

## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## TDHCA Governing Board Approved Draft of

Five sections of the Department's rules in 10 TAC to be amended to implement changes necessary to bring them into consistency with §1.410 Determination of Alien Status for Program Beneficiaries

- §6.204 Use of Funds for the Community Services Block Grant Program
- §7.28 Program Participant Eligibility and Program Participant Files for the Homeless Housing and Services Program
- §7.44 Program Participant Eligibility and Program Participant Files for the Emergency Solutions Grant Program
- §20.4 Eligible Single Family Activities in the Single Family Programs Umbrella Rule
- §20.6 Administrator Applicant Eligibility in the Single Family Programs Umbrella Rule

**Disclaimer**

Attached are drafts of five proposed rules to be amended to implement changes necessary to bring them into consistency with §1.410 Determination of Alien Status for Program Beneficiaries as listed above.

These drafts were approved by the TDHCA Governing Board on December 11, 2025. These actions entail amendments to the current rules. These documents, including their preambles, are expected to be published in the December 26, 2025, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

In compliance with §2001.023, Texas Government Code, a summary of the proposed rule follows:

At the Board meeting of November 6, 2025, the Department's Board authorized a proposed rule action to §1.410 Determination of Alien Status for Program Beneficiaries outlining the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. That rule is currently out for public comment and will then be returned to the Board.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each program will calculate benefits based on those determinations because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. This level of specificity already exists in rule for the Low Income Home Energy Assistance Program and the Weatherization Assistance Program. However, it was not included or contemplated in the CSBG, Homelessness and Single Family Program rules.

This action provides for rule amendments to the following five rule sections to implement such provisions:

- Community Services Block Grant Program - §6.204 Use of Funds
- Homeless Housing and Services Program - §7.28 Program Participant Eligibility and Program Participant Files
- Emergency Solutions Grant Program - §7.44 Program Participant Eligibility and Program Participant Files;

- Single Family Programs - §20.4 Eligible Single Family Activities and §20.6 Administrator Applicant Eligibility, both in the Single Family Programs Umbrella Rule

Because these revisions are all tied to the same issue – implementation of §1.410 Determination of Alien Status for Program Beneficiaries – staff is presenting this in one public comment posting. It should be noted, however, that the *Texas Register* still requires each rule to be submitted separately. Therefore, in the following pages you will see the preamble for each of the five actions, each followed by the amendment in blackline form for only that one rule reflecting the changes being recommended.

#### **Public Comment**

**Public Comment Period:** Start: 8:00 a.m. Austin local time on December 26, 2025  
End: 5:00 p.m. Austin local time on January 26, 2026

Comments received after 5:00 p.m. Austin local time on January 26, 2026, will not be accepted. Written comments may be submitted electronically within the designated public comment period to:  
[brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us).

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment. Please be aware that all comments submitted to the TDHCA will be considered public information.

#### **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

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## DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

Borrador aprobado por la Junta Directiva del TDHCA respecto a las modificaciones que se efectuarán a cinco secciones de las reglas del Departamento que se encuentran en el título 10 del Código Administrativo de Texas (TAC) con la finalidad de implementar los cambios necesarios para ponerlas en consonancia con la sección [§]

1.410 [“Determinación de la condición de extranjería para beneficiarios de programas”]

- Sección [§] 6.204 [“Uso de fondos respecto al Programa de Subvenciones en Bloque para Servicios Comunitarios”]
- Sección [§] 7.28 [“Elegibilidad de los participantes en programas y expedientes de los participantes en programas respecto al Programa de Vivienda y Servicios para Personas sin Hogar”]
- Sección [§] 7.44 [“Elegibilidad de los participantes en programas y expedientes de los participantes en programas respecto al Programa de Subvenciones para Soluciones de Emergencia”]
- Sección [§] 20.4 [“Actividades elegibles para viviendas unifamiliares en la regla general para programas de viviendas unifamiliares”]
- Sección [§] 20.6 [“Elegibilidad de solicitantes administradores en la regla general para programas de viviendas unifamiliares”]

**Descargo de responsabilidad**

Se adjuntan borradores de modificaciones propuestas que se efectuarán a cinco reglas propuestas que se indican anteriormente con la finalidad de implementar los cambios necesarios para ponerlas en consonancia con la sección [§] 1.410 [“Determinación de la condición de extranjería para beneficiarios de programas”].

Estos borradores recibieron aprobación por parte de la Junta Directiva del Departamento de Vivienda y Asuntos Comunitarios de Texas (TDHCA) el 11 de diciembre de 2025. Estas acciones suponen modificaciones a las reglas vigentes. Se espera que este documento, incluyendo su preámbulo, se publique en la edición del *Texas Register* del 26 de diciembre de 2025. Esa versión publicada constituirá la versión oficial para fines de comentarios del público y se puede encontrar en el siguiente enlace: <https://www.sos.texas.gov/texreg/index.shtml>.

De conformidad con la sección [§] 2001.023 del Código de Gobierno de Texas, se incluye a continuación un resumen de la regla propuesta:

En la reunión que tuvo lugar el 11 de diciembre de 2025, la Junta del Departamento autorizó una propuesta de acción reglamentaria respecto a la sección [§] 1.410 [“Determinación de la condición de extranjería para beneficiarios de programas”], que describe el requisito de confirmación de la condición legal de extranjería de los participantes en programas por parte de todos los beneficiarios secundarios de los programas del Departamento dirigidos a viviendas unifamiliares, asuntos comunitarios y personas sin hogar con el fin de poder recibir asistencia. Esta regla se encuentra en la actualidad abierta a los comentarios del público y luego se devolverá a la Junta.

Si bien la sección [§] 1.410 dispone el requisito de realizar una revisión de la condición de extranjería de los participantes en programas, no especifica cómo cada programa calculará los beneficios en función de esas determinaciones porque cada programa es lo suficientemente diferente en sus actividades elegibles como para que dicha aplicabilidad deba adaptarse a los programas en particular. Este nivel de especificidad ya existe en la reglamentación del Programa de Asistencia Energética a Hogares de Bajos Ingresos y del Programa de Asistencia en Climatización. Sin embargo, no se incluyó ni contempló en la reglamentación del Programa de Subvenciones

en Bloque para Servicios Comunitarios (CSBG) ni de los programas para personas sin hogar y viviendas unifamiliares.

Esta acción prevé modificaciones reglamentarias de las siguientes cinco secciones con la finalidad de implementar dichas disposiciones:

- Programa de Subvenciones en Bloque para Servicios Comunitarios: sección [§] 6.204 [“Uso de los fondos”].
- Programa de Vivienda y Servicios para Personas sin Hogar: sección [§] 7.28 [“Elegibilidad de los participantes en programas y expedientes de los participantes en programas”].
- Programa de Subvenciones para Soluciones de Emergencia: sección [§] 7.44 [“Elegibilidad de los participantes en programas y expedientes de los participantes en programas”].
- Programa para viviendas unifamiliares: sección [§] 20.4 [“Actividades elegibles para viviendas unifamiliares”] y sección [§] 20.6 [“Elegibilidad de solicitantes administradores”], ambas en la regla general para programas de viviendas unifamiliares.

Debido a que todas estas modificaciones están vinculadas a la misma cuestión (la implementación de la sección [§] 1.410 [“Determinación de la condición de extranjería para beneficiarios de programas”]), el personal las presenta en una sola publicación de comentarios del público. Cabe señalar, sin embargo, que el *Texas Register* todavía exige que cada regla se presente por separado. Por lo tanto, en las páginas siguientes se verá el preámbulo de cada una de las cinco acciones, cada una seguida por la modificación en modalidad de comparación de versiones (*blackline form*) destinada solo para aquella regla que refleja los cambios que se recomiendan.

### **Comentarios del público**

#### **Periodo de comentarios del público:**

Inicio: 8:00 a. m., hora local de Austin, del 26 de diciembre de 2025

Finalización: 5:00 p. m., hora local de Austin, del 26 de enero de 2026

No se aceptarán los comentarios que se reciban después de las 5:00 p. m., hora local de Austin, del 26 de enero de 2026. Los comentarios por escrito pueden enviarse de manera electrónica dentro del período designado de comentarios del público a [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us).

Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la regla, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario. Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

#### **DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS**

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**Attachment 1: Preamble, including required analysis, for proposed amendments to §6.204 Use of Funds, which applies to the Community Services Block Grant Program**

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §6.204 Use of Funds, which applies to the Community Services Block Grant Program (CSBG). The purpose of the proposed amendment is to specify how households receiving benefits through CSBG will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness program's subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this proposed action provide that necessary specificity for the CSBG Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment is not considered to expand an existing regulation.
7. The amendment does not increase the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute.

§6.204 Use of Funds and Requirements for Establishing Household Eligibility

(a) CSBG funds are contractually obligated to Eligible Entities, and accessed through the Department's web-based Contract System. Prior to executing a Contract for CSBG funds, the Department will verify that neither the entity, nor any member of the Eligible Entity's Board is federally debarred or excluded. Unless modified by Contract, the annual allocation has a beginning date of January 1 and an end date of December 31, regardless of the Eligible Entity's fiscal year. Eligible Entities may use the funds for administrative support and/or for direct services such as: education, employment, housing, health care, nutrition, transportation, linkages with other service providers, youth programs, emergency services, i.e., utilities, rent, food, Shelter, clothing, etc.

(b) Eligible Entity shall determine Household income eligibility in compliance with §6.4 of this chapter (relating to Income Determination). The Household income eligibility level must be at or below 125% of the federal poverty level in effect at the time the customer makes an application for services.

(c) U.S. Citizen, U.S. National or Qualified Alien. Only U.S. Citizens, U.S. Nationals and Qualified Aliens are eligible to receive CSBG benefits. In accordance with §1.410(f) of this title (relating to Determination of Alien Status for Program Beneficiaries), Eligible Entities must document U.S. Citizen, U.S. National, and Qualified Alien status for each household member using the Department approved form. Qualified Alien status must also be verified and documented using SAVE. Household eligibility shall be determined as follows:

(1) Count income for all Household members eighteen years of age and older, including Unqualified Aliens; and

(2) Calculate Household size for determining eligibility or benefits to exclude all Unqualified Aliens.

**Attachment 2: Preamble, including required analysis, for proposed amendments to §7.28 Program Participant Eligibility and Program Participant Files, which applies to the Homeless Housing and Services Program**

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §7.28 Program Participant Eligibility and Program Participant Files, which applies to the Homeless Housing and Services Program (HHSP). The purpose of the proposed amendment is to specify how households receiving benefits through HHSP will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this proposed action provide that necessary specificity for the HHSP Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment is not considered to expand an existing regulation.
7. The amendment does not increase the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.



c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute.

#### §7.28 Program Participant Eligibility and Program Participant Files

(a) A Program Participant must satisfy the eligibility requirements by meeting the appropriate definition of Homeless or At-risk of Homelessness in this Chapter, relating to Homelessness Programs, including but not limited to applicable income requirements.

(b) A Program Participant who is Homeless qualifies for emergency shelter, Transitional Living Activities, case management, essential services, and homeless assistance.

(c) A Program Participant who is At-risk of Homelessness qualifies for case management, essential services, and homeless prevention.

(d) The Subrecipient shall establish income limits that do not exceed the moderate income level pursuant to Tex. Gov't Code §2306.152 in its written policies and procedures, and may adopt the income limit calculation method and procedures in HUD Handbook 4350 to satisfy this requirement.

(e) Recertification. Recertification is required for Program Participants receiving homelessness prevention and homelessness assistance within 12 months of the assistance start date. Subrecipient's written policies may require more frequent recertification. At a minimum, recertification includes that Program Participants receiving homelessness prevention or homelessness assistance:

(1) meet the income eligibility requirements as established by the Subrecipient, if such limits are implemented in the Subrecipient's policies and procedures and required to be reviewed at Recertification; and

(2) lack sufficient resources and support networks necessary to retain housing without assistance.

(f) Break in service. The Subrecipient must document eligibility before providing services after a break in service. A break in service occurs when a previously assisted household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry into HHSP, the Household is required to complete a new intake application and provide updated source documentation, if applicable. The Subrecipient would not need to document further eligibility for HHSP if the Program Participant is currently receiving assistance through ESG.

(g) Program participant files. Subrecipient or their Subgrantees shall maintain Program Participant files, for non-emergency activities providing direct subsidy to or on behalf of a Program Participant that contain the following:

(1) an Intake Application, including the signature or legally identifying mark of all adult Household members certifying the validity of information provided, an area to identify the staff person completing the intake application, and the language as required by Tex. Gov't Code §434.212;

(2) certification from the Applicant that they meet the definition of Homeless or At-risk of Homelessness. The certification must include the Program Participant's signature or legally identifying mark;

(3) documentation of income eligibility, if applicable, which may include a DIS if documentation is unobtainable;

(4) documentation of annual recertification, as applicable, including income eligibility determination and verification that the Program Participant lacks sufficient resources and supports networks necessary to retain housing without assistance;

(5) documentation of determination of ineligibility for assistance when assistance is denied. Documentation must include the reason for the determination of ineligibility;

(6) copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by Program Participants;

(7) documentation of the monthly allowance for utilities used to determine compliance with the rent restriction; ~~and~~

(8) documentation that the Dwelling Unit for Program Participants receiving rental assistance complies with the Housing Standards in this Chapter, relating to Homelessness Programs; and

(9) documentation of U.S. Citizen, U.S. National, or Qualified Alien status for each household member receiving direct assistance, including:

(A) verification of eligible immigration or citizenship status consistent with §1.410 of this Part;

(B) any determinations of ineligibility or mixed Household status; and

(C) records of proration calculations applied under paragraph (h)(2) of this subsection, if applicable.

(h) Implementation of HHSP activities involving direct assistance to program participants is subject to §1.410 of this Part, relating to Determination of Alien Status for Program Beneficiaries.

(1) Each Household member receiving direct assistance under Homeless Prevention or Homeless Assistance must be verified for eligibility in accordance with §1.410 of this Part prior to receiving assistance.

(2) Direct assistance may be prorated utilizing a fraction based on Household eligibility, calculated by multiplying the full benefit amount by a fraction in which the numerator is the number of eligible Household members, and the denominator is the total number of Household members.

(3) Activities that do not provide direct housing or financial assistance, such as Emergency Shelter, case management, and Street Outreach, and in-kind disaster relief are not subject to paragraphs (1) and (2) of this subsection.

**Attachment 3: Preamble, including required analysis, for proposed amendments to §7.44 Program Participant Eligibility and Program Participant Files, which applies to the Emergency Solutions Grant Program**

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §7.44 Program Participant Eligibility and Program Participant Files, which applies to the Emergency Solutions Grant Program (ESG). The purpose of the proposed amendment is to specify how households receiving benefits through ESG will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this proposed action provide that necessary specificity for the ESG Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment is not considered to expand an existing regulation.
7. The amendment does not increase the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute.

#### §7.44 Program Participant Eligibility and Program Participant Files

(a) Program participants must meet the applicable definitions of Homeless or At-risk of Homelessness. Proof of the eligibility or ineligibility for Program Participants must be maintained in accordance with 24 CFR §576.500, Recordkeeping and reporting requirements. The Applicant must retain income documentation for Program Participants receiving homelessness prevention and Program Participants receiving rapid re-housing that require annual Recertification. Program Participant income eligibility must be calculated and documented in accordance with the Requirements of HUD Handbook 4350, except that the Department's DIS form may be utilized if income cannot be documented in accordance with 24 CFR §576.500(e)(4). A DIS must be completed and signed by Program Participants whom are subject to income eligibility determination.

(b) The Subrecipient must document eligibility before providing services after a break-in-service. A break-in-service occurs when a previously assisted Household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry, the Household is required to complete a new intake application and provide updated source documentation, if applicable.

(c) The Subrecipient must utilize the rental assistance agreement promulgated by the Department if providing rental assistance. The rental assistance agreement does not take the place of the lease agreement between the landlord/property manager and the tenant.

(d) The Subrecipient must retain a copy of the signed Disclosure Information on Lead Based Paint and/or Lead-Based Hazards for housing built before 1978 in the Program Participant's file in accordance with 24 CFR §576.403(a).

(e) Implementation of ESG activities involving direct assistance to Program Participants is subject to §1.410 of this Part, relating to Determination of Alien Status for Program Beneficiaries.

(1) Each Household member receiving direct assistance (including Homelessness Prevention or Rapid Re-Housing upon annual recertification) must be verified for eligibility in accordance with §1.410 of this Part prior to receiving assistance.

(2) Direct assistance may be prorated utilizing a fraction based on Household eligibility, calculated by multiplying the full benefit amount by a fraction in which the numerator is the number of eligible Household members, and the denominator is the total number of Household members.

(3) Activities that do not provide direct housing or financial assistance, such as Emergency Shelter, case management, and Street Outreach, and in-kind disaster assistance are not subject to paragraphs (1) and (2) of this subsection.

(f) The Subrecipient must document the U.S. Citizen, U.S. National, or Qualified Alien status for each Household member receiving non-PWORA exempt direct assistance including:

(1) verification of eligible immigration or citizenship status consistent with §1.410 of this Part;

(2) any determinations of ineligibility or mixed Household status; and

(3) records of proration calculations applied under paragraph (e)(2) of this section, if applicable.

**Attachment 4: Preamble, including required analysis, for proposed amendments to §20.4 Eligible Single Family Activities, which applies to the Single Family Programs Umbrella Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §20.4 Eligible Single Family Activities, which applies to the Single Family Programs Umbrella Rule. The purpose of the proposed amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this proposed action provide that necessary specificity for the Single Family programs.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment is not considered to expand an existing regulation.
7. The amendment does not increase the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute.

#### §20.4 Eligible Single Family Activities

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (7) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

- (1) Rehabilitation or new construction of Single Family Housing Units;
- (2) Reconstruction of an existing Single Family Housing Unit on the same site;
- (3) Replacement of existing owner-occupied housing with a new MHU;
- (4) Acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;
- (5) Refinance of an existing Mortgage or Contract for Deed mortgage;
- (6) Tenant-based rental assistance; and
- (7) Any other single family Activity as determined by the Department.



(c) Implementation of Single Family Activities are subject to §1.410 of this Part, relating to Determination of Alien Status for Program Beneficiaries.

(1) For Tenant-based rental assistance, each Household member must be evaluated prior to submission of the activity to the Department for review in accordance with §1.410 of this Part. Assistance for mixed status Households must be prorated utilizing the method for proration of assistance described in 24 CFR §5.520(c)(2) related to prorated assistance for a Section 8 Housing Choice Voucher tenancy.

(2) For assistance provided as an area benefit or limited clientele activity under the Colonia Self-Help Centers Program related to CDBG, or as an area benefit activity for NSP as described in 24 CFR §570.483, area benefit activities and limited clientele activities are exempt from the verification requirements in §1.410 of this part as individual eligibility is not required to be established for these Activity types.

(3) For any other single family housing Activity, any Household member who has or will have an ownership interest in the assisted housing upon completion of the Activity must be verified to be eligible in accordance with §1.410 of this Part, prior to submission of the Activity to the Department for review.

**Attachment 5: Preamble, including required analysis, for proposed amendments to §20.6 Administrator Applicant Eligibility, which applies to the Single Family Programs Umbrella Rule**

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §20.6 Administrator Applicant Eligibility, which applies to the Single Family Programs Umbrella Rule. The purpose of the proposed amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this proposed action provide that necessary specificity for the Single Family programs.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment is not considered to expand an existing regulation.
7. The amendment does not increase the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute.

#### §20.6 Administrator Applicant Eligibility

(a) Eligible Applicants seeking to administer a single family Program are limited to entities described in the Program Rule and/or NOFA; and

(1) Shall be in good standing with the Department, Texas Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(2) Shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in Chapters 1 and 2 of this title (relating to Administration and Enforcement).

(3) Must provide Resolutions in accordance with the applicable Program Rule.

(b) The actions described in the following paragraphs (1) - (3) of this subsection may cause an Applicant and any Applications they have submitted to administer a Single Family Program to be ineligible:

(1) Applicant did not satisfy all eligibility and/or threshold requirements described in the applicable Program Rule and NOFA;

(2) Applicant is debarred by HUD or the Department; or

(3) Applicant is currently noncompliant or has a history of noncompliance with any Department Program. Each Applicant will be reviewed by the Executive Award and Review Advisory Committee (EARAC) for its compliance history by the Department, as provided in §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC)) of this title. An Application submitted by an Applicant found to be in noncompliance or otherwise violating the rules of the Department may be recommended with conditions or not recommended for funding by EARAC.

(c) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(d) The Department may decline to fund any Application to administer a Single Family Program if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual components of any Application.

(e) If an Applicant/Administrator is originating or servicing a Mortgage Loan, the Applicant/Administrator must possess all licenses required under state or federal law for taking the Application of and/or servicing a residential mortgage loan and must be in good standing with respect thereto, unless Applicant/Administrator is specifically exempted from such licensure pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(f) Applicant is required to select a verification process under §1.410 of this Part, relating to Determination of Alien Status for Program Beneficiaries. The Applicant may elect to change the selected method of verification during administration of the Activity subject to Department review and approval of the updated method.