



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME INVESTMENT PARTNERSHIPS PROGRAM**

**MULTIFAMILY DEVELOPMENT PROGRAM
2012-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**

- 1) **Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to \$37,220,274 in funding from the HOME Investment Partnerships Program for the development of affordable multifamily rental housing for low-income Texans. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 (HOME Rules) in effect at the time Application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306 of the Texas Government Code. Other Federal regulations may also apply such as, but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §§84.42 and 85.36 for conflict of interest and 24 CFR Part 5, Subpart A for fair housing. HUD-funded assistance connected to construction, rehab, demolition, or other public construction must comply with §3, a HUD requirement (24 CFR Part 135): HUD funds invested in housing and community development activities include among their purposes to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to §3 residents and §3 business concerns. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.
- 2) **Allocation of HOME Funds.**
 - a) These funds are made available through the Department’s allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). These HOME funds have been programmed for Multifamily Development activities involving acquisition or refinance and new construction or acquisition or refinance and rehabilitation of affordable housing. The funds made available under this NOFA are subject to the following set-asides.
 - i) **CHDO Set-Aside.** Approximately \$9,550,000 in funds are set-aside to eligible Community Housing Development Organizations (CHDOs) meeting the requirements of 10 TAC §53.90 and this NOFA. Funds under the CHDO Set-Aside are subject to the Regional Allocation Formula (RAF).
 - ii) **Persons with Disabilities Set-Aside.** Approximately \$938,066 in funds are set-aside to fund Applications proposing all of their HOME units to be restricted for persons with disabilities and are subject to the Department’s Integrated Housing Rule at 10

TAC §1.15. Funds requested and awarded under this set-aside may be located in any area of the state including within other Participating Jurisdictions. Funds under the Persons with Disabilities Set-Aside are not subject to the Regional Allocation Formula (RAF).

iii) **General Set-Aside.** Approximately \$26,732,208 in funds shall be available to all other Applications proposing Multifamily Development that meet the requirements of this NOFA, the HOME Program Rule, and the Federal HOME regulations. Of the funds available under the General Set-Aside, \$9,471,008 is made available from the 2012 allocation, \$5,000,000 reprogrammed from other activities, \$2,556,976 remaining from the 2011 MFD NOFA, and \$9,704,224 in funds from the Department's balance of funds available for programming. Funds under the General Set-Aside are subject to the Regional Allocation Formula (RAF). An Applicant may have only one active Application per Development at a time and may only apply under one set-aside at a time. Additionally, the following processes will be followed for the review and award of Applications:

- (1) Once all funds from the CHDO Set-Aside have been awarded, all pending Applications remaining in this set-aside will be considered for funds under the General Set-Aside;
- (2) Once all funds from the Persons with Disabilities Set-Aside have been awarded, pending Applications under this set-aside must reapply to be considered under the General or other set-asides due to the different statutory and program requirements for these funds; and
- (3) The Department may require completion of the CHDO Certification process for Applications that originally applied under the CHDO Set-Aside but receiving funds from the General Set-Aside in order to meet the Department's future obligations to award funds for CHDO activities.

iv) **Transfer of Active Applications.** Applications that remain active under the 2011 HOME MFD NOFA are eligible to receive funds under this NOFA without an additional application or election from an applicant. Each transferred application must continue to meet the applicable rules and requirements of this NOFA and the rules under which their Application was submitted.

b) This NOFA will be conducted as an open Application cycle and funding will be available on a first-come, first-served basis with transferred applications (referenced in §(2)(a)(iv) of this NOFA) maintaining their received date priority. Applications for funds under the CHDO or General Set-Asides are subject to the Regional Allocation Formula (RAF). Should any funds remain after awarding all eligible applications under the RAF, the funds will collapse statewide and become available to award to all other eligible applications regardless of region. The RAF tables for each set-aside can be accessed at www.tdhca.state.tx.us. Funds under the Persons with Disabilities Set-Aside are not subject to regional allocation.

c) Based on the availability of funds, Applications for the statewide open Application cycle will be accepted until 5:00 p.m. September 30, 2012. Project funds awards are limited as follows:

- i) Up to \$2,000,000 per Application under the General Set-Aside;
 - ii) Up to \$3,000,000 per Application under the CHDO Set-Aside; and
 - iii) Up to \$500,000 per Application under the Persons with Disabilities set-aside.
- d) Each CHDO that is awarded HOME funds may also be eligible to receive a grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies.
- e) Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$15,000 per unit in direct hard costs, unless the property is also being financed by the United States Department of Agriculture's Rural Development program.
- 3) Eligible and Prohibited Activities.**
- a) Prohibited activities include those at 24 CFR §92.214 and 10 TAC Chapter 53.
 - b) Multifamily Development funds will not be eligible for use in a Participating Jurisdiction (PJ) except for Applications receiving funds under the Persons with Disabilities Set-Aside.
 - c) All applications awarded under this NOFA must comply with the funding restrictions and requirements associated with Public Law 112-55 and clarified in CPD Notice 12-007 regardless of the actual fiscal year from which the funding for an activity is committed or drawn. Additionally, applicants must cooperate in any strategic planning efforts to coordinate loan closing, draws, and construction completion to comply with the requirements and HUD guidance received by the Department. The Division Director may, upon review, allow exceptions if it is determined that a transaction has no FY 2012 funding, that the exception will not adversely impact the Department's ability to commit and disburse funds, and that such an exception would not violate any other program rules.
- 4) Site and Development Restrictions.** In addition to the requirements in 10 TAC Chapters 53 and 60, Developments must meet the requirements at 10 TAC §50.5 of the Qualified Allocation Plan and Rules, as applicable.
- 5) Public Notification Requirements.** Applicants must request at least fourteen (14) days prior to submission of an Application and submit with the Application a list of Neighborhood Organizations on record with the county and state in accordance with 10 TAC §50.9(h)(8)(A)(i). The Department shall publicly notify all individuals and entities required by §2306.1114 of Texas Government Code.
- 6) Application and Threshold Criteria.** An Application must be compliant with the Threshold requirements in 10 TAC §§53.24 and 53.80 and the Threshold Criteria listed in this section at the time of Application submission unless specifically indicated otherwise. In addition, an

Application must be consistent with the Program and Administrative requirements in 10 TAC Chapter 53.

- a) **Affirmative Marketing.** Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act and the Department's Compliance Rules at 10 TAC §60.114(d). Applicants will be required to use HUD form 935.2a to meet these requirements.
 - b) **Application Certifications.** All Applicants will be required to certify to compliance with the following:
 - i) Davis-Bacon Act (24 CFR §92.354);
 - ii) Environmental standards (24 CFR Parts 50 & 58);
 - iii) Uniform Relocation Act (49 CFR Part 24);
 - iv) Section 3 of the Housing and Urban Development Act of 1968 (CFR Part 135);
 - v) Lead Safe Housing Rule (24 CFR Part 35);
 - vi) Other certifications may be required as specifically stated in the ASPM current at the time of Application; and
 - vii) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).
 - c) **CHDO Certification.** Requirements under this subsection must only be met for Applications considered for an award of funds from the CHDO Set-Aside. CHDO Certification will be awarded in accordance with the rules and procedures as set forth by 10 TAC §53.90, Community Housing Development Organization (CHDO) Certification.
 - i) CHDO Certification Applications must be submitted with each application for Multifamily Development funds.
 - ii) CHDO Certification Applications must meet the requirements of 10 TAC §53.90 at the time of Application submission.
- 7) **Tie Breaker Factors.** In the event that two or more Applications receive the same priority in any given Set-Aside category and are both practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive a preference in consideration for an awarded of funds.
- a) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.
 - b) The Application with the least amount of HOME funds per HOME restricted unit will win this second tier tie breaker.

- c) Developments layered with 4% Bonds under the CHDO set-aside will be given priority over developments utilizing only HOME funds.

8) Application Submission

- a) All Applications submitted under this NOFA must be received on or before **5:00 p.m. September 30, 2012**. The Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date the NOFA Summary is published in the *Texas Register* until the deadline date. For questions regarding this NOFA, please contact Eileen Manes, Multifamily Loan Programs Manager, at eileen.manes@tdhca.state.tx.us.
- b) If an Application is submitted to the Department that requests funds from two separate housing finance programs, the Application will be handled in accordance with the guidelines for each housing program. The Applicant is responsible for adhering to the deadlines and requirements of both programs. Applicants layered with tax-exempt bonds must have submitted an application to the Bond Review Board prior to submitting an application for HOME funds.
- c) All Applications must be submitted, and provide all documentation, as described in this NOFA and associated Application materials.
- d) Applicants must submit the Application materials as detailed in the ASPM in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the ASPM in effect at the time the Application is submitted.
- e) The Application consists of several parts as described in the ASPM. A complete Application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete Applications or improperly compiled Applications will not be accepted. Applicants must submit the Application materials as detailed in the ASPM in effect at the time the Application is submitted.
- f) Third Party Reports. Applications that have not submitted third party reports due to a later deadline under the housing tax credit program may be held as incomplete Applications until the housing tax credit deadline for submission of third party reports. Such Applications will not be considered complete Applications and shall not be assigned a "Received Date" until the third party reports are received.
- g) If a Development has an existing Housing Tax Credit allocation or HOME contract with the Department and construction on the development has not begun, an abbreviated Application for a HOME award or for an increase in the existing HOME award can be submitted under this NOFA. If additional funds are sought, such an Application may also request that the terms for the additional HOME funds also apply for the funds in an existing HOME Contract. The entire amount of HOME funds received from the Department may not exceed the maximum award per development as reflected in this NOFA for the respective set-aside. An Application qualifying for the abbreviated

Application process may be considered by staff to have already met the threshold requirements without additional review unless staff determines additional documentation is required in accordance with §(8)(h) of this NOFA.

- h) The requirements of the abbreviated Application will be reflected in the Application Submission Procedures Manual (ASPM). In addition to the Application requirements in the ASPM, staff may use discretion to determine if additional information that is typically required in the full Application (including third party reports) is necessary or prudent in order to review for compliance with state or federal rules or due to changes in the market since last reviewed by the Department. Full Application and an amendment may be required for any Application that includes changes to the previous Board approved Application beyond those that are directly related to the development costs, financing structure or additional HOME program related requirements or that affect an existing allocation of Housing Tax Credits.
- i) All Application materials including manuals, NOFAs, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- j) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$500.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. An Application fee is not required for Applications submitted pursuant to §(8)(g) of this NOFA and that have an existing HOME Contract with the Department. The Application fee is not a reimbursable cost under the HOME Program.
- k) This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.
- l) Applications must be sent via overnight delivery, or delivered by hand to:

**HOME Program Division
Texas Department of Housing and Community Affairs
Attn: Misael Arroyo
221 East 11th Street
Austin, TX 78701-2410**

or via the U.S. Postal Service to:

HOME Program Division
Texas Department of Housing and Community Affairs
Attn: Misael Arroyo
Post Office Box 13941
Austin, TX 78711-3941