



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2024-3 NOTICE OF FUNDING AVAILABILITY (NOFA)
ANNUAL NOFA
FIRST AMENDMENT – EFFECTIVE MAY 14, 2024

(1) Summary. This First Amendment suspends the assignment of Application Acceptance Dates as of May 14, 2024 at 5:00 PM.

The Texas Department of Housing and Community Affairs (the Department) announces the availability of \$25,000,000 of Tax Credit Assistance Program Repayment Funds (TCAP-RF) funding for the development of affordable multifamily rental housing for low-income Texans. Applicants under the 2024-3 NOFA will be accepted from **April 1, 2024**, through **October 31, 2024** (if sufficient funds remain). Applicants applying for 2024 9% Housing Tax Credits are not eligible to apply under this NOFA until August 1, 2024.

Applications for a Development previously awarded HOME, HOME-ARP, national Housing Trust Fund, Neighborhood Stabilization Program, TCAP-RF (except for pre-Development only awards), or Emergency Rental Assistance 2 (ERA2) funds from the Department where the loan has not closed or where the federal affordability period is not completed, or Applications for a Development that had an active Application for direct loan funds for a Development as of March 1, 2024, are not eligible to apply under this NOFA.

Developments that are layered with a Federal Housing Administration (FHA) loan subject to the MAP Guide are not eligible to apply under this NOFA.

TCAP-RF Applicants are required to submit eligible activities under the HOME Program, meet HOME Match requirements, and must follow other HOME rules as otherwise noted herein or in the Department's rules. Requirements for an activity to be considered eligible under the HOME program include, but are not limited to:

- The proposed activity must include an ownership structure that is eligible under that program.

- The proposed activity must comply with the requirements of that program regarding eligible and ineligible costs.

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

a. Texas Administrative Code

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)

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 for activity type, eligible costs, and HOME Match requirements:

24 CFR Part 92 ([HOME Investment Partnerships Program Final 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 and Lead Based Paint

24 CFR Part 50 or 24 CFR Part 58 do not apply unless required by another federal funding source in the Development, but the Development must meet the lead based paint requirements of 24 CFR Part 35

Accessibility In addition to the requirements in the QAP and 10 TAC Chapter 1, Subchapter B, the Development must follow 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131–12189) implemented at 28 CFR parts 35 and 36, as applicable. Rehabilitation may include improvements that are not required by regulation or statute that permit use by a person with disabilities.

~~(1)~~(2) Set-Asides. TCAP-RF funds will be subject to the Regional Allocation (located in Attachment A) from **April 1, 2024**, until **April 30, 2024**. Those who apply during the Regional Distribution period must request the total amount available in the Region.

Applicants in the General Set-Aside that did not apply during the Regional Distribution period must request, at a minimum, \$5,000,000. An Applicant in the General set-aside may request no more than \$10,000,000.

Applications must choose a set-aside based on the restrictions set forth below. In addition to the RAF, the funds made available under this NOFA are offered under the following Set-Asides:

- a. **General Set-Aside.** This set-aside consists of TCAP-RF in the amount of \$25,000,000.

Applicants are required to initially provide 120% of the minimum required number of MFDL Units as established by 10 TAC §13.7. Should the minimum number of required MFDL Units change at any point between initial Application and the Development placing in service, Applicants will not be required to provide additional units so long as the initial 120% continues to be sufficient to meet the minimum.

Set-Aside	Eligible Activities	Fund Source and Amount Available		Maximum Request ¹
General	NC, R, RC ²	TCAP-RF	\$25,000,000	\$10,000,000

Key:

- NC – New Construction
- Rehabilitation
- RC – Reconstruction

(2)(3) Application Acceptance Dates and Priorities. Applicants may submit during one of several Application acceptance periods. Within those windows, applications will be reviewed in accordance with the listed priorities.

- a) **General Set-Aside Application Periods:** TCAP-RF funding will be distributed in accordance with the following timelines. Each application period has certain conditions that must be met for staff to assign an Application Acceptance Date. Dates and relevant restrictions are listed below.

¹. This total includes any outstanding loan balances from the Department from any fund source that will remain after the Direct Loan closing of this award and any pre-Development grant from TCAP-RF. Note, TCAP-RF funds may not be used to pay off or refinance federal funding or insurance from any source.

² Acquisition may be included in the activity, only if the Applicant or an Affiliate does not own the land or the improvements on or before April 1, 2024.

- I. **Regional Distribution:** TCAP-RF funds will be subject to the Regional Distribution from April 1, 2024 to April 30, 2024, at 5:00 pm Austin Local Time. All eligible Applications submitted during this period will be given an Application Acceptance Date of April 30, 2024. All Applications submitted during this period must have the Department's TCAP-RF loan in first lien position and must be a prior 9% tax credit award. The minimum request during this period is the lesser amount of \$5,000,000, or the total amount available in the region in which the Application is submitted.
 - II. **Non-RAF:** From May 1, 2024, to May 3, 2024 at 5:00 pm Austin Local Time, and Applicants who submitted an Application in the Regional Distribution who were not funded, but otherwise meet the requirements of this Application Period. All eligible Applications submitted during this period will have an Application Acceptance Date of May 3, 2024. All Applications submitted during this period must have the Department's TCAP-RF loan in first lien position and must be a prior 9% tax credit award. The minimum request during this period is \$5,000,000.
 - III. **Open Applications: Starting on May 6, 2024,** all eligible Applications will have an Application Acceptance Date on the business date of receipt ending at 5:00 pm Austin Local Time
- b) **Priorities:** Within each of the above Application acceptance periods, except the Regional Distribution period, staff will determine application priority based upon three clearly delineated criteria. The order of reviews and eventual funding will first be based upon Priority 1. Staff will move on to Priorities 2 and 3 only if a tie occurs and each Application cannot be funded. During the Regional Distribution Application Acceptance Period, Priorities 2 and 3 will be used.
- I. **Priority 1:** Staff will first prioritize applications with the same Application Acceptance Date based upon the amount of HOME funds requested. Staff will give priority to applications requesting larger amounts.
 - II. **Priority 2:** If a tie persists, staff will fund the application that provides a higher match percentage of the Direct Loan funds requested.
 - III. **Priority 3:** If a tie persists, staff will review each in accordance with **10 TAC §11.7** and give precedence to the most competitive application as determined by the tie-breaker.

a) **Product: Construction-to-Permanent Loans and Construction-Only Loans.** All Direct Loan Applications will be structured as construction-to-permanent or construction-only loans. All products will reflect the interest rate listed in the table below.

b) **Interest Rates.**

Set-Aside or Priority	Interest Rate
General	2%

c) **Construction-to-Permanent Loan Structure.**

- I. Except for Applicants proposing a Federal Housing Administration (FHA) loan, funds must be requested as **Fully Amortizing Loans**. Loans will be structured with regular principal and interest payments sufficient to fully repay the loan within the loan term.

~~(4)(5)~~ **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 2023 Maximum Per-Unit Subsidy Limits table provided in this Section 5:

2023 Maximum Per Unit Subsidy Limits ³		
Bedrooms	Non-elevator property	Elevator-served property
0 bedroom	\$170,777	\$179,722
1 bedroom	\$196,911	\$206,023
2 bedroom	\$237,481	\$250,530
3 bedroom	\$303,987	\$324,105
4 bedroom or more	\$338,652	\$355,765

2023 Maximum Per Unit Rehabilitation Subsidy Limits ⁴
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³ If these limits are updated prior to expiration of this NOFA, the Department will provide notice via its website and revise the NOFA accordingly, and then will accept Applications based on the updated limits. Applications pending contracts at the time of such revision will be given opportunity to revise their Application without impact to Application Acceptance Date. These limits are inclusive of any federal fund sources in the Development, as applicable.

⁴ If these limits are updated prior to expiration of this NOFA, the Department will provide notice via its website and revise the NOFA accordingly, and then will accept Applications based on the updated limits. Applications pending contracts at the time of such revision will be given opportunity to revise their Application without impact to Application Acceptance Date. These limits are inclusive of any federal fund sources in the Development, as applicable.

Bedrooms	Non-elevator property	Elevator-served property
0 bedroom	\$56,922	\$61,488
1 bedroom	\$64,617	\$70,490
2 bedroom	\$78,107	\$85,717
3 bedroom	\$98,036	\$110,887
4 bedroom or more	\$110,779	\$121,723

Once the Applicant commits a number of Direct-Loan Units in the Application, the number may be raised or lowered only in the Department’s sole discretion and provided that it would not have impacted the award of an application, to account for a change in Development costs or to account for other federal funding.

(5)(6) Accommodations for Unique Circumstances

If the Department deems an Application to be better suited for another fund source in this NOFA or other Department multifamily NOFA, the Department will provide the Applicant a fourteen calendar day period (which may be extended another fourteen days for information required from third parties) to provide the supplemental information needed to evaluate the Application under that fund source without impact to the Application Acceptance Date.⁵

(6)(7) Application Submission Requirements

- a) **Application Acceptance Period. Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on April 1, 2024, through October 31, 2024 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, and may only have that Development apply under one Set-Aside at a time.
- b) **Application Submission Materials.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department’s website at www.tdhca.state.tx.us. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD.
- c) **Application Forms.** 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. All scanned copies must be scanned in

⁵ However, the Applicant will not be given an Application Acceptance Date earlier than what could have been applied for under this NOFA or other Department NOFA.

accordance with the guidance provided in the Manual in effect at the time the Application is submitted.

d) 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-programmatch-guidance/>

e) Bond Reservation. All 4% HTC-layered applications must provide evidence of a Reservation with submission of the MFDL Application submission.

f) Application Fee. An Applicant under the General Set-Aside who is not simultaneously applying for 4% Housing Tax Credits is required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application, unless exempted as described at **10 TAC §11.901(3)(B)**. 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.

g) Application Transmittal Required Steps. An Application must be uploaded to the Department's secure web transfer server in accordance with **10 TAC §11.201(1)(C)**, and separate email notification must be made to connor.jones@tdhca.state.tx.us

(7)(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, legal fees, 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 require HOME Match-eligible units, or as represented in the Application for the term of the LURA.
- c) An Applicant must have a current Unique Entity Number (UEI) and be registered in the federal System for Award Management prior (SAM) prior to execution of a Direct Loan contract. The General Services Administration (GSA) has provided tools to assist registering entities entity and obtaining a UEI. Visit the SAM website at <https://sam.gov/content/entity-registration> to access a number of resources related to the UEI implementation. Once an Applicant has a UEI register with the SAM.
- 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.

~~(8)(9)~~ **Miscellaneous**

- a) This NOFA does not include text of the various applicable regulatory provisions pertinent to the fund sources. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations.
- b) Utility allowances must be for HUD-regulated buildings and approved by TDHCA prior to application (**10 TAC §11.614**).
- c) All Applicants must comply with public notification requirements in **10 TAC §11.203**.
- d) 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.
- e) For questions regarding this NOFA, please contact Connor Jones, Multifamily Direct Loan Program Manager, at connor.jones@tdhca.state.tx.us.

Attachment A

TCAP-RF Regional Distribution under the General Set-Aside

TCAP-RF

Region	Region Distribution Amount
1, 12, 13	\$2,863,511
2, 3, 4	\$8,868,380
5, 6, 8	\$5,127,830
9, 7, 10, 11	\$8,140,279