



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2021-3 NOTICE OF FUNDING AVAILABILITY(NOFA)
EFFECTIVE JUNE 18, 2021

- 1) Summary.** The Texas Department of Housing and Community Affairs (the Department) announces the availability of **\$37,575,662** of National Housing Trust Fund (NHTF)¹ for the development of affordable multifamily rental housing for low-income Texans. Applicants under the 2021-3 NOFA will be accepted from June 21, 2021, through October 5, 2021 (if sufficient funds remain). If this NOFA is over-subscribed at any time, the Department may transfer NHTF funds from the 2021-1 NOFA to fund the over-subscription, provided funds are available. Applicants must have received a Low Income Housing Tax Credit allocation in 2019 and 2020 to be eligible to apply under the 2021-3 NOFA. The maximum Application request is \$5,000,000.

Developments that receive funds under this NOFA will be considered 2021 Developments on the Department's Site Inventory, unless the Development also receives force majeure treatment under 10 TAC §11.6(5).

The availability and use of these funds are subject to the following rules, as applicable:

- a. Texas Administrative Code (with the exception of waivers in Section 3 of this NOFA)**
- 10 TAC Chapter 1 (Administration)
 - 10 TAC Chapter 2 (Enforcement)
 - 10 TAC Chapter 10 (Uniform Multifamily Rules)
 - 10 TAC Chapter 11 (Qualified Allocation Plan)
 - 10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)

¹ NHTF funds under this NOFA are subject to federal Commitment deadlines, and the Board may require a Contract Execution Deadline to enable the Department to meet these federal Commitments regardless of any other time period listed in the Texas Administrative Code. Currently, the next commitment deadline for funds awarded under this NOFA is anticipated to be July 29, 2022. Failure to meet that Contract Execution Deadline, could result in the Applicant having the award reduced in whole or in part.

10 TAC Chapter 13 (Multifamily Direct Loan Rule)
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

b. Texas Government Code

Tex. Gov't. Code Chapter 2306

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

c. U.S. Department of Housing and Urban Development (HUD) Program Regulations

24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))

d. Fair Housing

Federal Fair Housing Act, 42 U.S.C. 3601-19. <https://www.tdhca.state.tx.us/fair-housing/index.htm>

e. Other Federal laws and regulations that apply:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Employment Opportunities

NHTF requires compliance with 24 CFR Part 135 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

NOTE – the Section 3 requirements have changed, Applicants should review the changes to assure they can meet the new hiring and reporting requirements.

If NHTF funds are awarded and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.

- f.** HUD approval of an amendment to the 2020 Action Plan and HUD approval of the 2021 Action Plan may be required prior to the Department awarding funds. Such approval is anticipated to occur by September 1, 2021.

2) Priorities

- a.** Applications submitted by July 20, 2021, that request less than RAF amount in Attachment A for the region in which the Development Site is located will have an Application Acceptance Date of July 20, 2021.

- b. Applications submitted by July 20, 2021, that request greater than RAF amount in Attachment A for the region in which the Development Site is located or if there were insufficient funds to award an application under Priority 2a, will have an Application Acceptance Date of July 21, 2021.
- c. Applications received between July 21 and October 5, 2021 will have an Application Acceptance Date the later of July 22, 2021, or the business day the Application is received.
- d. All Application Acceptance Dates will be determined in accordance with 10 TAC §13.5(b)

3) Limitations, Waivers, and Alternative Requirements

- a. The amount of funding that may be requested is limited to: the documented increase in Building Costs from the previous Application, within the limitations of 10 TAC §13.3(e) related to Ineligible Costs; the documented costs of compliance with Housing Trust Fund regulations at 24 CFR Part 93 (that are not already required by the funding sources identified as part of the 2019 or 2020 LIHTC award); and the documented costs of compliance with the Uniform Relocation Act (that are not already required by the funding sources identified as part of the 2019 or 2020 LIHTC award) .
- b. The Developer Fee may not increase, and the deferred Developer Fee may not decrease from the original Real Estate Analysis report.
- c. Construction may not have started, with the exception of necessary health and safety repairs.
- d. Texas Administrative Code waivers and Alternative Requirements provided for in this NOFA:
 - i. 10 TAC §11.101(a)(2) related to Undesirable Risk Features, to the extent that the undesirable feature was disclosed at original Application;
 - ii. 10 TAC §11.101(a)(3)(B)(iii) related to blight and 10 TAC §11.01(a)(3)(B)(iv) related to schools, including disclosure requirements, to the extent that the risk factor was disclosed at original Application;
 - iii. 10 TAC §11.205 related to Required Third Party Reports, with the exception that the Department may request updates to any Report deemed necessary to evaluate an Application under this NOFA;
 - iv. 10 TAC §13.1(c)(1) related to Waivers for Layered Developments, instead Applicant requested Waivers will be treated under 10 TAC §13.1(c)(2);
 - v. 10 TAC §13.4(s)(1)(A)(ii)(III) related to 30% units restricted by Housing Tax Credits;
 - vi. 10 TAC §13.5(c) related to Market Analysis;
 - vii. 10 TAC §13.5(g)(2) and (3)(A)-(C) related to eligibility determinations;
 - viii. 10 TAC §13.5(i) related to Effective Rules, only to the extent that the requirements of the applicable 2019 or 2020 QAP requirements for LIHTC awards will instead be utilized 10 TAC §11.101(4) Mandatory Development Amenities, 10 TAC §11.101(5) Common Amenities, 10 TAC §11.101(6) Unit Requirements, and 10 TAC §11.101(7) Resident Supportive Services will apply.

- ix. 10 TAC §13.6 relating to scoring, only to the extent that scoring in 10 TAC §11.9 will not apply.
- x. 10 TAC §13.11(c)(2) relating to environmental review, the 90-day requirement will be 30 days from the Application Acceptance Date.

4) Loan Terms

- a. **Construction-to-Permanent Loans.** Loans will be structured as deferred-forgivable, deferred-payable, Surplus Cash (sometimes referred to as cash-flow), or with must pay monthly provisions, as required to optimize assistance to the Development, as recommended by Real Estate Analysis. For Federal Housing Authority layered transactions subject to the MAP Guide, only the Surplus Cash option is available. The term of the loan and the amortization period (not to exceed 40 years) will match any superior debt, with an interest rate as low as 0% interest.
- b. **Construction-Only Loans.** Requests structured as construction-only loans will have an interest rate of 0% with the principal amount of the Direct Loan due upon the end of the construction loan term as established in 10 TAC §13.8(e)(1).

4) Maximum Per Unit Subsidy Limits and Maximum Rehabilitation Per-Unit Subsidy Limits.

The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the 2021 Maximum Per Unit Subsidy Limits table provided in this Section 45:

2021 Maximum Per Unit Subsidy Limits²		
Bedrooms	Non-elevator property	Elevator-served property
0 bedroom	\$145,685	\$153,314
1 bedroom	\$167,978	\$175,752
2 bedroom	\$202,586	\$213,718
3 bedroom	\$259,20	\$276,482
4 bedroom or more	\$288,893	\$303,490

Smaller per unit subsidies are allowable and incentivized as point scoring items in 10 TAC §13.6. Once the Applicant commits a number of Direct-Loan Units in the Application, the number may be raised, at Department request, to account for a change in Development costs or to account for other federal funding, but the number may not be lowered.

5) Application Submission Requirements.

- a. **Application Acceptance Period.** Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on June 21, 2021, through October 5, 2021 at 5:00 p.m. Austin local time (if sufficient funds remain). An Applicant may have only one active Application per Development at a time under this or any other Department NOFA.

²These limits are inclusive of any federal fund sources in the Development.

- b. Application Submission Materials. All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department's website at <https://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD. Waiver of specific rules is made through this NOFA and accompanying Board Action Item.

The following Application materials are required for the 2021-3 NOFA.

1. Fully executed 2021 Development Owner Certification, Applicant Eligibility Certification(s), and Multifamily Direct Loan Certification;
2. Tab 6b – Multifamily Direct Loan Self-score;
3. Tab 7, Sections 7 and 8 - Prime Farmland Designation, -Site and Neighborhood Standards;
4. Tabs 11 and 12, Section 3 Site Information Form Part III and Support Documentation to the extent that it might have changed from the original Application, and if the Applicant does not own the property the contract for sale with the required language in 10 TAC §13.5(e).
5. Tab 17 - Development Narrative, including description of any value – engineering from the original Application, the loan type requested, and if requesting a deferred-forgivable loan, a description of how the loan is treated with respect to Eligible Basis;
6. Tab 19, Section 2 – Rent Levels of Residents;
7. Tab 21 – Occupied Developments, Uniform Relocation Act section, if applicable;
8. Tab 22 – Architectural Drawings, only to the extent that they may have changed from the original Application;
9. Tab 23 – Building/Unit Configuration, only to the extent that they may have changed from the original Application;
10. Tab 23 - Rent Schedule reflecting 2021 rent limits;
11. Tab 26 – Annual Operating Expenses;
12. Tab 27 – 15 Year Rental Housing Operating Pro Forma;
13. Tab 30 – Development Cost Schedule supported by a draft Construction Contract and Schedule of Values;
14. Tab 31 – Schedule of Sources reflecting current financing structure, including required Match Funds proposed to offset development cost, as applicable
15. Tab 32 – MF Direct Loan Financial Capacity;
16. Tab 33 – Match Funds;
17. Tab 35 – Supporting Documents evidencing the current financing as shown by executed loan documents or current term sheets, as applicable;
18. Amendment request, if applicable per <https://www.tdhca.state.tx.us/asset-management/pca-manual.htm> ;
and

19. Additional information as requested by the Department in its sole discretion.

- c. An Application must be on forms provided by the Department, and cannot be altered or modified, and must be in final form before submitting it to the Department. An Applicant must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (Manual) in effect at the time the Application is submitted, as may be modified by requirements in this NOFA. All scanned copies must be scanned in accordance with the guidance provided in the Manual in effect at the time the Application is submitted.
- d. **Minimum Requests.** The request for funds may not be less than \$500,000. However, if the underwriting report indicates that the Development will be feasible with an award of less than \$500,000, staff may recommend a lower award.
- e. **Match Submission Requirements.**
 - i. All Applicants must provide Match in the amount of **at least 7.5%** of the Direct Loan funds requested. Except for Match in the form of the net present value of a below market interest rate loan or a property tax exemption under Sections 11.111, 11.18, 11.181, 11.182, 11.1825, or 11.1827 of Texas Property Tax Code, Match must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of Direct Loan funds.
 - ii. All Applicants will be required to provide HOME Match-Eligible Unit(s) in accordance with 10 TAC §13.2(a)(6) and §13.10(c) and federal guidance at <https://www.hudexchange.info/resource/2676/notice-cpd-97-03-home-program-match-guidance/>
- f. All 4% HTC-layered applications must provide evidence of a Reservation with submission of the MFDL Application submission.
- g. 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. Tex. Gov't Code §2306.147(b) requires the Department to waive Application fees for private 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. The Application fee is not a reimbursable cost under the Multifamily Direct Loan Program.
- h. An Application must be uploaded to the Department's secure web transfer server in accordance with 10 TAC §11.201(1)(C).

8) Post Award Requirements. Applicants are strongly encouraged to review the applicable Post

Award requirements in 10 TAC Chapter 10, Subchapter E, Post Award and Asset Management Requirements and 10 TAC Chapter 13, as well as the Compliance Monitoring requirements in 10 TAC Chapter 10, Subchapters F and G.

- a. Awarded Applicants may, at the Department's discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
- b. An Applicant will be required to record a Land Use Restriction Agreement (LURA) limiting residents' income and rent for the greater amount of Units required by the Direct Loan Unit Calculation Tool along with any required HOME Match-eligible units, or as represented in the Application for the term of the LURA.
- c. An Applicant must have a current Data Universal Numbering System (DUNS) number and be registered in the federal System for Award Management prior (SAM) prior to execution of a Direct Loan contract. Applicants may apply for a DUNS number at dnb.com). Once you have the DUNS number, you can [register with the SAM](#). Because these awards are anticipated to proceed swiftly to contract, applicants are highly encouraged to apply for the DUNS number and register in SAM upon Application submission.
- d. An Applicant may be required to meet additional requirements prior to contract, as determined by the Board, or federal or state requirements.
- e. An awarded Applicant may be required to meet additional documentation requirements in order to draw funds, in accordance with its Previous Participation results.

9) Miscellaneous.

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the NHTF funds. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations.
- b. All Applicants must comply with public notification requirements in 10 TAC §11.203.
- c. Waivers of any substantive or procedural provision of this NOFA, if available, will be treated in accordance with 10 TAC §13.1(c). 10 TAC §13.1(c) may not be waived.
- d. For questions regarding this NOFA, please contact Charlotte Flickinger, Multifamily Direct Loan Manager, at charlotte.flickinger@tdhca.state.tx.us.

Attachment A

Regional Allocation Formula

Region	Allocation Amount
1	\$ 1,116,237.06
2	\$ 617,616.69
3	\$ 9,317,707.69
4	\$ 1,577,220.44
5	\$ 1,133,238.27
6	\$ 8,895,130.07
7	\$ 2,574,861.08
8	\$ 1,740,491.48
9	\$ 3,433,324.37
10	\$ 1,095,717.36
11	\$ 4,004,828.97
12	\$ 723,695.86
13	\$ 1,345,594.85