

2016 Carryover Manual

A Development Owner in receipt of a valid 2016 Commitment Notice must file the 2016 carryover package in order to obtain a carryover allocation. If the Development Owner will place the development in service in the same year that the Commitment Notice is issued, the owner must notify the Multifamily Finance Division immediately. Under federal regulations, if IRS Forms 8609 are not issued, or a Carryover Allocation Agreement is not signed by both the Development Owner and the Department by December 31 of the year of the award, the award is treated as if it had not been made. The federal rules for carryover allocations are stated in Internal Revenue Code (IRC), §42(h)(1)(E)-(F), and Title 26, Code of Federal Regulations (CFR), §1.42-6. The Department's carryover rules are stated in the 2016 Qualified Allocation Plan (the "QAP"), and §10.402(f) of the Uniform Multifamily Rules. References to Chapter 10 below that are not otherwise identified refer to sections of the Uniform Multifamily Rules (the "Rules").

When all conditions and requirements of carryover are satisfied, the Department will execute the Carryover Allocation Agreement and return a copy to the Development Owner. The Department will account for all carryover allocations in its annual report to the Internal Revenue Service. The Department will not execute the Carryover Allocation Agreement until all commitment and carryover documentation is determined to be acceptable.

Carryover Documentation Delivery Instructions

All carryover documentation, with the exception of the executed Carryover Allocation Agreement, must be submitted in electronic format via the Department's FTP server by 5pm, November 1, 2016. Do not submit paper copies of the carryover package. In contrast, Development Owners must submit the executed and notarized original of the Carryover Allocation Agreement on paper. The text of the agreement should be printed on only one side of each page. This executed and notarized original of the Carryover Allocation Agreement must be delivered to the Department by 5pm, November 1, 2016, so that all parts of the carryover submission are in the Department's possession by this deadline. These requirements are reflected in §11.2 of the QAP and §10.402(f) of the Rules.

Deliver To: Multifamily Finance Division
(Overnights) Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Regular Mail: P.O. Box 13941
Austin, Texas 78711

Please note that the Development Owner is responsible for the timely delivery of complete carryover documentation. Late deliveries will be accepted only if an extension has been approved pursuant to §10.402(f) of the Uniform Multifamily Rules. Commitments for credits will be terminated if the carryover documentation or an approved extension is not received

by the November 1 deadline. The termination of a commitment is not appealable (§10.402(f)(1)). If the Development Owner uses a postal or courier service to deliver the carryover package and the service fails to deliver by the deadline, then the carryover package will be deemed untimely by TDHCA and shall not be accepted without an approved extension. Extensions are subject to the penalty stated in §11.9(f) of the QAP.

Instructions for Completing the Electronic Carryover

All carryover allocations of 2016 housing tax credits require the use of 2016 carryover forms in the 2016 carryover package. There is a link to this package on the Competitive (9%) Housing Tax Credits page in the Multifamily Finance Division section of the TDHCA website under the heading, Post Award Guidance, i.e. <http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm>. Physical delivery of the executed Carryover Allocation Agreement form starts with Multifamily Finance Division staff filling out the electronic document with information provided by the Development Owner in the Application, Commitment Notice, and 2016 Carryover Allocation Questionnaire. Staff will transmit the completed electronic form as an email attachment to the Development Owner's contact to be reviewed, printed, executed, notarized, and submitted by the carryover deadline. Regarding the 2016 carryover package:


1. After downloading the electronic Excel template, fill in only the areas shaded in yellow. Forms are unlocked to allow awardees to add additional columns or rows, or format text as necessary. If the space provided is insufficient for the number of characters that must be entered, decrease the font size.
2. All questions are intended to elicit a response. Therefore, please do not omit any requested information. Do NOT include cell references to external spreadsheets. The submission must be entirely self-contained to allow the proper functioning of internal evaluation tools and make all pertinent information available to TDHCA.

For questions, contact Ben Sheppard at (512) 475-2122 or ben.sheppard@tdhca.state.tx.us, or Jason Burr at (512) 475-3986, or jason.burr@tdhca.state.tx.us.

Instructions for Converting the Excel file to PDF

When the carryover file is completed in Excel, it must be converted to PDF.

Excel 2007 Users:

1. Click the **Microsoft Office Button** , point to the arrow next to **Save As**, and then click **PDF or XPS**
2. In the **File Name** list, type or select a name for the workbook.
3. In the **Save as type** list, click **PDF**.
4. To open the file immediately after saving it, select the **Open file after publishing** check box. This check box is available only if a PDF reader is installed.
5. Next to **Optimize for**, do one of the following:

- If the workbook requires high print quality, click **Standard (publishing online and printing)**.
 - If the print quality is less important than file size, click **Minimum size (publishing online)**.
6. Click **Options**. Under **Publish What** select **Entire Workbook** and click **OK**.
 7. Click **Publish**.

Excel 1997-2003 Users:

1. With the Excel file open go to the Adobe PDF drop-down box from the task bar (if using Excel 2007 click on **Acrobat** tab in the task bar).
2. Select **Convert to Adobe PDF** from the drop-down list (Excel 2007- select **Create PDF**).

The Adobe PDFMaker box will appear. On the left hand side of the box, all of the sheets within the Excel file will be listed. Select the sheets to be included in the PDF, and click on the **Add Sheets** button.
3. When all sheets selected appear on the right-hand side under **Sheets in PDF** click on the **Convert to PDF** button.
4. Follow the on screen instruction to save the PDF file. The file should be named in the following format: <File Number_Development Name_Carryover>.pdf (e.g. 16001_Austin_Crossing_Carryover.pdf).
5. Click **Yes** when prompted “proceed without creating tags?”.

Creating Bookmarks

Once the file has been converted to PDF, bookmarks may or may not have been created as part of the conversion process. Please keep the bookmark names short (try for about 12 characters or less), do not indent any of the bookmark names (i.e. do not allow an outline format), and keep each bookmark name on a single line (i.e. do not wrap the text). Regarding the foregoing request, please note that typing, “Tab,” before the tab number, or a period (“.”) after it, adds characters that are unnecessary and uninformative. To set the bookmark locations, click on the bookmark icon on the left-hand side of the Adobe Acrobat screen, or go to the task bar and select these options in the following order: **View** → **Navigation Panels** → **Bookmarks**.

If bookmarks have already been created for each tab within the Excel file, edit them to eliminate any indentures (subcategories) by dragging and dropping the bookmarks as necessary so that all are aligned on the left side. To re-set the locations of the bookmarks, go to the page of the document that is to be bookmarked, right-click on the corresponding bookmark for the page selected, and click, “**Set Destination.**” When prompted, “set the destination of the selected bookmark to the current location,” select, “**Yes.**”

If bookmarks were not already created within the Excel file, go to **Document** → **Add Bookmark**. Right-click on the first bookmark and re-name it for the appropriate form or exhibit. Then, set the location using the instructions above.

To delete any extra or unnecessary pages, identify the appropriate page number(s). On the Adobe Acrobat Task Bar, click on Document and select Delete Pages from the drop down list. Enter the page numbers to be deleted and hit OK.

The PDF formatted file must be checked for the following items prior to submission:

- ✓ Each tab should be bookmarked.
- ✓ Files should average less than 100 kilobytes per page.
- ✓ Files must be readable with free PDF file viewers including Adobe Reader and be compatible with Adobe Reader 5.0 and above.
- ✓ Files should be saved so that “Fast Web View” (or page at a time downloading) is enabled.
- ✓ Text within the PDF file should be searchable using the “Find” command in the PDF viewer.

For difficulties in using the Microsoft Excel based application, contact Ben Sheppard by email at ben.sheppard@tdhca.state.tx.us.

Required Forms and Exhibits for the Carryover

If deficiencies are found in a carryover submission, the Department will notify the Development Owner, who will be given a specified length of time to correct the deficiencies. Timely response to a deficiency notice is critical so that the carryover documentation can be processed and the Carryover Allocation Agreement can be fully executed prior to January 1, 2017.

Carryover Allocation Agreement

- The original of the Carryover Allocation Agreement conveys the allocation of tax credits pursuant to IRC §42(h)(1). A Carryover Allocation Agreement will be transmitted to the Development Owner by Department staff for the Development Owner’s review and execution. If revisions are necessary, the Development Owner must request Department staff to make them. White-out and strike-throughs, will not be accepted without previous approval by the Department.
- The Carryover Allocation Agreement must be submitted to the Department before expiration of the carryover deadline, on paper, as an original, signed and notarized document.
- Development Owners are responsible for all information in the Carryover Allocation Agreement. Therefore, Owners should review all entries for accuracy. Revisions will be made by Department staff as stated above.
- The original of the Carryover Allocation Agreement must be physically delivered to the Department no later than 5pm, November 1, 2016, the Carryover Documentation Delivery Date (2016 QAP, §11.2).
- The Taxpayer’s Reasonably Expected Basis (TREB) stated in the Carryover Allocation Agreement must be sufficient in amount to support the value of the tax credits allocated. Therefore, the TREB minus the land value must be greater than or equal to the eligible basis used in calculating the credit award by the eligible basis method (as opposed to the gap method or owner’s request). Generally, TREB includes the value of the site and all items of eligible basis.

Other items of cost that can be depreciated or capitalized for tax purposes may also be included. A CPA or tax attorney should be consulted to assure the validity of the TREB.

- The Carryover Allocation Agreement includes a check-box for electing to fix the applicable percentage on the date that the Carryover Allocation Agreement is signed by the Department. Owners must either mark the election box or leave it blank, as applicable. If the owner does not elect to fix this rate, the applicable percentage will be determined at cost certification after the development is placed in service. If an owner chooses to elect, the Owner must use the applicable federal rate of the month in which the election is made under IRC §42(b)(2)(A)(ii) and meet the requirements of CFR §1.42-8. If there is an election to fix the rate, the Department must execute the Carryover Allocation Agreement in the same month as the Development Owner. Therefore, the executed document must be delivered to the Department at least ten (10) days before the end of the month in which the owner signs it. It will be necessary to submit two carryover allocation agreements to make the election, one at the deadline for submitting the carryover package and another after the carryover package is reviewed by Department staff.
- Nonprofit Organizations are a special concern of the carryover process. An award made in the Nonprofit Set-Aside requires that the “Nonprofit” box on the third page of the Carryover Allocation Agreement be marked. This election, along with the name of the qualified nonprofit organization designated to meet this requirement, will be filled out by Multifamily Finance Division staff and should be checked for accuracy. The development will have a restriction in its LURA in association with the nonprofit organization’s participation in the transaction.
- Each member of the Development Owner that appears on the signature page must be on record as a legally formed organization in the state in which it was organized. In addition, the legal entity that is the Development Owner must be on record with the Texas Secretary of State. The organization names on the signature page should exactly match the names of the applicable state records in both spelling and punctuation (except that the Department may capitalize the name). No part of an organization’s name should be truncated or abbreviated. If the ownership entity name includes the words “Limited Partnership,” it is not permissible to substitute “Ltd.” or “L.P.” Submit evidence of legal formation of the ownership entity as detailed in the discussion of Tab 3, below.
- White-out cannot be used on the Carryover Allocation Agreement.
- Overwriting errors in the Carryover Allocation Agreement should be avoided by requesting a clean or revised document from Department staff.

A complete electronic PDF carryover file must be submitted in the order presented in the Excel file template and detailed below. Some tabs in the Excel workbook are forms for the Development Owner to complete while others are placeholders where certain documents must be inserted.

❖ **Tab 1: Owner and Development Summary.**

- This form must be completed in its entirety.
- The carryover package must communicate the existence of any extension approval and any request or approval of an amendment or ownership change by including the letter of request or the Department’s letter of approval behind Tab 7. The documentation associated with these letters of request or approval should not be placed in the carryover package, only the letters themselves. The requests with supporting documentation should be submitted as separate packages before submission of the carryover package:

- Development Owners must ensure that all fees associated with all developments in which any Affiliate of the Development Owner was a principal have been paid.
- Carryover packages submitted after the November 1 deadline or without an approved extension will be terminated pursuant to Uniform Multifamily Rules §10.402(f)(1). A carryover package that has a significant omission also requires an approved extension.
- Ownership change requests should be made before the carryover submission deadline. These requests are governed by §10.406 (relating to §2306.6713, Texas Government Code) and the related fees are governed by §10.901(17). See <http://www.tdhca.state.tx.us/asset-management/pca-manual.htm> for instructions on submitting such a request. Note that changes in the Developer, Guarantor or person used to meet the experience requirement are typically amendments as discussed below.
- Amendment requests, like ownership change requests, should be made before the carryover submission deadline. Section 10.405(a) governs amendments and §10.901(13) establishes the associated fees. Owners should consult the Asset Management Division page under the Support & Services tab of the TDHCA website to find the “Amendments to Application” section of the Post Carryover Activities Manual. The manual is at the following address: <http://www.tdhca.state.tx.us/asset-management/pca-manual.htm>. The manual provides a description and explanation of the types of changes that constitute amendments requiring approval from the Department or the board. Changes in financing do not necessarily constitute amendments of the application as discussed immediately below and in the instructions for Tab 7 of the carryover package.
- Changes in revenue, expenses, financing and costs, and final commitments of financing that correspond to the evidence of financing submitted in the application typically do not constitute amendments. This documentation (unlike the documentation related to requests for extensions, ownership changes and amendments) ***should*** be submitted in the carryover package behind Tab 7.
- The Limited Partnership Agreement (LPA) (signature pages only) should be included behind this tab. Do not submit any pages of the limited partnership agreement except the signature page(s) of the original document showing execution by all relevant parties. **If the LPA has not been signed by the final limited partner investor, do not submit this item.**

❖ **Tab 2: Table of BINs for Developments with Previous Allocations.**

- This tab is not applicable for developments without previous allocations but is requested for all developments with previous allocations, even if the previous allocation was made in the first year of the tax credit program, or in any year thereafter, and even if the development receiving the current allocation is beyond its affordability period.
- If the current development contains one or more buildings for which IRS Forms 8609 were issued (or will be issued) in relation to a past award of tax credits, provide the following:
 - Provide a list of all BINs assigned to the buildings of the current allocation and attach the 8609 of each building of the previous allocation. If a building

was assigned a BIN in a previous carryover allocation but did not, or has not yet, received an 8609, provide the page of the carryover allocation that assigned the BIN and explain the building's current status.

- If the development of the previous allocation contained any buildings that were assigned BINs in the previous Carryover Allocation Agreement, LURA or 8609s, identify any BINs that will not be used in association with the current carryover allocation. This instruction is applicable, for example, in cases where buildings that were assigned BINs have been destroyed or will not be rehabilitated using tax credits from the current allocation. Explain why the BINs will not be used. Attach a page with a heading such as, "Explanation of Previous BINs Not Used," that includes an explanation similar to one of the explanations just described. BINs that were assigned in a Carryover Allocation Agreement in excess of the BINs actually needed for the previous development proposal do not need to be explained. Only BINs that were actually assigned to buildings need to be discussed. For example, if a range containing 99 BINs was stated in the Carryover Allocation Agreement, but the development only needed three BINs, then only the BINs among these three applicable BINs that are not to be used in the current carryover allocation agreement must be discussed.

❖ **Tab 3: Federal Tax Identification Number (TIN) Form or Employer Identification Number (EIN) Form and Certificate of Fact from Texas Secretary of State.**

- Submit the document from the IRS or a similar official document showing the TIN or EIN of the Development Owner - not the general partner. The name of the Development Owner must be the same as the name registered with the Texas Secretary of State, and stated in the Application and Commitment Notice, unless a change was otherwise approved by the Department. Please do not provide a TIN or EIN for any organization in the ownership structure other than the Development Owner.
- A Certificate of Fact or certificate of authority (i.e., certificate of authority to do business in Texas for entities organized outside Texas), as applicable, from the Texas Secretary of State must be submitted for the Development Owner. Documentation of the organization and existence of each organization in the signature block of the Carryover Allocation Agreement must be available on the internet or from the Development Owner at the request of Department. The availability of this documentation is required for entities organized in Texas and outside Texas. Any organization name in the carryover execution block should exactly match the name in the entities organizational records in both spelling and punctuation. No part of an organization's name should be truncated or abbreviated in the execution block. As an example, if the ownership entity name includes the words "Limited Partnership," it is not permissible to substitute "Ltd." or "L.P."
- A certificate of Franchise Tax Account Status from the Texas Comptroller of Public Accounts must be available for the organization that is the Development Owner. [§10.402(f)(4)]

❖ **Tab 4: Management Plan, Affirmative Marketing Plan and Fair Housing Training.**

- Applicant must include a statement confirming that a management plan and an affirmative marketing plan, which will be required in the 10% Test Instructions for 2016 Awardees, will be submitted with the 10% Test documentation. *Note: the 10% Test for 2016 Awardees will be processed by the Department's Asset Management*

Division, and the instructions for submitting the 10% Test documentation is part of the 2016 Post Award Activities Manual that is available on Asset Management page of the Department's website at the link: <http://www.tdhca.state.tx.us/asset-management/pca-manual.htm>.

- The carryover package must include a statement affirming that the Development Owner or management company, and the Development architect and/or engineer will attend Department-approved fair housing training courses before 10% Test documentation is submitted pursuant to §10.402(g)(4) of the Uniform Multifamily Rules. Evidence of attendance will be submitted with the documentation of the 10% Test. Note that the requirement for this carryover package is for a statement, not evidence of attendance. Please do not submit the documentation itself. Submit the statement, only. Certificates of attendance are due with the 10% Test submission, and must be submitted at that time. The fair housing training date must not be more than two (2) years prior to the 10% Test submission.

❖ **Tab 5: Evidence of Site Control – Deed or Contract to Purchase or Lease the Land.**

- Fill in the form, indicating either an actual closing date or a projected closing date.
- Evidence of site control must be included in the carryover submission package of all developments. Evidence of site control must be consistent with §10.204(10) of the Uniform Multifamily Rules. The evidence must be for the same site proposed in the application, unless an amendment of the site has been approved by the Department or by the Board. In addition, the evidence must show that control is already in place and will remain in place until a projected closing date or the 10% Test, whichever is earlier as stated in §10.402(f)(3).
- Evidence should be submitted to show the ability to retain site control through January 1, 2017 to closing, if applicable. Submit an executed extension to the contract or deed to meet this need, as applicable.

❖ **Tab 6: Resolution of Conditions of the Commitment Notice.**

- The conditions stated in the Commitment Notice that are required to be satisfied at carryover, and the documentation required to satisfy these conditions of the Commitment Notice, must be provided behind this tab. For each condition, include a narrative explaining how the documentation submitted satisfies the condition – please include this narrative no matter how obvious the explanation seems. If documentation to clear a condition must be submitted to the Real Estate Analysis Division or another division of the Department, submit confirmation from the applicable division that this has been done or that the condition has been cleared.

❖ **Tab 7: Documentation of Changes (for underwriting the development proposal).**

- Changes that constitute amendments of the application put the award in jeopardy. If changes are contemplated that significantly and/or fundamentally impact the development proposal or a number of application exhibits or documents, see Texas Government Code, §2306.6712 and §2306.6713. In the Multifamily Rules, see §10.405(a) and §10.406. Submit changes for the Department's review as described below.
- Extensions – As stated in the first section of this Carryover Manual, late deliveries will be accepted only if an extension has been approved. The Department's letter approving the extension should be submitted herein (i.e. in Tab 7). See the prior

discussion in this manual and the 2016 Uniform Multifamily Rules for more information.

- Ownership changes – Submit the Department’s letter approving these changes or the owner’s letter requesting approval. Do not submit any of the associated documentation in the carryover package. Submit these requests separately from the carryover submission, before the carryover submission deadline. See the discussion of Tab 1 earlier in this Carryover Manual for more information. See §10.406, regarding ownership changes and §10.901(17) regarding the associated fee. See also, Texas Government Code, §2306.6713. Some changes are not allowed until after issuance of Forms 8609.
- Developer changes – Developer changes are typically amendments of the application. See the discussion of amendments below.
- Amendments of the application – The Department’s letter approving changes in the application or the owner’s letter of request, without any of the associated documentation, must be submitted in Tab 7 of the carryover package. Requests to amend the application with all required documentation should be submitted before the carryover package is submitted. Section 10.405(a) of the Multifamily Rules states the rules for amendments. Fees for these requests are detailed in §10.901(13). For a further discussion of the requirements that are associated with such requests, see the Asset Management section of the TDHCA website <http://www.tdhca.state.tx.us/asset-management/pca-manual.htm>.
- Changes in financing, revenues, expenses and costs that will not cause changes in the score of the application generally will not be treated as amendments of the application with respect to the carryover process. The documentation of these requests is to be submitted in the carryover package behind this tab (i.e., Tab 7). The financing, revenue, expense and cost documentation in Tab 7 will be used to review for any effect on scoring and underwriting. Replacements of Application exhibits must be submitted if the original application exhibits no longer reflect the applicant’s anticipated financing, revenues, expenses or costs. In particular, as stated in §10.402(f)(2), “If the interim or permanent financing structure, syndication rate, amount of debt or syndication proceeds are finalized but different at the time of carryover from what was proposed in the original Application, applicable documentation of such changes must be provided and the Development may be re-evaluated by the Department for a reduction of credit or change in conditions.”
- Any changes in the development proposal require review for conformity with programmatic requirements and also may require additional underwriting review, either of which may affect the allocation of credit. Owners should be sure that any changes reported reflect the anticipated final form of the development proposal to avoid unnecessary processing and delay. If there have been no changes in the development proposal since the time of underwriting the application, the underwriting performed at the time of application will remain effective for the carryover, and there will be no decrease in the carryover allocation from the amount of tax credits recommended in the original underwriting.

Examples of forms that may be applicable for reporting changes are named below:

- Rent Schedule
- Utility Allowances
- Annual Operating Expenses

- 15-Year Rental Housing Operating Pro Forma
- Development Cost Schedule
- Property Condition Assessment (only required if rehabilitation is proposed). See “2016 Multifamily Rules, §10.306 Property Condition Assessment Guidelines” for description of requirements.
- Offsite Costs Breakdown
- Site Work Cost Breakdown. This form is required if site work costs have changed and the form must be accompanied by a CPA letter identifying the part of these costs that can be allocated to eligible basis if that change results in total site work costs exceeding \$15,000 per unit.
- Summary of Sources and Uses of Funds. If financing changes, submit the form and amended commitment letters.