



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

**MULTIFAMILY DEVELOPMENT PROGRAM
2013-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**

- 1) **Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to \$21,692,495 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 10 (2013 Uniform Multifamily Rules) in effect at the time Application is submitted, the Federal HOME regulations governing the HOME program found at 24 CFR Part 92 (HOME Final Rule), 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, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Section 104(d) of Housing and Community Development Act of 1974, 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. Where the 2013 Uniform Multifamily Rules are in conflict with the revised Federal HOME Final Rule the Federal HOME regulations shall govern. HUD funded assistance connected to construction, rehab, demolition, or other public construction must also comply with HUD Section 3 requirements (24 CFR Part 135); Section 3 requires HUD funded housing and community development activities 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 Section 3 residents and 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 earmarked 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 \$6,000,000 in funds are set-aside for eligible Community Housing Development Organizations (CHDOs) meeting the requirements of 24 CFR §92.2 and this NOFA. Of the funds available under the CHDO Set-Aside,

\$3,000,000 is available under the 2013 allocation and \$3,000,000 is remaining under the 2012 allocation. Funds under the CHDO Set-Aside are subject to the Regional Allocation Formula (RAF) and are not available for developments located within other HOME Participating Jurisdictions.

- ii) **General Set-Aside.** Approximately \$15,692,455 in funds shall be available to all other Applications proposing Multifamily Development that meet the requirements of this NOFA, the HOME Program Rule, and Federal HOME regulations. Of the funds available under the General Set-Aside, \$9,478,000 is available under the 2013 allocation, \$1,019,455 is remaining under the 2012 MFD NOFA, and \$5,195,000 is available from program income that must be reallocated to HOME activities. Funds under the General Set-Aside are subject to the Regional Allocation Formula (RAF) and are not available for developments located within other HOME Participating Jurisdictions.

- (1) Under the General Set-Aside, \$5,000,000 is reserved for applications layered with 4% housing tax credits. The balance will be available to applications layered with 9% housing tax credits and non-housing tax credit applications. Upon expiration of this NOFA, all General Set-Aside funds that remain available may be awarded for any application received prior to December 31, 2013, regardless of whether or not the application is layered with 4% housing tax credits.

- b) 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) The Department may require completion of the CHDO Certification process for Applications that originally applied under the CHDO Set-Aside but are receiving funds from the General Set-Aside in order to meet the Department's future obligations to award funds for CHDO activities.

- c) This NOFA will be conducted as an open Application cycle and funding will be available on a first-come, first-served basis. All 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 at 5:00 p.m. on October 25, 2013 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. Pursuant to the December 13, 2012 Board resolution, HOME applications received in conjunction with the 2013 9% Housing Tax Credit Application Round are deemed to have been received under this NOFA. Applications submitted during the regional allocation period that do not request more than available within the applicable sub-region will have the first priority. The 2013 HOME and 9 percent tax credit layered applications that were awarded commitments of 9 percent Housing Tax Credits will be given top priority after the regional allocation collapse.

- d) Based on the availability of funds, Applications for the statewide open Application cycle will be accepted until 5:00 p.m. on December 30, 2013. The request for project funds may not be less than \$200,000, regardless of the set-aside under which an application is being submitted, and may not exceed the maximum on a per application basis as shown in Table 1:

Table 1

	Layered with 9% Tax Credits	Not Layered with 9% Tax Credits
CHDO	\$1,000,000	\$3,000,000
General	\$1,000,000	\$3,000,000

- e) 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.

3) Implementation of the Revised HOME Final Rule.

- a) If owners choose to adopt and follow a written tenant selection policy that limits eligibility or gives a preference to a particular segment of the population as permitted in the written agreement, the limitation or preference must not violate nondiscrimination requirements in 24 CFR §92.350. Since funding from other Federal programs that may limit eligibility to a particular segment of the population may not be known at the time of application, the applicant will be required to state whether or not a preference will be used for tenant selection prior to closing.
- b) Owners must use the HUD Utility Schedule Model for utility allowances. The utility allowances will be calculated by the Department on an annual basis and provided to the Owner with a deadline for implementation.
- c) Housing must be occupied by eligible tenants within six months following completion of construction.
- d) Repayment of HOME funds will be required:
- (1) For any housing unit that has not been rented to eligible tenants within 18 months of construction completion.
 - (2) If the project is not completed within 4 years of the date funds were committed.
- e) If a CHDO is created or sponsored by a for-profit entity, the officers and employees of the for-profit entity may not be officers or employees of the CHDO.
- f) If a CHDO is acting as a developer or sponsor, the CHDO must have paid employees with housing development experience who will work on the HOME-assisted project. For its first year of funding as a CHDO, the CHDO may satisfy this requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization.
- g) If a CHDO is acting as an owner, it must demonstrate the capacity to act as owner of a project including:
- i) The ability to hire and oversee the developer that rehabilitates or constructs the housing.

- ii) The ability to hire or contract with an experienced project manager to oversee all aspects of the development.
 - iii) The ability to own and operate rental housing for the duration of the federal affordability period.
- 4) **Site and Development Restrictions.** Developments must meet the requirements at 10 TAC §10, Subchapter B, as applicable.
- 5) **Public Notification Requirements.** All Applicants must comply with public notification requirements in 10 TAC §10.203.
- 6) **Application and Threshold Criteria.** An Application must be compliant with all applicable requirements in 10 TAC §10, Subchapter C. Each Application will be evaluated by the Real Estate Analysis division in accordance with 10 TAC §10, Subchapter D. In addition, an Application must be consistent with the Direct Loan requirements in 10 TAC §10.307.
 - a) **Affirmative Marketing.** Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act. Applicants will be required to use HUD form 935.2a to meet these requirements.
 - b) **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 §23.80, Application Procedures for Certification of Community Housing Development Organization (CHDO).
 - 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 §23.80 at the time of Application submission.
- 1) **Post Award Requirements.** Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC §10, Subchapter E, as well as the Compliance Monitoring requirements in 10 TAC §10, Subchapter F.
- 2) **Application Submission**
 - a) All Applications submitted under this NOFA must be received on or before **5:00 p.m. December 30, 2013**. 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 Andrew Sinnott, Multifamily Loan Program Specialist, at andrew.sinnott@tdhca.state.tx.us.
 - b) In accordance with the December 13, 2012 Board resolution, 9% Housing Tax Credit Applications that requested HOME funds are deemed to have been received under this NOFA.

- c) 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.
- d) All Applications must be submitted, and provide all documentation, as described in this NOFA and associated Application materials.
- e) Applicants must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (MPPM) in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the MPPM in effect at the time the Application is submitted.
- f) The Application consists of several parts as described in the MPPM. 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 MPPM in effect at the time the Application is submitted.
- g) 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.
- h) 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 requirements in effect at the time of the Application submission including any requirements of the HOME Final Rule. 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.
- i) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 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. TDHCA Application fees are not reimbursable costs under the HOME Program.
- j) 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.

k) Applications must be sent via overnight delivery, or delivered by hand to:

**Multifamily Finance 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:

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