in such cases the project may accept the determination of the as it relates to the households eligibility as a QP if supported by appropriate documentation.

Qualifying Populations Overview

QPs meet one of the criteria below, with further details in statute and the HUD CPD Notice 21-10. There are five categories of QPs. The below provides an overview; it is not an all-inclusive checklist. Note that Veterans and families that include a veteran member that meet one of the following criteria are also a qualified population.

Homeless, per 24 CFR §91.5

1) An individual or family who lacks a fixed, regular, and adequate nighttime residence (e.g., literally homeless)
    i. Primary nighttime residence is a public or provide place not designed for or ordinarily used as a regular sleeping accommodation (e.g., car, park).
    ii. Persons living in a publicly or privately operated shelter; or
    iii. Persons existing an institution where he/she resided for 90 days or less and who was homeless before entry.
2) An individual or family who will imminently lose their primary nighttime residence
    i. Within 14 days;
    ii. Has not identified a subsequent residence; and
    iii. Lacks other resources and supports.
3) Unaccompanied youth under 25 years of age[1] or family with children/youth who:
    i. Meets one of various definitions of homelessness listed in another statute (e.g., Runaway and Homeless Youth Act, Head Start Act, etc.);
    ii. Has not had a lease in 60 days;
    iii. Has moved more than two times in 60 days; and
    iv. Has one of several conditions that may contribute to homelessness (e.g., chronic disability, substance addition).

Examples of third-party documentation may include:

- Homeless definition 1(iii): Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution.
- Homeless definition 2: A court order resulting from an eviction action or equivalent legal notice that requires the individual or family to leave their residence within 14 days after the date of their application for homeless assistance.
- Homeless definition 3: An example to meet the first criteria of “definitions of homelessness under another statute” could be a certification of homeless status by the local private nonprofit organization or state or local governmental entity responsible for administering assistance under the Runaway and Homeless Youth Act, the Head Start Act, the Violence Against Women Act, Public Health Service Act, the Food and Nutrition Act of 2008, the Child Nutrition Act of 1966, or McKinney-Vento Homeless Assistance Act, as applicable. The remaining criteria under the definition must also be documented.

Examples of intake worker observations may include:

- Homeless definition 1(i): Written observation by an outreach worker of the conditions where the individual or family was living, a written referral by another housing or service provider, or a certification by the individual or head of household seeking assistance.
- Intake observations are not appropriate for homeless definitions 2 and 3 as staff is not likely to be in a position to confirm historical information.

Formerly homeless but housed with temporary resources, per HUD CPD Notice 21-10

1) Households who have:
    i. previously been qualified as “homeless” per 24 CFR §91.5;
    ii. are currently housed due to temporary or emergency assistance;

[1] *Youth aged 24 and under must not be required to provide third-party documentation to show they are homeless to receive any shelter, housing, or services for which ESG or CoC Program funds may be used to supplement the HOME-ARP assistance.*

    iii. and who need additional assistance or to avoid a return to homeless.

Examples of third-party documentation may include:

- The same third-party documentation as the "homeless" definition, along with documentation of current assistance end date by agency providing assistance, and demonstration of additional need. Note that recordkeeping requirements for this QP may be updated, pending further guidance from HUD.

Intake worker observations are not appropriate, due to historical nature of homelessness.

<u>At risk of homelessness, per 24 CFR §91.5</u>

1) An individual or family:
    i. With an annual income below 30 percent of median family income;
    ii. Without sufficient resources or support networks; ***<u>and</u>***
    iii. That meets one of seven conditions that indicate risk of homelessness.
2) A child or youth who meets one of the various definitions of homelessness under another definition listed in statute (e.g., Runaway and Homeless Youth Act, Head Start).
3) A child or youth who qualifies as homeless under the McKinney-Vento Homeless Assistance Act, along with the parent/guardian.

Examples of third-party documentation may include:

- At-Risk Category 1: Income qualification, certification of lack of resources and supports, and eviction notice, notice of termination from employment, or bank statements.
- At-Risk Category 1: Income qualification, certification of lack of resources and supports, and a written statement by the relevant third party (*e.g.,* former employer, owner, primary leaseholder, public administrator, hotel or motel manager) or the written certification by the intake staff of the oral verification by the relevant third party that the applicant meets one or more of the criteria of the definition of "at risk of homelessness".

Examples of intake worker observations:

- At-Risk Category 1: Income qualification, certification of lack of resources and supports, and to the extent that source documents and third-party verification are unobtainable, a written statement by the intake staff that the staff person has visited the applicant's residence and determined that the applicant meets one or more of the criteria of the definition or, if a visit is not practicable or relevant to the determination, a written statement by intake staff describing the efforts taken to obtain the required evidence.

<u>At Greatest Risk of Housing Instability, per HUD CPD Notice 21-10</u>

1) Households that would meet the definition of at-risk of homelessness, but have an income of at or below 50% AMI (instead of >30% AMI).
2) Households that have income less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs).

Examples of third-party documentation may include:

- At-risk of homelessness with 50% AMI: Same as at-risk of homelessness with 30% AMI.
- Extremely low income with severe cost burden: Income evaluation form, source documents for assets, and copy of lease or rental agreement. Note that recordkeeping requirements for this QP may be updated, pending further guidance from HUD.

Examples of intake worker observations (not an all-inclusive list):

- At-risk of homelessness with 50% AMI: Same as at-risk of homelessness with 30% AMI.
- Extremely low income with severe cost burden: Intake observation not appropriate due to financial nature of the need.

Individuals fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, as defined by 24 CFR §5.2003.

Examples of documentation: Acceptable evidence includes an oral or written statement documented by:

i. a written certification by a victim service provider, intake worker, social worker, legal assistance provider, health-care provider, law enforcement agency, legal assistance provider, pastoral counselor, or an intake worker in any other organization from whom the individual or family sought assistance; or

ii. a written certification by the individual or head of household.

Preferences

Reasonable preferences may be established by a projects among the qualifying populations so long as those preferences are clearly shared with all potential tenants/occupants and that preference is applied from the first opening of the waiting list (this is to ensure that all persons placed on the waiting list are aware that those with preferences may come before them on the list). If a preference is requested and approved for a project, the preference affects the order in which applicants will be selected from the waiting list. Preferences do not make anyone eligible for HOME-ARP projects who are not otherwise eligible. If a project's written agreement does not reflect a preference, the preference may not be utilized even if on this list.

For HOME-ARP rental applications, HOME-ARP may allow development of housing that meets the requirements under the Housing for Older Persons Act. Applicants may also request to use a preference on the project required by another federal fund source in the Development such as Veterans or a specific disability such as Persons Living with HIV/AIDS. Preference details are in the HOME-ARP Allocation Plan at https://www.tdhca.state.tx.us/HARP.htm.

1. Persons who are experiencing homelessness
2. Persons who were formerly homeless but housed with temporary resources
3. Persons With Disabilities (includes Persons with Substance Use Disorders and Persons Living with HIV/AIDS)
4. Persons With Violence Against Woman Act (VAWA) Protections and Human Trafficking Protections
5. Persons who are Chronically Homeless
6. Veterans who are Homeless or At-Risk of Homelessness (including Wounded Warriors as defined by the Caring for Wounded Warriors Act of 2008)
7. Families with Children who are Homeless or At-Risk of Homelessness
8. Persons At-Risk of Homelessness
9. Persons Exiting Institutions or Systems of Care/Reentry
10. Persons referred through Coordinated Entry

No otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

2. Qualified Populations Referral Methods

Rental housing or non-congregate shelter developed with HOME-ARP may create the applicant pool (and subsequent waiting list) by receiving referrals for serving Qualified Populations (QP) or by receiving applications directly and documenting eligibility at the property. The Property Owner/Manager (Owner) may also establish preferences within the QPs as reflected in the Contract and Land Use Restriction Agreement (LURA), which may affect the waitlist management but not the referral process. QPs are required to be served throughout the federal affordability period of 15 years. More information about the QP definitions and preferences can be found in the HUD CPD Notice 21-10 with additional guidance in The "Qualifying Populations and Preferences" section of this Handbook. There are three referral method options for HOME-ARP development QPs.

Coordinated Entry (CE) is a method for assessing and prioritizing the needs of homeless persons in a community, and may be used in two of the referral options for HOME-ARP. HUD requires this centralized and coordinated assessment system be used by all Continuums of Care (CoCs). Most communities lack the resources needed to meet all of the needs of people experiencing homelessness. This combined with the lack of well-developed CE processes can result in severe hardships for people experiencing homelessness. They often face long waiting times to receive assistance or are screened out of needed assistance. CE processes help communities prioritize assistance based on vulnerability and severity of service needs to ensure that people who need assistance the most can receive it in a timely manner (24 CFR §578.3).

It should be noted, for all of the Referral Options, the use of expanded CE or referrals by other homeless service providers may allow a more streamlined eligibility review for the property by being able to receive QP eligibility determination from the referring agency. In addition to obtaining eligibility documentation from the referral, the property must document other preferences or limitations reflected in the Contract and student status, and determine other items including, but not limited to, household income, and the calculation of the tenant paid portion of the rent.

> *Important: Eligibility documentation of QP status and verification of status must be kept at the project, but the documentation and verification from the referral agency may be transferred.*
>
> *The project is ultimately responsible for the accuracy of the QP eligibility criteria, so there may be risk involved in accepting a referral without verification from the project.*

Referral Options

Option 1: Expanded Coordinated Entry (CE).

Option 1 uses CE as the only referral source, and requires that the CoC meet the criteria below or expand to meet the requirements of HUD CPD Notice 21-10. Lead agencies of CoCs are subject matter experts on several of the QP categories, since some of the same definitions are used in the HUD CoC Program. Therefore, CoCs have experience in performing the intake and determining if a household qualifies as a

QP. Using this option allows the property to request eligibility documentation from subject matter experts of several QPs, and provides a streamlined source of referrals. Possible drawbacks of using Option 1 are that there may not be enough referrals made to the property, and that many of the referred households may struggle to meet property leasing criteria (e.g., poor credit, poor or no rent history, criminal background). In order to use only expanded CE:

a) The CE system must have a sufficient number of QPs to refer to the project (note that this volume of referred QPs must likely be five times more than the number of HOME-ARP units, as it is typical that only one if five referrals actually result in a household that moves into the property).
b) The CoC may have to add HOME-ARP QPs to its CE approach, which may be unique compared other homelessness assistance programs. QPs that most likely will need to be added are:
    i. Persons who are at-risk of homelessness with incomes up to 50% AMI (not under 30% AMI;
    ii. Persons who have income at or below 30% AMI and are paying more than 50% of monthly household income toward housing costs; and
    iii. Households who have qualified as homeless previously, are housed with temporary/emergency assistance, and who need additional housing assistance or supportive services to avoid a return to homelessness.
c) The CE system must use only the preferences as listed in the HOME-ARP Allocation Plan and reflected in the HOME-ARP Contract and LURA. The CoC cannot rank a QP for HOME-ARP assistance using any method other than the preferences adopted by the Development and approved by the Department.
d) The CE must cover the geographic area of the development, which is the primary market area of the Development, as defined in 10 TAC §11.303(d)(8). If more than one CoC covers the primary market area for the Development, then expanded CE and referrals must be used in two CoC regions. The Owner must have referral agreements with all applicable CoCs documenting the expanded CE, or must use another referral method.

<u>Option 2. Use of Coordinated Entry (CE) with Other Referral Methods or Project-Specific Waitlist</u>

Option 2 relies on the local CE referrals along with a project-specific waitlist and/or referrals from other outside organizations. Using this option allows the property to receive referrals from organizations that may be able to share documentation of eligibility.

Other Referral Methods that can be blended with use of CE may include referrals from Domestic Violence service providers and homeless service providers that do not participate in CE, which may be on a case-by-case basis in the community.

To use CE along with other referral options, the property must:

a) Place referrals from CE or other referral methods in chronological order on a waitlist. Chronological means the date the household was referred to the property, not necessarily how long ago they were added to the CE system.

b) Establish and explain its Written Policies and Procedures the prioritization criteria between CE and other referral methods, and how households from other methods are merged into the waiting list.
c) Establish and document policies and procedures for applying preferences or limitations (if any) uniformly when accepting referrals from a CE and other agencies.

<u>Option 3: Project-Specific Wait List</u>
Option 3 is the method most commonly used for rental Developments, and may be the most flexible option for projects. Using this option allows the property to receive referrals from organizations that may be able to share documentation of eligibility, while still remaining flexible enough to allow households that simply seek the property out for housing. For walk-ins, this method requires that the property establish a method of screening and documenting a household's eligibility as a QP. In addition, the Owner must verify eligible of QPs from referrals that did not share eligibility documentation, as well as verify the project's other eligibility criteria (if applicable). This option may provide the greatest number of opportunities for achieving lease-up of the HOME-ARP units.

A project-specific waitlist must:
a) Allow access to all qualifying individuals or families to apply for placement on the waiting list.
b) Accept households in accordance with the property's preferences and in chronological order.

> *Important: If a HOME-ARP rental Development serves low-income households that are not QPs, a <u>separate</u> project-specific waitlist must be used for these units.*
>
> *For example, if a Development has been awarded HOME-ARP funds for 10 units on the property, 7 of those would have to house QPs and be managed under one waiting list, while the other 3 units on the property would not be required to house a QP and must be managed under another waitlist. Note that this other waitlist may be able to be the same list used for other affordable units on the property (such as tax credit units), depending on the requirements of other funds sources on the property as reflected in the Contract.*

For all three referral method options, there are some cases in which certifications from other agencies are required. For example, several of the QPs may meet a homeless definition not provided in 24 CFR §91.5, such as homeless youth or youth and their families at-risk of homelessness. In these cases, local private nonprofit organization or state or local governmental entity responsible for administering assistance would need to provide certification of homeless status to the expanded CE or to the project for homeless definitions listed in statute:

"the Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*), the Head Start Act (42 U.S.C. 9831 *et seq.*), subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e *et seq.*), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Food and Nutrition Act of 2008 (7 U.S.C.

2011 *et seq.*), section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 *et seq.*), as applicable."

Referrals and Preferences

Each project may request to use any one or more of the preference categories as listed in the HOME-ARP Allocation Plan, and further described in guidance in the "Qualified Populations and Preferences" section of this Handbook. The preferences selected must be approved by TDHCA in the written agreement with the Owner. Any waitlists must place persons in chronological order based on date of referral (Options 1 or 2) or date of receiving the application at the property (Option 3), with priority given to those with preferences stated in the written agreement between the Owner and TDHCA.

All HOME-ARP projects must comply with all applicable nondiscrimination and equal opportunity laws and requirements listed in 24 CFR §5.105(a) and any other applicable fair housing and civil rights laws and requirements when using any referral methods.

Use with Coordinated Entry

Rental Developments and NCS may take part in Coordinated Entry (CE) in varying degrees. While the referral method Option 1 (use of Expanded CE) may appear to be most in line with CE priorities, there are situations that may make Option 2 (CE and Other Referrals) and Option 3 (project-based wait list) more compatible with CE.

The CE screening process and HOME-ARP

Use of Options 1 or 2 (Expanded CE or CE with Other Referrals) by a property means that the tenants will be screened by the CoC through a version of the CE process. However, the CoC must only use the priorities established by TDHCA in this screening.

TDHCA has not established limitations (e.g., allowing projects to only serve persons experiencing homelessness) and is allowing each project to select its preferences among those outlined in the HOME-ARP allocation plan. This means that the Option 1 or 2 CE screening process would consist of the CoC performing the following steps:

1. accepting applicants for the property,
2. determining if the applicant meets the QP eligibility criteria, and
3. forwarding the referral to the project.

The property would keep the referred applicants in a waitlist in chronological order and apply any preferences to the waitlist once a unit becomes available. The CoC could not adjust the order of the waitlist once the referral is sent.

If the CoC would like to use its own screening process with different factors than QP eligibility (e.g., length time spent homeless, etc.) not already outlined in the HOME-ARP allocation plan, the method of prioritization must first be established, described in the HOME-ARP allocation plan, and specified in a Contract between TDHCA and the CoC. The HOME-ARP allocation plan reflective of that prioritization method would be drafted by the Department and must be approved by HUD prior to proceeding. Only after the publication of the method of prioritization in the HOME-ARP allocation plan and incorporation into the Contract and the LURA, would TDHCA be able to allow the CoC to use its CE preferences or prioritization to determine the order of HOME-ARP applicants for HOME-ARP shelter or housing.

Once a CoC has had its screening criteria published and approved in the HOME-ARP Allocation Plan, the CoC could not revise or change those priorities without further revisions and approval of the HOME-ARP Allocation Plan.

CE Referrals with Project-Based Waitlist
A project-based waitlist with a preference for CE more easily allows the CoC to prioritize applicants using the existing CE process before referring to the project. If there are no other preferences on the property's project-based waitlist, then the persons referred by the CoC will always be first selected (if they meet all the criteria for the project).

The CoC's method of prioritization would not need to be published and approved in the HOME-ARP Allocation Plan. Functionally, all available units would first be filled from CE referrals to the project-based list, in chronological order of referral. If there are not enough CE referrals for the appropriate size and features of the available unit(s), then the property would select from the project-based waitlist the next household in chronological order that is appropriate for the size and features of the unit.

In addition, with a project-based waitlist option, the CoC would not have to expand CE and TDHCA/CoC would not need to enter into a written agreement regarding the use of preferences.

CE Referrals with Layered Funding
There are additional restrictions to using CE if the HOME-ARP units are layered with National Housing Trust Fund (NHTF), Neighborhood Stabilization Program (NSP), or HOME annual funds. For these layered units, a preference for CE or the use of CE referrals may only be possible with a "lease up only" clause (e.g., the preference exists at lease up when all units are vacant and then no longer applies).

3. Nonprofit Capacity Building and Operating Cost Assistance

HOME-ARP funds are being made available to provide capacity building and operating cost assistance to nonprofit organizations.

- The capacity building funds are allowed to be used to expand or improve the organization so that it is in a position to carry out a HOME-ARP activity.
- The operating cost assistance is meant to support the existing general operating costs of the organization and cannot be associated with a final cost objective, such as a particular award, internal project, or other direct activity. This guidance outlines eligible costs, and similarities and differences between the activity types.

Eligible Capacity Building/Nonprofit Operating Costs

#	Type	Nonprofit Capacity Building (expansion or improvement related to the potential HOME-ARP activity)	Nonprofit Operating Assistance (general operating)
1	Payroll	Salaries for **new** hires including wages and other employee compensation and benefits	Existing employee salaries, wages and other employee compensation and benefits, but not project level expenses such as a Resident Services Coordinator as required by a Land Use Restriction Agreement, staff employed at a shelter, or property level monitoring.

#	Type	Nonprofit Capacity Building (expansion or improvement related to the potential HOME-ARP activity)	Nonprofit Operating Assistance (general operating)
2	Training	Costs related to employee training or other staff development that enhances an employee's skill set and expertise	General employee education, training, and travel, but not a property-level certification.
3	Equipment and Supplies	Equipment (e.g., computer software or programs that improve organizational processes), and upgrades to materials and equipment and supplies	Equipment, materials, and supplies
4	TA and consultants	Contracts for technical assistance or for consultants with **expertise related to the new HOME-ARP activity being undertaken and with qualifying populations**	n/a
5	Operating/ overhead	n/a	Rent and utilities for the nonprofit's general office space; communication costs; employment taxes; insurance for the organization's Board of Directors and Officer; and property insurance for the nonprofit's general office space.

It should be noted that a unit of Equipment or Supplies in the aggregate over $5,000 will have to be tracked and reported to the Department until worth less than $5,000. In addition, rental costs must have been procured to be eligible for operating cost assistance. Costs listed in the table above are also outlined in HUD CPD Notice 21-10.

Nonprofit Capacity Building/Operating Assistance Ineligible Costs

- Operating costs must not have a particular final cost objective, such as a project or activity, and must not be directly assignable to a HOME-ARP activity or project. If the operating cost can be charged to the HOME-ARP activity, it must be charged to the HOME-ARP activity (e.g., costs to develop HOME-ARP rental housing are paid by a developer fee, which is a project delivery or soft cost).
- HOME-ARP as a program prohibits funds being used to cover shelter operating funds. While nonprofit operating expenses are eligible, operation expenses of emergency shelters are prohibited. Costs related to operating an emergency shelter (e.g., services, allocable overhead and staffing costs, property insurance, utilities, etc.) are ineligible.

Nonprofit Capacity Building/Operating Assistance Limitations

- Minimum award amount of $50,000, to be expended during the Contract Term specified in the NOFA.

- In any fiscal year, nonprofit operating or capacity building assistance provided to a nonprofit organization may not exceed the greater of 50% of the general operating expenses of the organization or $75,000, or an amount otherwise stated in the NOFA.

Nonprofit capacity building assistance will be available for competition either combined in NOFAs with construction for rental housing or NCS, or in separate NOFAs before award of funds for rental housing or NCS. If offered prior to an award of a construction activity, capacity building and nonprofit operating costs will only be awarded to those organizations that TDHCA reasonably expects will be successful applicant of a HOME-ARP award within 24 months of the capacity building/operating costs awards.

A written agreement between the nonprofit and TDHCA describing the amounts and uses of HOME-ARP funds for capacity building assistance and/or operating costs will be required. If the NOFA specifies that public nonprofits are eligible entities, and if the awarded applicant is a public nonprofit organization, then Texas Grant Management Standards would also apply.

4. Reserves for HOME-ARP Projects

HOME-ARP funds may provide capitalized operating cost assistance (COCA) reserves and initial operating reserves for rental developments, and replacement reserves for rental developments and non-congregate shelters (NCS) in accordance with requirements of the HOME-ARP Notice 21-10. This guidance outlines the types of reserves, eligible activities, and interactions between the reserves for rental developments and for NCS.

Note: There can be confusion between COCA and nonprofit operating costs. In general, the nonprofit operating costs are for <u>general</u> operating assistance, and cannot be project-specific. COCA is <u>only project-specific and related to QP units. A table showing eligible costs for the COCA reserve and nonprofit operating costs is listed in Appendix A.</u>

Capitalized Operating Cost Assistance (COCA) Reserve (Rental Only)

COCA is used to mitigate operating deficits for HOME-ARP units that are restricted for occupancy by qualifying populations (QPs) to maintain the HOME-ARP units' long-term operational feasibility. COCA can be used for either floating or fixed units. COCA can only be used on units that were also financed by HOME-ARP for their construction costs. Units not developed with HOME-ARP financing cannot be provided operating assistance.

COCA only applies to units restricted for QPs (at least 70% of the HOME-ARP units) and does not apply to any units that are restricted to low-income households that are not QPs (up to 30% of the HOME-ARP units). QP definitions are further explained in the HUD Notice CPD 21-10, and in additional guidance at https://www.tdhca.state.tx.us/HARP.htm.

The size of the COCA reserve is based on an analysis by the applicant of projected operating deficits remaining after payments of rent by QP's throughout the 15-year federal affordability period. Applicants must request operating reserves at the time of application for HOME-ARP funds. TDHCA will perform a review of the requested amount. When awarded the HOME-ARP financing funds, the applicant will be notified of the amount of the operating reserves being funded as well. For calculating the operating deficits on QP units, the Applicant can assume the tenant-paid portion of rents for QPs will be zero, unless paired with an existing commitment of project-based rental subsidy. While HUD allows for ongoing operating cost assistance drawn periodically, TDHCA's HOME-ARP is only offering a capitalized operating reserve.

Eligible costs for COCA:

1. For Employees assigned to the property
    a) Payroll costs including gross salaries and wages (i.e., payroll taxes, employee compensation, benefits).
    b) Employee education, training, travel.
2. Property-Level General Administrative costs
    a) Advertising.
    b) Goods and services required for administration of housing (e.g., rental or equipment purchase, supplies, legal charges, bank charges, utilities, telephone/internet services, insurance).
3. A proportional amount of property management fees.
4. Maintenance of a HOME-ARP QP unit.
5. Prorated staffing costs of a project-based Resident Services Coordinator, if not already underwritten or paid by another fund source.
6. Scheduled payments to a replacement reserve, if a replacement reserve is not already required to be capitalized by another project source or investor.

Ineligible Costs for COCA

1. HOME-ARP operating reserves will not be attributed to any units on a property for which an operating cost assistance reserve is already established for the unit.
2. HOME-ARP operating reserves cannot fund:
    a. Supportive services (other than the staffing costs of a Resident Services Coordinator, as reflected above)
    b. Tenant based rental assistance
    c. Acquisition of a property
    d. Debt service

Management of COCA

1. Funds can be used from the reserve for vacant units reserved for QP, as long as the operating costs and vacancy rates associated with the units are appropriate for the area, size, population served, and project.
2. The capitalized operating costs is not necessarily prorated evenly based on the number of units. The "Eligible Costs for a Capitalized Operating Reserve" and "Ineligible Costs for a Capitalized Operating Reserve" sections above outline the costs that apply and that would not apply. In addition, certain costs for HOME-ARP may not be eligible as operating costs on the other units, such as property management fees. The costs associated with the HOME-ARP units must be allocated proportionally to those units for HOME-ARP eligible operating costs.
3. Requests for disbursements from the reserve must be submitted to TDHCA or agent with backup documentation. Disbursements must be requested at least once quarterly, or on a more frequent basis but no more than once monthly.
4. Funds may be used over the 15-year HOME-ARP compliance period.
5. Funds are held in a separate interest-bearing account of the property to cover operating deficits of the HOME-ARP QP restricted units.

6. Unexpended operating cost assistance remaining at the end of the 15-year compliance period must be either:
   (a) Retained if the project will continue to operate in accordance with HOME-ARP requirements and serve QPs beyond the federal affordability period and must be reflected in the written agreement; or
   (b) returned to TDHCA.
7. In an Ownership Transfer, the COCA reserve must remain with the Development.

Initial Operating Deficit Reserve (Rental Only)

An initial operating deficit reserve may be established for units restricted for low-income households that are not QPs. However, a unit may not receive both Initial Operating Reserves from the Department and from another source, or receive both Initial Operating Reserves from any source and Capitalized Operating Costs from any source. An initial operating reserve cannot be used for non-congregate shelter, per Section VI. E.3.e.ii. Eligibility of initial operating deficit reserves may be restricted in the NOFA.

Eligible costs for the initial operating deficit reserve:

1. The HOME-ARP Low-Income (LI) unit's proportional share of operating expenses. These operating expenses may not necessarily be the same expenses eligible under HOME-ARP's capitalized operating cost assistance;
2. Scheduled payments to replacement reserve, based on proportional amount of HOME-ARP eligible costs and only (if a replacement reserve is not required by another project source); and
3. Non-federal funds debt service payments based on a proportional amount of HOME-ARP units.

Management of initial operating deficit:

1. The initial operating deficit reserve is based on projected operating deficits of HOME-ARP units for low-income households that are not QP, not to exceed 12 months during project lease up.
2. Remaining funds unexpended after lease up must be returned to TDHCA or if allowed by the written agreement may be kept in a separate interest-bearing account for replacement reserves.
3. In an Ownership transfer, initial operating deficit reserves must remain with the Development.

TDHCA does not typically directly administer initial operating deficit reserves. The reserve is held by the investor/lien holder, and requests for disbursement are managed between those parties. However, for these funds, TDHCA will approve withdrawals from the initial operating reserve on an as-needed basis, but no more than once a month. Any requests must be supported by documentation of expenses.

Replacement Reserve

Capitalizing a reserve for replacement must be based on the useful life of each major system and expected replacement cost in a HOME-ARP rehabilitation project. Replacement reserves are not available for new construction, except if the written agreement allows for remaining funds from the unexpended initial operating deficit. The rental or non-congregate shelter project may request to capitalize a reserve for replacement in the initial year of the compliance period for HOME-ARP units. Costs are determined by a Capital Needs Assessment or documented inspection by TDHCA or a selected contractor, in accordance with requirements for capitalized replacement reserve costs in HUD CPD Notice 21-10, Section VI.E.3. Eligibility of replacement reserves may be restricted in the NOFA.

Eligible Costs for Replacement Reserve:

1. Structural support
2. Roofing
3. Cladding and weatherproofing
4. Plumbing
5. Electrical
6. HVAC

Management of Replacement Reserve

1. Written agreement with TDHCA must list the major systems eligible to be replaced with the reserve.
2. Unspent HOME-ARP funds after completion of the federal affordability period must be returned to TDHCA, unless otherwise reflected in the written agreement.
3. In an Ownership Transfer, a TDHCA funded Replacement Reserve must remain with the Development.

Many replacement reserves are administered by either the investor or the first lien holder, and not by TDHCA. In cases where there is no investor, first lien holder or a replacement reserve is not required by another fund source, the Owner must request funds with backup documentation of amounts and proposed uses. TDHCA would not be the holder of the replacement reserve account, so the owner may withdraw funds directly once approved.

Ineligible Costs for Replacement Reserve

1. Fund replacement reserve for newly-constructed developments, except if the Written Agreement allows for remaining funds from the unexpended initial operating deficit
2. Pay costs of a conversion of HOME-ARP NCS, as described in Section VI.E.11 of HUD CPD Notice 21-10.
3. Provide payments to the reserve for replacement if the reserve is required to be capitalized by another project source or investor.

5. HOME-ARP Rental Development - Rent Levels and Recertifications

There are two types of rental unit restrictions under HOME-ARP: units for qualifying populations (QP) and units for low-income households. At least 70% of the HOME-ARP units must be for QP. Up to 30% of the HOME-ARP units may be for QP Populations and other low-income households not required to meet QP criteria. This guidance outlines the rent levels required by the Department for HOME-ARP for the QPs and low-income households. The calculation of the tenant-paid portion of rent is performed by the Development (or Rural Development or a Project-Based HUD Program as applicable) – not the referring entity.

Units Restricted for Qualifying Population (QP)

1. Initial Occupancy
   a. QP Eligibility: The QP needs to meet one of the definitions in the HUD CPD Notice 21-10. Not all QPs require a particular income level to qualify, although most QP definitions include an income limit of that is at or below 50% AMI. Guidance on QPs is available in

this Handbook under the section "Qualifying Populations and Preferences" with additional guidance online at https://www.tdhca.state.tx.us/HARP.htm.

   b. Tenant contribution: QPs pay no more than 30% of their adjusted income toward rent if income is at or below 50% AMI. The Owner/Property Manager must determine the household's income to calculate the tenant's contribution, even if there is no income requirement for eligibility.
   c. Max rent: The maximum rent limit for a QP unit at initial occupancy is the low HOME rent (24 CFR §92.252(b)). However, the QP household would pay the lesser of the low HOME rent or 30% of their adjusted income.
2. Recertification
   a. Eligibility: After the QP is admitted to the unit, the household does not lose its QP eligibility regardless of whether the household continues to meet the QP definition. For example, a household that qualified as a result of homelessness does not have to meet the definition of homeless upon recertification. Likewise, a household that had to have an income below 50% AMI to qualify as a QP household does not lose their designation if their income goes up.
   b. Tenant contribution: QPs pay no more than 30% of their adjusted income toward rent if income is at or under 50% AMI. If the QP recertifies at over 50% income, then they would contribute the amount under high HOME rent.
   c. Max Rent:
      i. The maximum rent for QP units that recertify with income at or under 50% AMI is the Low HOME rent. (24 CFR §92.252(b)). However, the QP household would pay the lesser of the Low HOME rent or 30% of their income.
      ii. The maximum rent for QPs that recertify with income above 50% AMI and at or below 80% AMI will be charged the high HOME rent (24 CFR §92.252(a)).
      iii. The max rent for QP that recertify with income above 80% AMI would be:
         A. 100% HOME-ARP-assisted Developments -- If a household's income exceeds 80% at recertification, the Owner must charge rent equal to 30% of the household's adjusted income;
         B. HOME-ARP Developments with Market Rate units -- If a household's income exceeds 80% at recertification, the Owner must charge rent equal to the lesser of 30% of the household's adjusted income or the comparable Market rent; and
         C. HOME-ARP Development layered with other Department affordable housing programs -- If a household's income exceeds 80% at recertification, the Owner must charge rent equal to the lesser of 30% of the household's adjusted income or the lowest rent allowable under the other layered program.
3. Rental Assistance
   a. If there is a tenant-based or project based rental voucher on a unit restricted for use by QPs, the tenant will still pay no more than 30% of their adjusted income toward rent but

the owner can charge rent allowable under the rental assistance/project based voucher program.

4. 15-Year Federal Affordability Period Expiration

   After the 15-Year Affordability Period, Developments are no longer required to set rent for a QP household based on 30% of the household's income. A fixed rent level can be used as follows:

   a. If unused capitalized operating cost assistance is still available to the Development after year 15 <u>and</u> the written agreement allows the Development to keep the unused capitalized operating cost assistance:
      i. the QP household would continue to only pay 30% of their income;
      ii. the Development would use the remaining operating cost assistance to support the unit up to the low-HOME rent; and
      iii. the rents would increase per part (b) of this section after the capitalized operating assistance is exhausted.
   b. If capitalized operating cost assistance is not available or unused amounts after year 15 are to be returned to the Department per the written agreement, the Owner must:
      i. Identify in the Application what the income and rent restrictions for the HOME-ARP units will be post-15;
      ii. 20% of the units must be for households at 60% of below AMI and all units must be for households at 80% or below AMI; and
      iii. Rents must be no more than high HOME rents (except if a household's income goes above 80% AMI at recertification) or rents as specified in the application for other Department Programs and reflected in the Contract and the LURA.

Units for low-income household (not-QP)

Because the household is not a QP, they do not pay 30% of their income to rent, but rather must pay the rent specified for the affordable unit. Unless further guidance is received from HUD, these units would be limited to high HOME rent, and not available for low HOME rent.

1. Initial Occupancy
   a. <u>Eligibility</u>: Income qualify at or under 80% AMI (24 CFR §92.2 for low income).
   b. <u>Max rent</u>: An eligible household would pay high HOME rent (24 CFR §92.252(a)), unless paired with tenant-based rental assistance.
2. Re-certification
   a. <u>Eligibility</u>: Income qualify at or under 80% AMI. Tenant protections apply to households that have increases in income over eligibility requirements, so that increases in income cannot be grounds for eviction (24 CFR §92.253(b)).
   b. <u>Max Rent:</u>
      i. 100% HOME-ARP Developments -- If a household's income exceeds 80% at recertification, the Owner must charge rent equal to 30% of the household's adjusted income;

ii. HOME-ARP Developments with Market Rate units -- If a household's income exceeds 80% at recertification, the Owner must charge rent equal to the lesser of 30% of the household's adjusted income or the comparable Market rent; and
iii. HOME-ARP Development layered with other Department affordable housing programs. If a household's income exceeds 80% at recertification, the Owner must charge rent equal to the lessor of 30% of the household's adjusted income or the lowest rent allowable under any other Program.
3. After 15-Year Federal Affordability Period Expiration:
   i. The Application must identify what the income and rent restrictions for the HOME-ARP units will be post-15;
   ii. 20% of the units must be for households at 60% or below AMI and all units must be for households at 80% or below AMI; and
   iii. Rents must be no more than high HOME rents (except if a household's income goes above 80% AMI at recertification) or rents as specified in the application for other Department Programs and reflected in the Contract and the LURA.

6. HOME-ARP Rental Development - Financial Layering

HOME-ARP funds may be invested in many different types of projects, including affordable housing, Supportive Housing, Permanent Supportive Housing, and mixed-use or mixed-income affordable housing. Most HOME-ARP qualifying populations will be unable to pay a rent that covers allocated debt service or operating costs, requiring Owners to use a variety of techniques to create a viable financial structure. Some of those layering techniques are outlined in this guidance.

Financial Highlights for HOME-ARP

1. At least 70% of the units must be restricted to qualifying populations (QPs); these households are not permitted to pay more than 30% of their income towards rent, and therefore are underwritten at zero rent, unless paired with a project-based subsidy.
   a. At least 10% of the QP Units must be available to all QPs. This means that at least 10% of the QP Units cannot be layered on units restricted to 30% AMI because at least one QP has incomes up to 50% AMI.
   b. Guidance on QPs is available in the "Qualifying Populations and Preferences" section of this Handbook.
2. Up to 30% of the HOME-ARP units may be restricted to low-income households (60% AMI or 80% AMI) and charged high HOME rents, which may help to support units that have zero rent.
   a. Up to 10% of the low income Units can be High HOME 80% Units. The remaining low-income Units must be High HOME 60% units, per 24 CFR §92.216, Income Targeting.
   b. Guidance on rent levels is available in the "HOME-ARP Rental Development – Rent Levels and Recertifications" section of this Handbook.

3. HOME-ARP has no maximum unit subsidy. This means HOME-ARP can potentially support the eligible development cost of the HOME-ARP units, thereby eliminating the need for the HOME-ARP units to support other debt in some cases.
4. HOME-ARP offers capitalized operating assistance for up to 15 years for QP units.
    a. Guidance on operating assistance is available in the “Reserves for HOME-ARP Projects” section of this Handbook.
5. A Development with HOME-ARP may adopt the utility allowance for Public Housing Authorities (PHAs), which may facilitate pairing the units with PHA project based subsidies. (HOME-ARP that is layered with HOME or HOME Match could not adopt the PHA utility allowance, unless the Development is all-bills paid.)
6. The maximum per Development HOME-ARP request amount is up to $15,000,000 inclusive of capitalized operating costs, or as otherwise limited in the NOFA.
7. HOME-ARP funds may be loaned at amortizing, or deferred terms, and may be interest bearing or at 0% or other interest rate in order to meet underwriting requirements. Loan terms will depend on financial structure of the project and contract terms.

Layering Options

The options below are commonly-used funding sources for developing multifamily affordable housing. Under each option is a list of items the Owner may consider when layering funds, though other restrictions or limitations may apply. In addition, the options below are not exhaustive; there could be other available sources not listed below.

<u>Low-Income Housing Tax Credit (LIHTC), 4% and 9%</u>

LIHTCs are a tax credit issued by the United States Internal Revenue Service after having been awarded by TDHCA to eligible applicants to offset a portion of their federal tax liability in exchange for the production or preservation of affordable rental housing. 9% LIHTC are competitive and applied for only once a year. 4% HTC are non-competitive and associated with tax-exempt bond financing on the property. HOME-ARP projects may be layered with either Competitive (9%) or Non-Competitive (4%) LIHTCs.

> *Considerations*: HOME-ARP is a HUD-funded program, and subject to HUD regulations that may not otherwise be required on an LIHTC-only development. These additional requirements include, but are not limited to the National Environmental Protection Act (NEPA) for part 58 or part 50 environmental clearance, Davis Bacon labor standards per 24 CFR §92.354, Uniform Relocation Assistance (URA)/Section 104(d) per 24 CFR §92.353, and Section 3 Economic Opportunities per 24 CFR Part 75.

<u>HOME “Annual” Multifamily Funds</u>

HOME “annual” funds are those HOME funds that are awarded to TDHCA each year by HUD as part of the state’s formula grant allocation and funds from program income as a result of repayable multifamily loans. HOME funds are then programmed into a variety of activities each year, which includes being made available for multifamily development through the Multifamily Direct Loan Programs at TDHCA (MFDL). HOME-funded multifamily units can serve households earning up to 80% AMFI.

> *Considerations*: There are many similarities between HOME annual and the HOME-ARP, including HUD regulations (e.g., NEPA, Davis Bacon, URA/104d, Section 3) and rent levels for low income households (e.g., high HOME rent).
>
> HOME annual MFDL funds do have subsidy limits per unit, unlike the HOME-ARP funds. In addition, unless specific permission is granted by HUD, multifamily units funded through the HOME annual program or HOME Match cannot use the PHA utility allowance, unlike HOME-ARP which may adopt the PHA utility allowance. If the PHA utility allowance is not adopted, there may be a conflict with using project-based vouchers through the PHA.
>
> Finally, multifamily annual HOME funds primarily are limited to parts of the state that do not receive their own allocation of HOME funds from HUD, which are primarily rural areas, whereas HOME-ARP is available statewide.

National Housing Trust Fund (NHTF)

NHTF is administered through HUD and, like HOME annual, is passed to states through an annual formula. NHTF has some similar long-term requirements as HOME funds, except households served must have incomes at or below the greater of either 30% AMFI or the federal poverty line. NHTF is made available by TDHCA through the MFDL Program.

> *Considerations*: TDHCA has recently amended its NHTF plan to state that HOME-ARP will not be considered federal funds when calculating the per unit subsidy maximum on NHTF units. NHTF units required as a result of the proportionality test may not be layered, but NHTF units required as a result of the federal subsidy limit test or because more NHTF units were voluntarily committed in the application may be able to be layered. Units that were committed because of scoring will have to be individually evaluated to see if they can be shared with HOME-ARP. When layering, the HOME-ARP funds and the NHTF must each pay for a proportional share of costs. In addition, if NHTF units are floating, the HOME-ARP units must float; if the NHTF units are fixed, the HOME-ARP units must be fixed.
>
> HOME-ARP may have some requirements that may not necessarily apply to NHTF Developments, such as National Environmental Protection Act (NEPA) for environmental clearance part 58 or part 50, Davis Bacon labor standards per 24 CFR §92.354, and Section 104d at 24 CFR Part 42 (as amended by the HOME-ARP Notice).

Project-Based Subsidy

PHAs can use up to 20 percent of their authorized Housing Choice Vouchers to project-base units in a specific project if the owner agrees to either rehabilitate or construct the units, or the owner agrees to set-aside a portion of the units in an existing development. These are called Project-Based Vouchers subject to 24 CFR Part 983 (PBV-983). Not all PHAs utilize their vouchers in this manner, nor are they required to do so. The Veterans Affairs Supportive Housing (VASH) program combines the HUD's Housing Choice Voucher rental assistance for homeless veterans with services provided by Veterans Affairs; HUD-VASH vouchers may also be project based. Additionally, a Development may have Project-Based Vouchers (PBV) or Project-Based Rental Assistance (PBRA) directly from HUD's Office of Multifamily Housing. Other federal entities, such as the United States Department of Agriculture, may also offer project based rental subsidy on affordable housing units.

> *Considerations*: Access to these resources may vary widely depending on the locale. The sophistication in understanding and implementing these options when layered with other federal funds may also vary. HOME-ARP capitalized operating cost assistance cannot be distributed on units with Project-Based Subsidy.
>
> Unless prohibited by any layered funding restrictions, a HOME-ARP Development may adopt the PHA's utility allowances, which facilitates accessing PBV-983. In addition, HOME-ARP units with PBV-983 can accept the PHA or Owner's determination of annual and adjusted income per 24 CFR §982.201. HOME-ARP units that disclose before HOME-ARP Contract execution that they will also receive certain HUD subsidies on the units, will receive a Subsidy Layering Review (SLR) through the local PHA or HUD. SLRs ensure there is not excessive public assistance when combining project-based vouchers with other forms of public assistance per 85 FR 12001.
>
> Note that Emergency Housing Vouchers (EHV) are not able to be project based, though these vouchers serve a similar population to HOME-ARP by assisting persons who are homeless, at-risk of homelessness, survivors of domestic violence, or have a high risk of housing instability. This does not mean that a HOME-ARP Development cannot house an EHV voucher holder in a unit; it means that the voucher is tenant-based, not project-based, and therefore cannot be a budgeted source for the property.
>
> Lastly, certain types of project-based subsidies have requirements that are not able to be combined with a HOME-ARP unit. For example, some types of project-based subsidies require participation in social services. A subsidy with this restriction may not be placed on a HOME-ARP unit, because HOME-ARP does not allow mandatory social service participation per 24 CFR §92.253(b)(9).

Public Housing Authorities

Public housing was established to provide decent and safe rental housing for eligible low-income families.

Considerations: HOME-ARP is still subject to 24 CFR §92.213, which prohibits HOME-ARP to be used for public housing units. There is an exception in statute if the units are developed under section 24 of the 1937 Act (HOPE VI) without Capital Fund assistance under section 9(d) of the Act. However, HOME-ARP funds may be used for eligible costs of affordable housing units in a project that also contains public housing units, if not used for public housing units themselves with the exception as stated before. In this circumstance, the HOME-ARP units would have to be fixed units and HOME-ARP could only pay for a percentage of HOME-ARP eligible costs in buildings that contain HOME-ARP units.

Local HOME-ARP funds

Local participating jurisdictions (PJ) that received an annual HOME Program allocation for FY 2021 were eligible to receive HOME-ARP funds directly from HUD. If the local PJ has decided to program its HOME-ARP funds for multifamily development, a property could apply to receive HOME-ARP from both TDHCA and the local PJ.

Considerations: HOME-ARP funds from cities or counties may be layered with TDHCA HOME-ARP funds. However, the total amount of HOME-ARP units under either state or local sources combined affects whether Davis Bacon labor standards per 24 CFR §92.354 apply. Any restrictions/provisions put in place by the local PJ will have to be achieved, in addition to the requirements/provisions in place by TDHCA's HOME-ARP funds. Furthermore, local PJ HOME, local PJ HOME-ARP, and local HOME Match generally may not be layered with TDHCA HOME-ARP or TDHCA HOME match funds in the same unit. Finally, the selection of fixed or floating units must be the same between and among the local PJ's HOME-ARP, HOME Match, or HOME and TDHCA's HOME, HOME or HOME-ARP funds.

Use of other state or local sources, or a combination of these and other resources may create a feasible HOME-ARP project that is designed to maintain compliance with HOME-ARP requirements over the affordability period.

HOME-ARP Underwriting Requirements

TDHCA is required to develop and use written underwriting and subsidy layering guidelines in accordance with the HOME regulations at 24 CFR Part 92, the HUD Notice CPD 21-10, 10 Texas Administrative Code (TAC) Chapter 11 Subchapter D, and 10 TAC §13.8. As stated above, the QP units will be underwritten as zero rent units, unless paired with PBV-983, PBV, PBRA, or other project-based rental subsidy. If capitalized operating cost assistance is requested by the applicant, this funding must be reflected as a negative number in the annual operating expense schedule.

The federal affordability period for HOME-ARP is 15 years, which means the requirement that QP households only pay 30% of their income towards rent ends at year 15. (Note that one-year leases with the requirement of 30% of income toward rent must be entered into the entirety of year 15). Because the state affordability period is thirty or more years per Section 2306.185(c) of the Tex. Gov't Code, the QP units will begin to collect the applicable low-income rental income for leases executed in year 16 or after (see guidance on reserves and rent levels, also in this Handbook).

> Important: The applicant is responsible for ensuring that the Development has net positive cash flow for the length of the affordability period. This would entail the applicant adjusting its long-term pro forma to remove any capitalized operating cost reserve (if applicable) starting in year 16 and increase rents on QP units if not paired with a project-based subsidy.
>
> The standard increase in rents is 2% per year; therefore, the rents charged starting in year 16, should reflect a rent level that would have grown at 2% per year in years 1-15.

Cost Allocation

HOME-ARP funds may only be used to pay for development costs that are eligible through HOME-ARP. When a project designates fewer than 100% of its units as HOME-ARP, the applicant must calculate the eligible costs that are allocable to the HOME-ARP assisted units, per regulations set forth in 24 CFR §92.205. Cost allocation is independently required for units such as HOME annual, HOME-ARP and NHTF. While HOME-ARP has no per unit subsidy limit, the HOME-ARP funds cannot cover costs associated with units other than HOME-ARP units.

For HOME-ARP units that float, HOME-ARP may also fund proportional costs associated with common space, as long as they are HOME-eligible. HUD CPD Notice 16-15 has more details on cost allocations for HOME annual funds, and applies to HOME-ARP, except for what is explicitly waived per HUD Notice 21-10 (e.g., capitalized operating cost reserve). In addition, 10 TAC §13.3(e) lists ineligible costs for Multifamily Direct Loan funds, which will also be ineligible for HOME-ARP, except for §13.3(e)(12) regarding reserve accounts. These costs include, but are not limited to:

(1) Offsite costs;
(2) Stored Materials;
(3) Site Amenities, such as swimming pools and decking, landscaping, playgrounds, and athletic courts;
(4) The purchase of equipment required for construction;
(5) Furnishings and Furniture, Fixtures and Equipment (FF&E) required for the Development;
(6) Detached Community Buildings;
(7) Carports and/or parking garages, unless attached as a feature of the Unit;

(8) Commercial Space costs;
(9) Personal Property Taxes;
(10) TDHCA fees;
(11) Syndication and organizational costs;
(12) Reserve Accounts, except Initial Operating Deficit Reserve Accounts;
(13) Delinquent fees, taxes, or charges;
(14) Costs incurred more than 24 months prior to the effective date of the HOME-ARP Contract;
(15) Costs that have been allocated to or paid by another fund source (except for soft costs that are attributable to the entire project as specifically identified in the applicable federal rule), including but not limited to, contingency, including soft cost contingency, and general partner loans and advances;
(16) Deferred Developer Fee;
(17) Texas Bond Review Board (BRB) fees;
(18) Community Facility spaces that are not for the exclusive use of tenants and their guests;
(19) The portion of soft costs that are allocated to support ineligible hard costs; and
(20) Other costs limited by Award or NOFA, or as established by the Board.

To assist projects with determining cost allocation, TDHCA provides a Direct Loan Unit Calculator tool at https://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm. Table 1, Development Cost Schedule and Direct Loan Request Info, and Table 2, Rent Schedule Info, are applicable to HOME-ARP. Table 3, Actual Max per Unit Subsidy is only applicable if layering with other MFDL funding (except NHTF). Table 4, Scoring Max per Unit Subsidy, is not applicable for HOME-ARP.

Appendix A: Table - Nonprofit Capacity Building, Nonprofit Operating Cost and Capitalized Operating Cost Assistance Eligible Costs

#	Expense	Nonprofit Capacity Building (expansion or improvement related to the potential HOME-ARP activity)	Nonprofit Operating Assistance (general operating)	Capitalized Operating Cost Assistance (COCA) (rental only)
1	Payroll	**New** employee salaries, wages and other employee compensation and benefits	**Existing employee salaries**, wages and other employee compensation and benefits, but **not** project level expenses such as a Resident Services Coordinator (as required by a Land Use Restriction Agreement), staff employed at a shelter, or property level monitoring.	**Employee salaries**, wages and other employee compensation and benefits assigned to the property (i.e., payroll taxes, employee compensation, and benefits). **Prorated** staffing costs of a project-based Resident Services Coordinator, if not already underwritten or paid by another fund source.
2	Training	Costs related to employee training or other staff development that enhances an employee's skill set and expertise	General employee education, training, and travel, but not a property-level certification.	Employee education, training, travel for employees assigned to the property.
3	Equipment and Supplies	Equipment (e.g., computer software or programs that improve organizational processes), and upgrades to materials and equipment and supplies	Equipment, materials, and supplies	Property-level goods (e.g., rental or equipment purchase, supplies)

#	Expense	Nonprofit Capacity Building (expansion or improvement related to the potential HOME-ARP activity)	Nonprofit Operating Assistance (general operating)	Capitalized Operating Cost Assistance (COCA) (rental only)
4	TA and consultants	Contracts for technical assistance or for consultants with **expertise related to the new HOME-ARP activity being undertaken and with qualifying populations**	n/a	n/a
5	Operating/ Overhead	n/a	Rent and utilities for the nonprofit's general office space; communication costs; employment taxes; insurance for the organization's Board of Directors and Officer; and property insurance for the nonprofit's general office space.	Property-level advertising and services required for administration of housing (e.g., legal charges, bank charges, utilities, and telephone/internet services, insurance). A proportional amount of property management fees.
6	Maintenance	n/a	n/a	Maintenance of a HOME-ARP QP unit.
7	Time Frame	1-3 years	1-3 years	During compliance period (up to 15 years)
8	Request Amount	Limited to $50,000, unless also applying for NP operating then max of $75,000, or up to 50% of general operating budget, as determined in the NOFA.	Limited to $50,000, unless also applying for capacity building then max of $75,000, or up to 50% of general	Based on operating deficit expenses for QP units at application.

#	Expense	Nonprofit Capacity Building (expansion or improvement related to the potential HOME-ARP activity)	Nonprofit Operating Assistance (general operating)	Capitalized Operating Cost Assistance (COCA) (rental only)
			operating budget, as determined in the NOFA.	
9	Replacement Reserves	n/a	n/a	Scheduled payments to a replacement reserve, if a replacement reserve is not already required to be capitalized by another project source or investor.