TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
August 9, 2019

TDHCA Governing Board Approved Draft of the
Proposed Rule Changes to
10 TAC 24, Texas Bootstrap Loan Program Rule

Notice for Public Comment

Disclaimer

Attached is a draft of the Proposed Rule Changes to 10 TAC 24, Texas Bootstrap Loan Program Rule, that was approved by the TDHCA Governing Board on July 25, 2019. This document, including its preambles, is scheduled to be published in the August 9, 2019, edition of the Texas Register and that published version will constitute the official version for purposes of public comment. The version herein is informational only and should not be relied upon as the basis for public comment.

Public Comment Period

Starts at 8 AM Austin local time on August 9, 2019.
Ends at 5 PM Austin local time on September 9, 2019.
Comments received after 5 PM Austin local time on September 9, 2019, will not be accepted.

Written comments may be submitted to:
Texas Department of Housing and Community Affairs
Attn: Raul Gonzales, Rule Comments
P.O. Box 13941
Austin, Texas 78711-3941
Email: htf@tdhca.state.tx.us

Written comments may be submitted in hard copy or email formats within the designated public comment period. 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.

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Attachment A: Preamble, including required analysis, for the proposed repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 24, §§24.1 – 24.13, Texas Bootstrap Loan Program Rule. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this 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.
   David Cervantes, Acting Director, has determined that, for the first five years the repeal will be in effect:
   1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing the Texas Bootstrap Loan Program.
   2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.
   3. The repeal does not require additional future legislative appropriations.
   4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
   5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
   6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Texas Bootstrap Loan Program.
   7. The repeal will not increase nor decrease the number of individuals subject to the rule’s applicability.
   8. The repeal will not negatively nor 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 this repeal and determined that the repeal 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 repeal does not contemplate nor 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will 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. Cervantes has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

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

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the repealed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

STATUTORY AUTHORITY. The repeal is proposed pursuant to TEX. GOV’T CODE §2306.053, which authorizes the Department to adopt rules.

Except as described, herein the proposed repealed rule affects no other code, article, or statute.

10 TAC Chapter 24, Texas Bootstrap Loan Program

§24.1. Purpose.
§24.2. Definitions.
§24.3. Allocation of Funds.
§24.4. Participant Requirements.
§24.5. Program Activities.
§24.6. Prohibited Activities.
§24.7. Distribution of Funds.
§24.9. Program Administration.
§24.10. Owner-Builder Qualifications.
§24.11. Types of Funding Transactions.
Attachment B: Preamble, including required analysis, for proposed new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 24, §§24.1 – 24.13, Texas Bootstrap Loan Program Rule. The purpose of the new rule is to further clarify program administration and Nonprofit Owner-Builder Housing Program certifications, modify the length of extension the Department may grant to an Owner-Builder, and improve readability and consistency throughout with the re-ordering of phrases and updating of terms.

Tex. Gov’t Code §2001.0045(b) does apply to the rule being adopted because no exceptions apply, however it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this 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.
David Cervantes, Acting Director, has determined that, for the first five years the proposed rule will be in effect:
1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes governing the Texas Bootstrap Loan Program.
2. The new rule does not require a change in work that will require the creation of new employee positions, nor will the new rule reduce workload to a degree that any existing employee positions are eliminated.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule will not increase nor decrease the number of individuals subject to the rule’s applicability.
8. The new rule will not negatively nor 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 this new rule and determined that it 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 new rule does not contemplate nor 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 new rule as to its possible effects on local economies and has determined that for the first five years the new rule will be in effect there will 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. Cervantes has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule would be to further clarify the Texas Bootstrap Loan Program. The purpose of the new rule is to further clarify aspects of program administration and to improve readability. There will be no economic costs to individuals required to comply with the new rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV’T CODE §2001.024(a)(4). Mr. Cervantes also has determined that for each year of the first five years the new rule 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.

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

STATUTORY AUTHORITY. The new rule is proposed pursuant to TEX. GOV’T CODE, §2306.053, which authorizes the Department to adopt rules.

Except as described, herein the proposed new rule affects no other code, article, or statute. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency’s legal authority to adopt.
CHAPTER 24 TEXAS BOOTSTRAP LOAN PROGRAM RULE

§24.1. Purpose.

(a) This chapter clarifies the Texas Bootstrap Loan Program, administered by the Texas Department of Housing and Community Affairs (the "Department"), also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Tex. Gov't Texas Government Code, Chapter 2306, Subchapter FF, Chapter 1 of this Title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this Title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this Title (relating to Texas Housing Trust Fund).

(b) The Texas Bootstrap Loan Program is a Self-Help construction Program that is designed to provide very low-income families an opportunity to help themselves attain homeownership or repair their existing homes through sweat equity. All Owner-Builder Applicants under this Program are required to provide through personal labor at least 65 percent of labor necessary to build or rehabilitate the home. All applicable building codes and housing standards are adhered to under this Program.

§24.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Tex. Gov't Texas Government Code, Chapter 2306, Chapter 1 of this Title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this Title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this Title (relating to Texas Housing Trust Fund).

(1) Capital Recovery Fee--Means a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, contributions in aid of construction, and any other fee that functions as described by this definition.

(2) Improvement Survey--A survey locating the boundaries of the property and the location of all improvements.

(2)(3) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Participant that authorizes the Participant to originate certain loans under the Texas Bootstrap Loan Program.

(3)(4) NOHP--Nonprofit Owner-Builder Housing Provider.

(4)(5) Owner-Builders--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a Contract for Deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(5)(6) Participant--An NOHP or Colonia Self-Help Center that is certified by the Department to participate in the Program, organization that submits an application to the Department to be certified as an NOHP or a Colonia Self-Help Center.
(6)(7) Program--Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program.
(7)(8) Self-Help Housing Construction--The Self-Help Housing process enables Owner-Builders to Rehabilitate, Reconstruct or construct their own homes, usually working together in groups on other eligible Owner-Builder's houses at the same time. Owner-Builders use their own "sweat equity" to reduce the cost of their homes.

§24.3. Allocation of Funds.

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Tex. Gov't Texas Government Code, Chapter 2306, Subchapter FF. The Department shall solicit gifts and grants to make loans under this chapter.
(b) The Department may also make loans for the Texas Bootstrap Loan Program under this chapter from:
   (1) available funds in the Housing Trust Fund established under Tex. Gov't Texas Government Code, §2306.201; or
   (2) federal block grants that may be used for the purposes of this chapter.
(c) Each state fiscal year the Department shall transfer at least $3 million (or another amount if so required by Tex. Gov't Code and/or the General Appropriations Act) to the Texas Bootstrap Loan Program from money received under federal block grants or from available funds in the Housing Trust Fund.
(d) In a state fiscal year the Department may use up to 10% of Program funds available per state fiscal year not more than 10 percent of the revenue available to enhance the ability of tax-exempt organizations described by Tex. Gov't Texas Government Code, §2306.755(a) to increase the number of such organizations that are able to implement the Program. The Department shall use that available revenue to provide financial assistance, technical training and management support.

§24.4. Participant Requirements.

(a) Eligible Participants. The following organizations or entities are eligible to become Participants in the Texas Bootstrap Loan Program:
   (1) Colonias Self Help Centers established under Tex. Gov't Texas Government Code, Chapter 2306, Subchapter Z; or
   (2) NOHPs certified by the Department pursuant to Tex. Gov't Texas Government Code, §2306.755.
(b) Eligibility requirements. The Participant must enter be certified as an NOHP or must be a Colonia Self-Help Center and must have entered into a Loan Origination Agreement with the Department in order to be eligible to participate in the Texas Bootstrap Loan Program. The Participant must have the capacity to administer and manage resources as evidenced by previous experience of managing state and/or federal programs.

§24.5. Program Activities.

Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, new construction, reconstruction, or rehabilitation of residential housing. All eligible organizations that satisfy the requirements of this chapter may reserve funds by submitting a loan application on behalf of an Owner-Builder Applicant for the Texas Bootstrap Loan Program.
§24.6. Prohibited Activities.

The fees described in paragraphs (1) - (8) of this section are prohibited Program expenditures and may not be charged directly to the Owner-Builder; however, these expenses may be charged as an allowable cost by a third party lender or servicer for a Texas Bootstrap loan:

1. Payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;
2. Loan origination fees;
3. Application fees;
4. Discount fees;
5. Underwriter fees;
6. Loan processing fees;
7. Loan servicing fees; and
8. Other fees not approved by the Department in writing prior to expenditure.

§24.7. Distribution of Funds.

(a) Set-Asides. In accordance with Texas Government Tex. Gov’t Code, §2306.753(d), at least two-thirds (2/3) of the dollar amount of Program loans made under this chapter in each fiscal year must be made to Owner-Builders whose real property is located in a census tract that has a median household income that is not greater than 75% percent of the median state household income for the most recent year for which statistics are available.

(b) Balance of State. The remaining one-third (1/3) of the dollar amount of Program loans may be made to Owner-Builders anywhere in the state.

(c) Loan Priority. The Department may allow a Participant access to the Reservation System 24 hours prior to all other Participants if the Owner-Builders Applicant meets the following criteria:

1. Annual household income is less than $17,500; or
2. Real property is located in a county and/or municipality that agrees in writing to waive the Capital Recovery Fees, building permit fee or other fees related to the house(s) to be built with the loan proceeds. Owner-Builder Applicant will not receive priority if there are none of the above fees are imposed by the county and/or municipality or water supply company.


(a) The Department will distribute Program funds in accordance with the Texas Housing Trust Fund (SHTF) Plan in effect at the time. The Department will publish an announcement for a NOFA Notice of Funding Availability in the Texas Register and post the NOFA on the Department’s website. The rules referenced in §24.1 of this chapter and the Program Rule and NOFA will establish and define the terms, conditions, and maximum Reservation amounts allowed per Participant. The Department may also set a deadline for receiving Reservations and/or Applications. The NOFA will indicate the approximate amount of available funds. The Department may increase the amount of funds made available through the NOFA from time to time without republishing the NOFA in the Texas Register. Such increases will be reflected on the Department’s website.

(b) A Nonprofit Organization must have been certified by the Department as an NOHP and must have
executed a Loan Origination Agreement to be eligible to submit Reservations. Any Reservation containing false information will be disqualified. The Department will review and process all Reservations in the order received. The NOHP will be notified in writing of the Department’s determination.

(c) Reservations received by the Department in response to a NOFA will be handled as described in paragraphs (1) - (5) of this subsection.

(1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.

(2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.

(3) Reservations must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in this chapter. Reservations that do not comply with such requirements may be disqualified. The Participant will be notified in writing of any cancelled and/or disqualified Reservations.

(4) If a Reservation contains deficiencies which, in the determination of the Department, require clarification or correction of information submitted at the time of the Reservation, the Department may request clarification or correction in the form of a deficiency notice an email or letter to the Participant. If the Participant is unable to cure any deficiencies within 15 calendar days, the Department may decline to fund the Reservation. The Department may provide one 15-calendar-day extension to the deficiency notice.

(5) Prior to issuing an Applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing 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 Reservation which are entered, and may decide it is in the Department’s best interest to refrain from committing the funds. If the Department has issued an Applicant eligibility letter to the Owner-Builder Applicant, but the Participant and/or Owner-Builder Applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the Participant and/or Owner-Builder Applicant has satisfied all requirements of the Program. If the Participant is unable to cure any deficiencies within fifteen (15) calendar days, the Department may provide a one-time fifteen (15) calendar day extension or decline to fund the Reservation.

§24.9. Program Administration.

(a) Pursuant to Tex. Gov’t Code §2306.754(b), the Department shall not exceed $45,000 in household assistance for any Texas Bootstrap Loan Program loan. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for $45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds.

(b) The Department shall make loans for Owner-Builder Applicants to enable them to:

(1) purchase or refinance real property on which to build new residential housing;

(2) build new residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity;

or

(3) improve existing residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity.

(c) Upon approval by the Department, the Participant shall enter into, execute, and deliver to the Department the Loan Origination Agreement. The Department may terminate the Loan Origination Agreement in whole or in part if the Participant has not performed as outlined in the Program Rule, NOFA,
Loan Origination Agreement, and/or Program Manual.

(d) In the event the Department has additional funds in the same funding cycle, the Department, with Board approval, will distribute funds in accordance with this chapter.

d)(e) If the Owner-Builder Applicant qualifies for the Program, the Department will issue an Applicant eligibility letter which reserves up to $45,000 in funds for twelve (12) months from the date of the Applicant eligibility letter. The Owner-Builder Applicant will not be required to re-qualify if the Owner-Builder Applicant closes by the expiration date on the Applicant eligibility letter. If an Owner-Builder Applicant does not close by the expiration date, the Owner-Builder Applicant must re-qualify for the Program; however, and the Department may grant an extension of up to 180 days from the expiration date on the original Applicant eligibility letter. If the Owner-Builder Applicant fails to close on the loan after the extension is granted the Reservation and/or loan will be cancelled.

(e)(f) Roles and responsibilities for administering the Program Contract. Participants are required to:

1. Qualify potential Owner-Builders for loans;
2. Provide Owner-Builder homeownership education classes;
3. Supervise and assist Owner-Builders to build and/or Rehabilitate housing;
4. Facilitate loans made or purchased by the Department under the Program; and
5. Implement and administer the Program on behalf of the Department.

(f)(g) Loan Servicing Agreement. If the Participant wishes to service the loans originated on behalf of the Department it must obtain prior approval and enter into a Loan Servicing Agreement with the Department. A Participant’s approval to begin servicing loans and/or to continue servicing loans is at the written discretion of the Department.

(g)(h) First Year Consultation Agreement. If the Department notifies the Participant that an Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents, within the first twelve (12) months of funding, the Participant must be required to meet with the Owner-Builder and provide counseling to assist in bringing the payments current and assistance until the payments are made current. After such consultation and in the event that the Department and Participant are not able to bring the Program loan current as required under this chapter, the Department in accordance with its administrative rules may apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participation in the Program.

(h)(i) Administrative Fee. The Participant will be granted a 10% percent administration fee upon completion of the house and funding of each Mortgage loan.

(i)(j) Blueprints. If the Participant’s activity is new or residential construction, Participant must submit a legible copy of the proposed blueprints for approval to be approved by the Department. Blueprints must include the required construction requirements pursuant to Tex. Gov’t Code, §2306.514, and be prepared and executed by an architect or engineer licensed by the state of Texas.

(j)(k) Work Write-up. If the Participant’s activity is rehabilitation, Participant must adhere to TMCS and submit work write-ups and cost estimations for Department approval prior to construction.

(k)(l) Loan Program requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as described in paragraphs (1) - (7) of this subsection:

1. Pursuant to Tex. Gov’t Code §2306.754(b), the maximum Texas Bootstrap Loan Program loan amount per Household shall not exceed $45,000. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for $45,000, the Owner-Builder must obtain the
additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds;

(2) Minimum Loan amount is $1,000;

(3) Loan term may not exceed a term of thirty (30) years;

(4) Loan term may not be less than minimum loan term of five (5) years;

(5) 0% percent non-interest loans;

(6) When refinancing a Contract for Deed, the Department will not disburse any portion of the Department’s loan until the Owner-Builder receives a deed to the property; and

(7) Owner-Builder must have resided in Texas for the preceding six (6) months prior to the date of loan application.

Loan Assumption. A Program loan is assumable if the Department determines that the Owner-Builder Applicant complies with all Program requirements in effect at the time of the assumption.

Forgivable Loan. The term for a Forgivable Loan may not exceed 15 years from the date of closing.

§24.10. Owner-Builder Qualifications.

The Owner-Builder must:

(1) own or be purchasing a piece of real property through a warranty deed or Contract for Deed;

(2) have an annual household income that exceeds 60% percent of the greater of the state or local area median family income as determined by HUD’s current income table. Eligibility Income is the total Household income including all income (salary, tips, bonus, overtime, alimony, child support, benefits, etc.) received by the Owner-Builder Applicant, co-Applicant and/or any other persons living in the home. This income is used to determine whether the household income exceeds 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, whichever is greater. No income is excluded in this calculation.

(3) execute a Self-Help Agreement committing to specify and satisfy one of the criteria provided for in subparagraphs (A) – (D) of this paragraph: provide at least 65 percent of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant; or provide an amount of labor equivalent to 65 percent in connection with building or rehabilitating housing for others through a state-certified Participant; provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant or if due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65 percent of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant;

(A) Provide at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant;

(B) Provide an amount of labor equivalent to 65% in connection with building or rehabilitating housing for others through a state-certified Participant;

(C) Provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant;

(D) If due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant; or
state-certified Participant;
(4) Successfully complete an Owner-Builder homeownership education class prior to loan funding; 
(5) be given priority for loans if the Owner-Builder has an income of less than $17,500 annually; and 
(6) Not have any outstanding judgments and/or liens on the property; and.
There must be in full compliance with the requirements and the Owner-Builder must be
(7) The Owner-Builder must occupy the residence as a Principal Residence within thirty (30) days of the
end of the construction period or the closing of the loan, whichever is later. If the Owner-Builder fails to do
so, the Department may declare the loan in default and accelerate the note. Any additional habitable
structures must be removed from the property prior to closing; however but a portion of the structure may
be utilized as storage upon the Department's written approval prior to closing.

§24.11. Types of Funding Transactions.

All Mortgage Loans will be evidenced by a promissory note and will be secured by a lien on the subject
property. The following transaction types are permitted by the Department under the Program.
(1) Purchase Money. All Program funds proceeds are used to finance the purchase of a single-family
dwelling unit and/or a piece of real property which must become the Owner-Builder's primary residence
within thirty (30) days of closing the loan. The Department makes a permanent loan to the Owner-Builder
and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing
costs may be financed by the loan proceeds.
(2) Residential Construction. This transaction is treated as a purchase and is a one-time closing with the
Owner-Builder. Construction period may be up to twelve (12) months.
(3) Interim Construction (Closing with Participant). Interim construction is a commercial transaction
between the Participant and the Department that is with respect to a specific Owner-Builder. The
construction period may be up to twelve (12) months. Once the construction of the home is completed, the
closing with the Owner-Builder will take place as a purchase money transaction.
(4) Purchase of Mortgage loans. The Department may purchase and take assignments from Mortgage
lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions
as described in paragraph (1) of this section or for residential construction transactions as described in
paragraph (2) of this section.


(a) A final appraisal is required by the Department on each property prior to closing.
(b) Loan-to-value ratio may not exceed 95% percent of the appraised value. The lien amounts of Forgivable
Loans and/or Grants will not be included in the loan-to-value calculation.
(c) Combined loan-to-value ratio, which will be calculated to include the amounts of Forgivable Loans, may
not exceed 100% percent of the appraised value. The lien amounts of Forgivable Loans will also be included
in the combined loan to value ratio.
(d) Improvement Surveys are required on each property.
(e) Category 1A (Texas Society of Professional Surveyors) lot surveys are required for all interim and
residential construction loans. Upon Department approval a recorded subdivision plat may be used in lieu
of lot surveys for interim construction loans only. Upon completion of construction an Improvement
Survey must also be provided.
(f) Title Commitment. A copy of the preliminary title report including complete legal description and copies
of covenants, conditions and restrictions, easements, and any supplements thereto is required. The
preliminary title report should not be more than thirty (30) days old at the time the submission or funding package is sent to the Department and must list the Department's Loan.

(g) Existing Property. A property inspection will be required to be completed by a professional inspector licensed by the Texas Real Estate Commission for all existing properties. A copy of the inspection report must be submitted and any deficiencies listed on the report must be corrected prior to closing. Cosmetic issues such as paint, wall texture, etc. may not be required to be corrected if utilizing a Self-Help construction Program. A copy of the inspection reports must be provided to the Owner-Builder Applicant and the Department. The Participant and/or the Owner-Builder Applicant will be responsible for the selection and/or the fee of the licensed inspector.


(a) The term, Applicant, when used in this section, shall mean a Nonprofit Organization that is an NOHP or has submitted a request to the Department for certification as an NOHP in order to participate in the Texas Bootstrap Loan Program.

(b) Application Procedures for NOHP Certification or NOHP Recertification. An entity requesting NOHP certification or a Participant requesting recertification must submit an Application prior to submitting an Application for the Texas Bootstrap Loan Program Reservation system. Initial NOHP certification must meet all of the criteria listed in paragraphs (1) – (6) of this subsection. NOHP recertification must occur every three years. NOHP recertification for only loan servicing activities will only require that the NOHP be in good standing with the Department and that they complete an annual recertification to the loan servicing agreement. NOHP recertification for loan origination requires that the NOHP be in good standing with the Department; submission of the criteria listed in paragraphs (1) – (6) of this subsection is only required following only if any changes have occurred. Initial NOHP certification must meet all of the criteria listed in paragraphs (1) – (6) of this subsection. NOHP recertification must occur every three years. NOHP recertification for loan origination requires that the NOHP be in good standing with the Department; submission of the criteria listed in paragraphs (1) – (6) of this subsection is only required following only if any changes have occurred.

1. The entity requesting NOHP certification or a Participant requesting recertification must have the following legal status:
   
   (A) Must be organized as a nonprofit organization under the Texas Business Code or other state not-for-profit/nonprofit statute as evidenced by charter or Certificate of Formation, or must be a Colonia Self-Help Center;
   
   (B) Must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the state of Texas;
   
   (C) No part of the Nonprofit Organization's net earnings may inure to the benefit of any member, founder, contributor, or individual, as evidenced by charter or Certificate of Formation;
   
   (D) Must have the following tax status and a pending application for §501(c)(3) status cannot be used to comply with this requirement;

   (i) A current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as an NOHP; or
   
   (ii) Classification as a subordinate of a central Nonprofit Organization under the Internal Revenue Code §501(c)(3), as evidenced by a current group exemption letter dated 1986 or later; and
   
   (iii) A Nonprofit Organization's pending application for §501(c)(3) status cannot be used to comply with the tax status requirement under this subparagraph.

   (E) Must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's charter, Certificate of
Formation, Resolutions, or Bylaws.

(2) The entity must: An Applicant must have the capacity and experience listed in subparagraphs (A) and (B) of this paragraph.

(A) Conforms to the United States Generally Accepted Accounting Principles ("GAAP") as evidenced by a:

(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department; or

(ii) certification from a Certified Public Accountant; and.

(B) If the entity will be utilizing interim or residential construction funds it must provide an audited financial statement for the most recent fiscal year or a signed and dated financial statement for the period since last published audit. If the entity does not have audited financial statements or a signed and dated financial statement for the period since last published audit must provide a resolution from the Board of Directors that is signed and dated within 6 months from the date of application and certifies that the accounting procedures used by the organization conform to the GAAP. Participants that are certified NOHPs and Applicants that do not have audited financial statements or a signed and dated financial statement for the period since last published audit and are certified NOHPs are restricted to only originating permanent loans and will be ineligible for any interim or residential construction loans until the Department has reviewed the most current audited financial statements.

(C) Has a demonstrated capacity of at least one (1) year for carrying out Mortgage loan origination and Self-Help housing construction Activities, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization. If applying for NOHP recertification the organization is in good standing as determined by the Department, the organization will not be required to submit any additional information regarding experience.

(3) Must an Applicant must submit a current roster of all Board of Directors, including names and mailing addresses.

(4) A local or state government and/or public agency cannot qualify as an NOHP, but may sponsor the creation of an NOHP.

(5) Religious or Faith-based Organizations may sponsor an NOHP if the NOHP meets all the requirements of this section. While the governing board of an NOHP sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the religious or faith-based organization may retain control over appointments to the board. Subparagraphs (A) - (C) of this paragraph also apply:

(A) Housing developed must be made available exclusively for the residential use of Program beneficiaries, and must be made available to all persons regardless of religious affiliations or beliefs;

(B) Texas Bootstrap Loan Program funds may never be used to support any explicitly religious activities such as worship, religious instruction, or proselytizing; and

(C) Compliance with subparagraphs (A) and (B) of this paragraph must be evidenced by the Bylaws, charter or Certificate of Formation.

(6) A Colonia Self-Help Center as defined under Tex. Gov't Code, Chapter 2306, Subchapter Z is not required to complete the NOHP Certification process as long as it provides a letter from the unit of local government demonstrating performance is in good standing.

(c) Program Design. Must have organizations must provide policies for how the Owner-Builder will meet the 65% percent sweat equity requirement. If applying for NOHP recertification and the organization is in good standing and no changes have been made to the Program.
(d) **Must** Applicant must provide to the Department the details, such as number of houses they are proposing to build, type of proposed financing structure and construction timelines, to evidence its ability to carry out the Program. If applying for NOHP recertification and the organization is in good standing and no changes have been made that impact the proposed financing structure or construction timelines, the organization will not be required to submit any additional information.

(e) **Must** Applicant must provide copies of Program guidelines and homebuyer course curriculum to evidence its experience in qualifying potential Owner-Builders and in providing education classes, counseling and training. If applying for NOHP recertification and the organization is in good standing, the organization will not be required to submit any additional information.

(f) **Must** Applicant must be in compliance with 10 TAC §1.403, (relating to Single Audit Requirements), and 10 TAC §20.9, (relating to Fair Housing, Affirmative Marketing, Homebuyer Counseling, and Reasonable Accommodations), at the time of Application or before the Application deadline.

(g) **Must** Applicants must be in compliance within any existing or prior Contracts awarded by the Department and is subject to the Department’s Previous Participation Review process provided for in 10 TAC §1.302 and §1.303 of this Title.