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**THIS MANUAL SUPERSEDES ANY PREVIOUS MANUALS AND ALL UPDATED POLICIES
AND GUIDELINES MUST BE ADHERED TO.**

HOMEBUYER ASSISTANCE
PROGRAM MANUAL

The Texas Department of Housing and Community Affairs (Department) provides this Program Manual as a supplement to the Housing Trust Fund Rule and Loan Origination Agreement in order to expand on various topics, and as a point of reference when questions arise regarding the Housing Trust Fund (HTF) Homebuyer Assistance (HBA) Program. Should there be any inconsistency or conflict between this Program Manual and the Housing Trust Fund Rule and the Loan Origination Agreement, the terms and conditions of the Housing Trust Fund Rule and Loan Origination Agreement shall supersede.

This Program Manual is subject to change from time to time. Notification of changes will be conducted via written communication (through e-mail and/or hard copy) to the Contract Administrator (Administrator). The Department will provide a written notice of change at least ten (10) days prior to the effective date of any change; however, such change will be effective on the date set forth in the notice, regardless of whether ten (10) days prior notice is given.

The Department invites calls, questions and suggestions regarding this manual. **(Refer to Chapter 6 for Communication details).**

**CHAPTER 1:
CONTRACT ADMINISTRATOR PROCEDURES, ROLES AND RESPONSIBILITIES**

AT NO TIME MAY THE ADMINISTRATOR (OR ITS AGENT) REPRESENT THAT IT IS ACTING AS AN AGENT FOR OR ON BEHALF OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (DEPARTMENT) OR THE STATE OF TEXAS, OR USE ITS RELATIONSHIP WITH THE DEPARTMENT IN ITS WRITTEN OR VERBAL MARKETING EFFORTS.

Any such representation by the Administrator or its agents may result in revocation of its approved Administrator Certification.

PROCEDURES FOR ADMINISTERING THE PROGRAM SHOULD BE COMPLETED SEQUENTIALLY AS FOLLOWS:

Read, sign, and return the original Loan Origination Agreement and the following accompanying documents before beginning the administration of the Program:

1. Contract Administrator (Administrator)-In order to originate loans and access the MITAS Internet Loan Reservation under the Housing Trust Fund Homebuyer Assistance Program the organization must first be certified as a Contract Administrator by the Department and must execute a Loan Origination Agreement. For more information please visit our website at www.tdhca.state.tx.us/htf/.
2. Loan Origination Agreement – Upon obtaining the Contract Administrator certification the authorized representative of the Administrator signs the Loan Origination Agreement, it should be immediately returned to the Department – Housing Trust Fund (HTF) for final execution by the Department’s Executive Director. The Loan Origination Agreement is not legally binding until both parties have signed it. A copy of the executed agreement will be provided to the Administrator.
3. Contract Administrator must complete the Loan Reservation System Access Request Form (**Form 7**). Once the form is completed it must be submitted to the Department.

CONTRACT ADMINISTRATOR

- Market the Program;
- Complete Uniform Residential Loan Application and the Addendum to Application (Form 2) for each applicant;
- Review the initial intake application to determine if the loan application is both complete and accurate;
- Determine eligibility status of prospective Borrowers, income verification, first-time homebuyer, and/or veteran;
- Assist with the collection and completion of loan processing documents;
- Pre-qualify the Borrower(s);
- Implement and administer HBA Program.

LOAN SERVICING AGREEMENT

An Administrator who executes a Loan Origination Agreement may request to enter into a Loan Servicing Agreement with the Department. The Department may grant the request upon reviewing the Administrator's capacity to implement those specific functions.

MITAS INTERNET LOAN RESERVATION SYSTEM

After executing the Loan Origination Agreement and submitting the Loan Reservation System Access Request Form (**Form 7**) the Department will assign each Administrator an Originator Number, Branch Number, Username and Password to log into the MITAS Internet Loan Reservation System.

Upon the first logon each authorized user will be required to create a unique password that meets the following standards:

Passwords must comply with the following standards:

- | | |
|-----------------------|--|
| Length: | Passwords must be at least 8 characters. |
| Complexity: | Passwords must contain at least 1 uppercase letter, 1 lowercase letter and one numeric digit |
| Expiration: | Passwords will expire after 90 days; |
| History: | The system will not allow the use of any previous passwords. |
| User Accounts: | Will expire after 90 days of inactivity |

This information will be forwarded to each authorized user. Passwords are confidential and should not be shared with anyone. TDHCA staff will not ask the Administrator for their passwords.

DEFECTIVE MORTGAGE LOANS

The Administrator in its capacity under the HBA Program warrants that it shall comply with any law, HTF Rule or policy developed by the Department regarding the HTF Program. The Department may at any time during the Loan Origination Agreement period and term of the HBA Program, up to and

including after completion, review any forms, applications or other documents, including but not limited to mortgage documents. If in the Department's judgment, such forms are defective or inaccurate in any material respect, or if the Administrator is in breach or violation of any representation, warranty, or covenant of the mortgage loans purchased hereunder, the Administrator shall cure the defect:

- a) on or before the thirtieth (30) day from the date the Administrator is aware, or should have been aware, of such defect,
- b) within such a shorter period as is required by other law, or
- c) a time period agreed upon in writing by the Department and Administrator necessary to effect such a cure.

Nothing in (c) above shall be intended or construed to act as an admission of fault or create a waiver or claim of laches against either party.

ADMINISTRATIVE FEE

The Administrator will be paid a four percent (4%) administration fee upon closing of each mortgage loan.

NOTIFICATION OF CHANGES RELATED TO CONTRACT ADMINISTRATOR'S BUSINESS

It is imperative that the Administrator notify the Department immediately of any changes in the Administrator's business. Changes, such as, but not limited to, addresses, telephone numbers, revised wiring instructions, contact must be communicated in writing to the Department.

QUALITY CONTROL

As part of its internal quality control program, the Department reviews all of the loans it funds under the HBA Program to ensure they meet HTF Rule and guidelines. In addition, all loans that have early payment defaults are reviewed.

Loans determined to be fraudulent may constitute cause for termination of the Administrator relationship in accordance to the Department's Rules.

MONITORING AND COMPLIANCE

The Department will monitor participating Administrators for compliance with Chapter 2306 of the Texas Government Code, HTF Rule and guidelines. Program compliance may be assessed through periodic desk review, site visits and/or inspections by Department staff.

Administrators will cooperate with the Department in arranging for inspections by representatives of the Department to determine the progress of the services provided under the HBA Program in accordance with HTF Rule, NOFA and HBA Program Manual from time to time and will promptly comply with the Department's requirements or satisfy any objections regarding this project or the progress thereof.

CONFLICT OF INTEREST

In accordance with HTF Rule, no person described below who exercises or has exercised any functions or responsibilities with respect to Housing Trust Fund activities under Chapter 2306 of the Texas Government Code, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a

Housing Trust Fund assisted activity, or have an interest in any Housing Trust Fund Contract, subcontract or agreement or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

Persons Covered. The conflict of interest provisions of the above paragraph applies to any person who is an employee, agent, consultant, officer, elected official or appointed official of the Administrator.

REVIEW OF CONTRACT ADMINISTRATOR'S PERFORMANCE.

The Department may periodically visit or conduct a desk review of the Administrator to review and evaluate its performance. If the Department determines that the Administrator is not performing in accordance with the HTF Rule and the Loan Origination Agreement, the Department shall notify the Administrator of such deficiency. If, in the Department's sole discretion, such deficiency warrants termination of the Loan Origination Agreement and the obligation to fund any pending Reservations, then the Department shall notify the Administrator of its determination. The date on which such termination shall be effective shall be at least thirty (30) days from the date of the notice. The aforementioned is subject to the cure provisions outlined in the Reservation System Agreement and HTF Rule, if the Department reasonably determines that the deficiency is curable.

TERMINATION OF THE LOAN ORIGINAITON-RESERVATION SYSTEM AGREEMENT

Involuntary Termination of the Administrator. 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 HBA Program in the following situations:

- (a) If any representation or warranty of the Administrator to the Department contained in any of the Program Documents is false or misleading in any material respect, except with respect to the information provided by the applicant for a Program Loan, any qualified appraiser or inspector, or public records;
- (b) If the Administrator violates or breaches or fails to perform any material covenant, condition or term of the Loan Origination Agreement or the HTF Rules, and Program Documents and the Administrator fails to cure said violation, breach or failure to perform within thirty (30) days following the notification to the Administrator by the Department of such violation, breach or failure of performance. In the event the violation, breach or failure to perform cannot be corrected within the thirty (30) day cure period, the Department may consent to an extension of the curative period if, in the Department's sole determination, the Administrator has commenced corrective action and is diligently pursuing said action before the end of the thirty (30) days.
- (c) The filing of a bankruptcy petition, either voluntary or involuntary, by or on behalf of the Administrator.
- (d) If the Administrator is in default under any of the HTF Rule and Program Documents and fails to cure such default within thirty (30) days after notice of the default or if the Administrator is in default under any other Department program.
- (e) If the Administrator has any unresolved compliance issues on existing or prior contracts, agreements or reservations with the Department.
- (f) If the Administrator fails to set-up programs/projects or expend funds as outlined in this Agreement and/or HTF Rule and Program Manual.

- (g) If the Administrator defaults on any agreement by and between the Department.
- (h) If the Administrator misrepresented any facts to the Department during the Program application process or administration of any Department contract and/or agreement.
- (i) If the Administrator demonstrates the inability to provide adequate financial support to administer the HBA Program.

Contract Administrator's Excused Non-Performance. The failure by the Department to duly observe or perform any covenant, condition, or term required by it under the Loan Origination Agreement shall not give rise to an involuntary termination of the Administrator's participation in the Program.

No Liability for Removal, Termination of Contract Administrator. The Department shall not be liable in any respect to the Administrator for termination of the Loan Origination Agreement in accordance with the terms hereof, except for the completion and funding of transactions approved prior to the date of the termination.

DISBURSEMENT OF FUNDS

Request for Funds and Disbursements. All requests for funds must be made in accordance with the NOFA, HTF Rule and Program Manual.

Refund. Administrator shall refund to the Department any money which has been paid by the Department which the Department determines has resulted in overpayment to the Administrator, or has not been spent strictly in accordance with the terms of the Loan Origination Agreement, HTF Rule, Program Manual or Program Documents, within ten (10) working days after such refund is requested by the Department in writing.

RECORDS AND REPORTING REQUIREMENTS

Reporting and Timetable. Administrator shall provide any and all reports to the Department as required by and in accordance with the NOFA, the HTF Rule and Program Manual. The Department may use any reports, information, and/or products submitted to the Department by the Administrator to measure accomplishments in achieving objectives stated herein.

Retention and Accessibility of Records. In accordance with HTF Rule, Administrators must develop and comply with written accounting, reporting, filing, and documentation procedures.

Open Records. Administrator acknowledges that the Department is subject to the Texas Public Information Act and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Agreement subject to and in accordance with the Laws. Administrator agrees to cooperate with the Department, as applicable, in this regard.

Certification Regarding Certain Disaster Relief Contracts. The Department may not award an agreement that includes proposed financial participation by a person who, during the five-year period preceding the date of this Agreement, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of the Loan Origination Agreement, the Administrator hereby certifies that is not ineligible to receive the specified Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.

Certification Regarding Undocumented Workers. By execution of the Agreement, Administrator hereby certifies that the Administrator, or a branch, division or department of Administrator does not and will not knowingly employ an undocumented worker, where “undocumented worker” means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Administrator, or a branch, division, or department of Administrator is convicted of a violation under 8 U.S.C. Section 1324a(f), Administrator shall repay the amount of the public subsidy with interest, at the rate of 5% per annum, not later than the 120th day after the date the Department notifies Administrator of the violation.

PARTICIPATION IN RESERVATION PROGRAM

Contract Administrator. As a condition to participate in the Program, an organization must have been certified by the Department as a Contract Administrator and must execute the Loan Origination Agreement.

Reservation Procedures for First-Come, First-Served Program. Funds are available to the Administrator on first-come, first-served basis. In all cases the Administrator must register each Borrower on the Department’s Reservation System.

A reservation of funds with respect to an HBA Program Loan will be subject to cancellation if all documents listed on the Setup Checklist (**Form 1**) are not submitted to the Department within ten business days of the date the registration was entered into the Reservation System or if the benchmarks outlined in the NOFA are not adhered to. Registration of a Borrower does not guarantee funding.

Modification of Loan Reservation. After a Reservation has been secured and the Borrower has been deemed eligible to participate in the HBA Program, the Administrator must notify the Department of any changes to the Borrower’s application, such as a cancellation, change in the sales price or change in the loan amount. The Administrator will not be permitted to change, exchange, replace or switch Borrower applicants.

Once a reservation has been awarded, the Department may provide a one-time 30-day extension due to extenuating circumstances that were beyond the Borrower’s and/or the Administrator control. If the

Administrator cannot meet the required benchmarks after the 30-day extension, the Reservation will be cancelled. In order to receive another Reservation on the same Borrower the Administrator must submit an updated Reservation to ensure the Borrower still meets all guidelines and requirements under the HTF Rules, NOFA, Program Manual and Program Documents.

Origination Procedures and Standards. The Administrator shall originate all mortgage loans under the HBA Program in accordance with HTF Rule, NOFA, Loan Origination-Reservation System Agreement and Program Manual.

Mortgage Loan Terms. Each mortgage loan:

- (a) shall be made to an eligible Borrower to provide financing for down payment, gap financing, and/or closing cost assistance for the acquisition of a Single Family Home that must be the primary residence of the eligible borrower;

- (b) shall be evidenced by a mortgage lien note and secured by a mortgage creating either a second lien on third lien on such residence, subject to permitted encumbrances.
- (c) shall provide for payments to be due and payable on the first day of each month and for an initial principal payment not later than the first day of the sixty-first month following the first payment date of the Senior Lien loan;

Eligible Borrowers. An Eligible Borrower under this Program shall be person or persons who meet the requirements contained in the definition of a “Borrower” as set forth in the HTF Rule, Program Manual, NOFA and in the Loan Origination Agreement.

**CHAPTER 2:
PROGRAM ELIGIBILITY GUIDELINES**

This chapter describes the Department's HBA Program eligibility guidelines.

HBA Program eligibility restrictions are dictated by the Texas Government Code, HTF Rule, NOFA and the Reservation System Agreement with which the Department will purchase or fund the loans. The HBA Program is funded by the Housing Trust Fund (**Refer to Exhibit 2**).

LOAN PROGRAM GUIDELINES

The Department will fund or purchase loans that conform to the lending parameters and the specific HBA Program requirements delineated herein.

Administrative Fee: Eligible costs to operate and administer the Program. The Administrator will be paid a four percent (4%) administration fee upon the closing of each loan. Administrative Fee must be requested after the closing of the HBA loan.

Administrator: A unit of government, nonprofit entity or other party who has a written signed agreement or Contract with the Department committing the Department to provide funds upon the completion of certain actions called for in the agreement or Contract.

Annual Borrower(s) income: The Borrower(s) income may not exceed 80% of the Area Median Family Income (AMFI) for the area in which the property is located as determined by the Department of the greater of the state or local median family income, when combined with the income of all Borrower(s) and/or non-purchasing spouse. (**Exhibit 3**)

Applicant Eligibility Letter: The Department will issue an Applicant Eligibility Letter (**Exhibit 4**) which reserves the funds (up to \$10,000 per Reservation) for 120 days from the date of the Applicant Eligibility Letter. Borrower will not be required to re-qualify for the HBA Program if the Borrower closes on the loan on or before the expiration date stated on the Applicant Eligibility Letter issued by the Department. If the Borrower fails to close on the loan on or before the expiration date stated on the Applicant Eligibility Letter, the Reservation will be cancelled. If funds are available the Administrator may submit another Setup on behalf of the Borrower.

Application Fee: An application fee is prohibited in relation to the origination of a loan under the HBA Program, but may be charged as an allowable cost by a third party lender for the origination of all other loans originated in connection with a loan under the HBA Program.

Borrower: An individual(s) who receives or borrows an amount of money from the Department and is a reservation pursuant to the NOFA and is obligated to pay back or repay an equal amount of money to the Department at a later time.

Closing Costs: Fee/Points Administrator may charge Borrower. Unless the Senior Liens(s) are insured or guaranteed by USDA, FHA, VA, Fannie Mae or Freddie Mac, the following fee limits apply:

- (1) Origination Fee: 1%
- (2) Buyer Points: 1%
- (3) Title Policy (if paid by Borrower): 1%

- (4) Application Fee: May not exceed \$325 (includes compliance & funding fees)
- (5) Other Closing Costs: Must be fully disclosed on HUD-1 and may not exceed 1.5% of loan amount.

MITAS Internet Loan Reservation System: The MITAS Internet Loan Reservation System collects general data regarding the mortgage the Borrower wishes to obtain. The MITAS Internet Loan Reservation System must be utilized by Administrators to reserve HBA Program funds as specified in the NOFA. The NOFA refers to the MITAS Internet Loan Reservation System as the Reservation System.

Department: The Texas Department of Housing & Community Affairs or any successor agency.

First-Time Homebuyer:

- (1) An individual who has had no ownership in a principal residence during the three year period ending on the date of purchase of the property.
- (2) A single parent who has only owned with a former spouse while married.
- (3) An individual who is a displaced homemaker and has only owned with a spouse.
- (4) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
- (5) An individual who has only owned a property that was not in compliance with State, local building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.

HBA Program: Homebuyer Assistance Program

HTE: Housing Trust Fund

HUD 1 Settlement Statement: A closing document that itemizes the settlement costs of a loan. The closing agent generally prepares the document and the borrower must sign at closing. The Department must review and approve the HUD 1 Settlement Statement prior to closing.

Interest Rate: 0%

Leveraged Loans: When additional loans are utilized under the HBA Program, lenders are expected to charge reasonable and customary interest rates and fees. The Administrator may be able to help the Borrower negotiate favorable terms.

Projects utilizing non-Department resources will be required to provide information identifying the sources of these additional funds and information about their rates and terms. This information must be provided to the Department on the HBA Program Setup Checklist (**Form 1**) at the time of application.

Lien Position: The HBA Program lien may only be in a 2nd or 3rd lien position.

Loan: Financial assistance that is awarded in the form of money and in an executed agreement between the Department and Borrower for a specific purpose and that is required to be repaid.

Loan Prepayment: Prepayment is permitted in whole or in part, at any time without penalty.

Loan Terms: Amortized loan term between five (5) and ten (10) years to begin no later than the sixty-first month (61st) month after the first payment date of the senior lien loan.

Maximum Loan Amount: \$10,000

NOFA: Notice of Funding Availability

Occupancy Requirement: The Borrower(s) must occupy the home as their primary residence within 30 days of the closing of the loan.

Origination Fee: An origination fee is prohibited in relation to the origination of the HBA Program loan, but may be charged as an allowable cost by a third party lender for the origination of all other loans originated in connection with an HBA Program loan.

Property Taxes: The Department requires that all property taxes be current at the time of closing. Funds from the Program may not be used to pay delinquent property taxes.

Reservation: An amount of funds reserved for a specific Borrower whose eligibility has been verified by the Administrator and the Department.

Reservation System: System (MITAS Internet Loan Reservation System) utilized by Administrators to reserve and draw HBA Program funds for the purposes specified in the NOFA.

Senior Lien: A lien that takes priority over the Department's lien and any subsequent liens.

Setup: The submission of required documents to the Reservation System in order to reserve HBA Program funds for an eligible Borrower for the activities specified in the NOFA.

Single Family Home: A single-family detached unit, condominium unit, manufactured housing unit (as defined in the HTF Rule), townhome and/ or a single unit in a duplex or triplex.

Total Debt-to-Income Ratio: Shall not exceed 45%, unless the Senior Lien(s) are insured or guaranteed by USDA, FHA, VA, Fannie Mae or Freddie Mac.

Underwriter Fee: Is prohibited in relation to the origination of an HBA Program loan, but may be charged as an allowable cost by a third party lender for the origination of all other loans originated in connection with an HBA Program loan.

Uniform Residential Loan Application (URLA-Form 1003): A Uniform Residential Loan Application is required on all loans originated and/or purchased by the Department. The Department will not accept a loan application other than the URLA Form 1003. The loan application shall not be more than ninety (90) days old at the time it is submitted to the Department for review. The Addendum to Application (**Form 3**) must also be completed and attached to Uniform Residential Loan Application. A copy of the original Uniform Residential Application will be accepted by the Department.

All applicable sections of the application must be completed. The application must be consistent with other information in the loan file, i.e. names, property address, and legal description of the property. The Details of Transaction section must be completed.

Government Monitoring. The Equal Credit Opportunity Act requires that a lender request the Borrower's race, national origin, sex, marital status, and age. While the disclosure of this information is

voluntary on the part of the Borrower(s), it is the Administrator's and/or lender responsibility to complete the Government Monitoring Section of the application by visual observation if the Borrower(s) does not volunteer the information.

“White out” is not allowed. Any corrections made on any application, application documents and loan documents are to be lined out and the correct information inserted. All corrections must be initialed by all Borrowers.

Veteran: A Veteran is a Person who:

Served no fewer than 90 cumulative days on active duty (including active duty for training) in the Army, Navy, Air Force, Marines, Coast Guard or United States Public Health Service (unless discharged sooner by reason of a service-connected disability), OR have enlisted or received an appointment in the National Guard or a reserve component of one of the listed branches of service after completing all initial active duty training requirements as a condition of enlistment or appointment, OR have completed 20 years in a reserve component so as to be eligible for retirement.

Not been dishonorably discharged. A person who has been discharged from the branch of the service in which the person served or from the National Guard is considered not to have been dishonorably discharged if the person:

- (1) Received an honorable discharge;
- (2) Received a discharge under honorable conditions; or
- (3) Received a discharge and provides evidence from the VA, its successor, or other competent authority that indicates that the character of the person's discharge has been determined to be other than dishonorable.

The unmarried, surviving spouse of a Texas veteran who is missing in action (MIA) or who died in the line of duty or from a service-related cause may be eligible to participate in the programs. The veteran's home of record must have been Texas at the time of entry into the service, **or** the veteran must have been a legal resident of Texas at the time of death.

TYPES OF ELIGIBLE ACTIVITIES

The HBA Program serves First-Time Homebuyers and Veterans whose annual income does not exceed 80% of the Area Median Family Income (AMFI), as defined by the Department. Eligible Borrowers may receive up to a \$10,000 zero percent interest loans.

Funds may be used for down payment, gap financing, and/or closing cost assistance for the acquisition of a Single Family Home that must be the principal residence for the eligible Borrower. The HBA Program Loan is repayable and amortized over a period between five (5) and ten (10) years, as selected by the Borrower. The first payment will be due no later than the sixty-first (61st) month after the first payment date of the Senior Lien loan.

TYPES OF FUNDING TRANSACTIONS

Purchase Money: In a purchase money transaction, HBA Program funds may be used for down payment, gap financing, and/or closing cost assistance for the acquisition of a Single-Family Home,

which must be the Borrower's primary residence within 30 days of closing the loan. In this instance, a permanent loan is made and the Borrower's repayment obligation may begin immediately or no later than

the sixty-first (61st) month after the first payment date of the Senior Lien loan. Loan funds are disbursed in accordance to the Funding Request Checklist (**Form 5**).

MORTGAGE LOAN

All HBA Program Loans funded by the Department must be evidenced by a promissory note and will be secured by a lien on the subject property as defined in the NOFA and HTF Rule.

Lien Position: The HBA Program lien may only be in a 2nd or 3rd lien position.

Senior Lien: Senior Liens must meet the following Loan requirements, which shall be verified by an executed Loan Underwriting and Transmittal Summary (such as Fannie Mae form 1008) or equivalent document(s) approved by the Department.

The Senior Lien loan must be a fully amortized, fixed-rate loan and cannot be an adjustable rate Mortgage (ARM) or Subprime Mortgage Loan.

The following types of loans may be used in conjunction with the HBA Program:

- FHA
- VA
- USDA/RD/RHS
- Fannie Mae Conventional
- Freddie Mac Conventional

Uninsured Loans: Uninsured loans may be used with the HBA Program subject to the Department's approval.

Fee /Points: Lender may charge Borrower the following fees. Unless the Senior Liens(s) are insured or guaranteed by USDA, FHA, VA, Fannie Mae or Freddie Mac, the following fee limits apply:

- Origination Fee: 1%
- Buyer Points: 1%
- Title Policy (if paid by Borrower): 1%
- Application Fee: May not exceed \$325 (includes compliance & funding fees)
- Other Closing Costs: Must be fully disclosed on HUD-1 and may not exceed 1.5% of loan amount.

Home value limits: The total contracted purchase price of the housing unit must not exceed the Single Family Mortgage Limits under Section 203(b) and the Loan-to-Value (LTV) ratio may not be equal to or greater than 100% and the combined loan to value (CLTV) may not exceed 105%.

The Department reserves the right to deny assistance in the event that the Senior Lien conditions are not to the satisfaction of the Department in accordance with HTF Rule, and NOFA.

CHAPTER 3: UNDERWRITING AND DOCUMENT GUIDELINES

This chapter provides an overview of the Department's underwriting and document requirements. The Department's underwriting philosophy is to attempt to determine the ability and willingness of the proposed Borrower(s) to service the proposed debt, as evidenced by the Borrower's income, credit worthiness, assets, and the quality and present value of the property in relation to the loan amount requested.

All loans utilizing HBA Program funds must meet the following requirements to be eligible to participate in the HBA Program:

Bank Statements: Borrower(s) must submit the most recent bank statements for the previous two months.

Legal Age: All Borrower(s) must have reached the age of 18 at which a Note and Deed of Trust can be legally enforced in the State of Texas.

Liquid Asset Restriction: Borrower(s) must not have liquid assets in excess of \$15,000. Funds in deferred tax accounts such as IRA's, 401K's, etc. will not be considered Liquid Assets. Liquid assets sufficient to pay for any required down payment, closing costs and cash reserves must be verified. All funds must have a legal source. The Administrator must submit a verification of deposit or copies of bank statements for the previous two months.

Maximum Borrower(s) Income: The Borrower(s) income may not exceed 80% of the AMFI for the area in which the property is located as determined by the Department of the greater of the state or local median family income (Exhibit 3), when combined with the income of the co-Borrower or non-purchasing spouse. For HBA Program eligibility purposes, the income of all Borrowers and a non-purchasing spouse must be included in the calculation of the Borrower(s) income. Tax Returns, W2's or recent pay check stubs, or verification of employment may be submitted to document all income.

Maximum Loan-to-Value (LTV): The LTV of the HBA Program Loan may not equal to or greater than 100% of the appraised value.

Combined Loan-to-Value (CLTV): The CLTV of all loans may not exceed 105% of the appraised value.

Non-Purchasing Spouse: A Borrower's spouse who does not apply for the loan will be required to execute the Deed of Trust as a "non-purchasing" spouse; however, the "non-purchasing" spouse will not be required to execute the note.

For Program eligibility purposes, the income of a non-purchasing spouse must be included in the calculation of the Borrower's income to ensure that the income of the Borrower(s) and non-purchasing spouse do not exceed 80% AMFI. Tax Returns, W2's and recent pay check stubs, or Verification of Employment may be submitted to document all income. If the non-purchasing spouse has no income a letter signed by the non-purchasing spouse must be submitted.

Required Payments: Equal monthly payments of principal to amortize the loan are required and due to the mortgage servicer on the 1st of the month. The loan is repayable and amortized up to ten years, as

preferred by the Borrower. The first payment will be due no later than the sixty-first (61st) month after the first payment date of the Senior Lien loan.

If, any time prior to the end of the loan term, the Borrower sells the property, or no longer occupies the property as their principal residence, the remaining loan balance shall become immediately due and payable.

Total Debt-to-Income Ratio: The total debt-to-income ratio may not exceed 45%, unless the Senior Lien(s) are insured or guaranteed by USDA, FHA, VA, Fannie Mae or Freddie Mac. When calculating the debt-to-income ratio Administrator must include all proposed mortgage payment, taxes and insurance(s); including the HBA Program payment if due within the sixty-first (61st) month of the first payment date of the Senior Lien loan.

INCOME AND EMPLOYMENT

Verification of Employment: Most current consecutive pay stubs for the previous month showing year-to-date (YTD) gross earnings are required to be submitted with the HBA Set-Up Checklist (**Form 1**).

Note: If the pay stubs do not show YTD gross earnings, a Verification of Employment (VOE) showing YTD gross earnings and “paid through” date may be used.

Verification of Employment (Fannie Mae form 1005 or alternative documentation) must contain and/or provide the following information:

Date of employment;
Current position;
Base salary and how it is paid;
Year-To-Date and past year’s earnings;
Probability of continued employment;
Likelihood of continued overtime and/or bonuses, if available;
If the employee is paid on an hourly basis, the number of hours worked weekly.

Salaried Borrowers:

Documentation: ☐ W2s for the preceding 2 year period and payroll earnings statements covering the most recent 30 day period or a fully completed Verification of Employment.

Bonus, Overtime and Shift Differential: Overtime and bonus income can be used for qualification if the Borrower has received this type of income for the most recent two years, the bonus or overtime earnings trend is stable or increasing and the employer indicates that the bonus or overtime earnings are likely to continue. A two-year average of bonus or overtime income is used for underwriting.

Shift differential can be considered part of base income if it is normal for the Borrower’s field of employment and a pattern of this type of earnings can be established.

Documentation: ☐ W2s for the preceding 2 year period and payroll earnings statements covering the most recent 30 day period or a fully completed Verification of Employment (Fannie Mae form 1005).

If the bonus or overtime income represent 25% or more of Borrower's income, 2 years' signed federal tax returns with all schedules are required.

Commission or Quota Income: Commission or quota income can be used for qualification if the Borrower has received this type of income for the most recent two years and the commission/quota earnings trend is stable or increasing.

Frequently, individuals receiving commission income incur business expenses. Commission income should be reduced by the amount of business expenses.

A 2-year average of adjusted commission or quota income is used for underwriting.

Documentation ☐ 2 years signed federal income tax returns with all schedules or a fully completed Verification of Employment (Fannie Mae form 1005).

Part-Time and Second Jobs: Part-time and second job income is acceptable if the Borrower has a one-year history of this type of employment, the earnings level has been stable, and a strong likelihood of its continuation can be established.

Documentation: ☐ W2s for the preceding year period and payroll earnings statements covering the most recent 30 day period or a fully completed Verification of Employment (Fannie Mae form 1005).

Seasonal Income (including Farm Labor): Seasonal income may be used for qualification if the Borrower has a 2 year employment history and the employer verifies a likelihood of continued seasonal employment. A 2 year average is used for underwriting.

Documentation ☐ W2s for the preceding 2 year period and payroll earnings statements covering the most recent 30 day period or a fully completed Verification of Employment (Fannie Mae form 1005) .

Unemployment Compensation: Unemployment compensation may be used for qualification **only** if the Borrower is seasonally employed, has a history of receiving unemployment compensation, and periods of employment and unemployment can be reasonably predicted.

Documentation ☐ 2 years' signed federal tax returns with all schedules and letters or exhibits from paying agencies to verify amount, frequency and duration of payments.

Employment by a Relative or Interested Third Party: Additional income documentation is required if the Borrower is employed by a relative, closely held family business, the seller, the real estate agent, escrow company, or any other interested third party.

Documentation ☐ 2 years' signed federal tax returns with all schedules

Self-Employed Borrowers: Self-employed Borrowers must have a two-year history evidenced by federal tax returns. The income should be an average of the past 2 years tax returns and year-to-date profit and loss statement; unless the Borrower's previous employment was in the same line of work . Income must not indicate a declining pattern.

Documentation ☐ 2 years signed federal tax returns with all schedules;

Year-To-Date Profit and Loss Statement (not older than 90 days)

OTHER INCOME SOURCES

Alimony and Child Support: Alimony and child support income may be used for underwriting purposes if disclosed by the Borrower(s) on the loan application and appropriately verified. Payments should have been received on a regular basis for the previous 12 months.

Documentation Divorce documents or separation agreement specifying the amount and duration of the award. Copies of canceled checks, bank statements or court confirmation to verify receipt.

Retirement and Social Security Income: Retirement and social security income can be used.

Documentation Award letter or 12 months' bank statements, or most recent signed federal tax returns.

Disability and VA Benefits: Disability and most VA benefits are acceptable income. Short-term disability payments can be considered if the Borrower has a scheduled return-to-work date and will continue to receive the same salary earned prior to the disability. VA educational benefits cannot be considered because they offset expenses.

Documentation Letter or distribution form from the Veteran's Administration.

Welfare and Public Assistance: Welfare and public assistance income may be considered as long as the purchase of real property will not disqualify the Borrower(s) from future payments. In addition the Borrower must provide proof from provide of the probability of continuance.

Documentation Recent entitlement letter.

Unacceptable Income Sources:

- Automobile allowance (except to offset an auto payment; offset may not exceed 100% of the auto loan payment)
- Expense account benefits
- VA education benefits
- Retained earnings in a corporation
- Any source of income that is illegal or cannot be verified
- Income from outside the United States that is not paid by a U.S. based company in U.S. dollars
- Food Stamps
- Earned Income Credit

DOCUMENTATION

Alternative documentation may be used for all transactions PROVIDED that the use of the specific alternative documentation is approved by the Department. Copies of alternative documentation should be certified as true copies by the Administrator. An employee of the Administrator must certify each

copy. The originals should not contain alterations, erasures, or whiteouts. Both the front and back of each canceled check must be included if provided as verification.

Expired Documents: Documents provided to the Department for verification purposes may not be more than **ninety days (90)** old on the date of submission to the Department.

CHAPTER 4: PROPERTY GUIDELINES AND RELATED ISSUES

This chapter provides an overview of the Department's property standards and insurance requirements under the Program.

HOUSING STANDARDS AND REQUIREMENTS

If, the Senior Lien(s) are insured or guaranteed by USDA, FHA, VA, Fannie Mae or Freddie Mac, no additional inspection is required.

Uninsured loans utilizing HBA Program funds must be inspected and meet the following requirements:

- **New Construction:** If the property being purchased is a new construction and located within an incorporated area where certain building codes must be met, the Department will require a copy of the certificate of occupancy. If no certificate of occupancy is available from an incorporated area the Administrator must obtain a document from the local government entity indicating that the home has passed all required building codes. A copy of the certificate of occupancy or any other document received from the local governing entity must be submitted to the Department for approval upon completion of construction. All new construction properties located outside an incorporated area must be inspected by a third party professional inspector licensed by the Texas Real Estate Commission (TREC).
- **Existing Homes:** If the property being purchased is located inside or outside an incorporated area; inspections of the property will be required to be completed by a third party professional inspector licensed by the TREC.

All final inspections must ensure the house is complete and safe. In both instances any deficiencies noted on the certificate of occupancy or the third party inspector's report must be corrected prior to closing unless approved otherwise by the Department.

The Administrator, Seller and/or the Borrower will be responsible for the selection and/or the fee of a licensed TREC inspector.

INSURANCE REQUIREMENTS

TITLE INSURANCE

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 are required. The effective date of the preliminary title report should not be more than sixty (60) days old at the time the Request for Real Estate Loan Document package is submitted to the Department's Legal Department or no more than ninety (90) days old at the time the Funding Request is submitted to the Department.

CHAPTER 5 APPLICATION PROCESS, REQUIREMENTS AND SUBMISSION

This chapter describes the requirements of accepting and processing applications submitted by the Administrators in accordance with the guidelines of the HBA Program Manual, up to the point where the Borrower(s) is deemed eligible.

APPLICATION PROCESS AND REQUIREMENTS

Reserving Funds (Setups): After being certified as a Contract Administrator and executing a Loan Origination Agreement, the Administrator may submit a Setup in order to reserve funds for the Borrower in the Department's Reservation System. All documents listed on the Setup Checklist (**Form 1**) must be submitted for review and approval prior to closing the Senior Lien.

If more than one Borrower is submitted they will be processed in the order entered into the Department's Reservation system. All Reservations will be reviewed on a first-come, first-serve basis based on the date/time the Setup is accepted into the Department's Reservation System.

Within **ten (10) business days** of the Setup into to the Department Reservation System, the Administrator must submit the documents listed on the Setup Checklist (**Form 1**) via regular mail or email (HTFHBA@tdhca.state.t.xus) to the Department. The Department's HTF staff will review the submitted documentation within **ten (10) business days** of receipt in accordance with the HTF Rule and NOFA.

The Department's HTF staff will review the documents and information submitted to ensure that the Borrower(s) meets all program requirements. Within three business days from the date the documents listed on the Setup Checklist (**Form 1**) are received Department staff will prepare and mail to the Borrower(s) the necessary Real Estate Settlement Procedures Act (RESPA) disclosures; unless the Administrator has provided the RESPA disclosures to the Borrower on behalf of the Department.

Within ten (10) business days from the date the documents listed on the Setup Checklist (**Form 1**) are fully received, the Administrator will be notified in writing of the Department's determination.

If the Borrower has been deemed eligible, the funds will be reserved for one-hundred (120) days from the date of issuance of an Applicant Eligibility Letter (**Exhibit 4**) and the Administrator must ensure that all mortgage loans are closed during this **one hundred twenty (120) day** period.

If the Borrower(s) fails to close on the loan on or before the expiration date stated on the Applicant Eligibility Letter, the Borrower(s) will be required to re-qualify for the HBA Program; regardless if an extension has been granted.

If Department staff is unable to deem the Borrower(s) eligible, HTF staff will prepare and mail an Applicant Deemed Ineligible Letter (**Exhibit 6**) to the Administrator within ten (10) business days from the date the documents listed on the Set-Up Checklist (**Form 1**) was received.

A Setup that has not been approved by the Department and is incomplete or has not been corrected by the Administrator will not become a reservation. The Administrator must resubmit the Setup documents with corrections completed if funds are available.

Maximum Pending Setups: At any one time, the Administrator may have up to ten (10) unapproved Setups awaiting approval ("pending") in the Reservation System. If the Administrator has the maximum

ten (10) Setups pending, new Setups will only be reviewed by the Department once an existing unapproved Setup becomes a Reservation (if approved) or is cancelled.

Extensions: The Department may grant one-time extension of **thirty (30) days** to any Reservation due to extenuating circumstances that were beyond the Administrator's control upon receipt and approval of a written request. If the Administrator cannot close the loan within the **thirty (30) day** extension, the Reservation may be cancelled. The Administrator may submit another Setup if funding is available.

Reservation Modification: After a Reservation has been approved the Administrator will not be permitted to change, exchange, replace or switch Borrower applicants.

CONTRACT ADMINISTRATOR REQUIREMENTS

The role of the Administrator is to identify and assist Borrower(s) in submitting complete application packages to the Department. The Administrator is required to submit the following to the Department:

SET-UP CHECKLIST PACKAGE

Purpose: All documents listed on the Setup Checklist (**Form 1**) must be delivered to the Department within ten business days of the Setup in order to begin processing the loan application.

Delivery: All documents listed on the Setup Checklist may be submitted to the Department by overnight mail or regular mail delivery, or hand delivered or electronically through email at HTFHBA@tdhca.state.tx.us.

Timing: The Department will make every attempt to reach an underwriting decision within ten (10) business days of its receipt of a completed Setup Checklist package. HTF staff will review the Setup Checklist package. After HTF staff completes its review the application will be submitted for underwriting approval. Once the loan has been approved the Administrator will be notified in writing.

- Setup Checklist package must be submitted to the Department for approval. The Department will determine if the application complies with HTF Rule, NOFA and HBA Program requirements.
- Once the Department approves the Borrower(s) it will issue an Applicant Eligibility Letter (**Exhibit 4**) to the Administrator.

However, if there are deficiencies in the package submitted, the Department will generate a Suspense Notification Letter (**Exhibit 5**) to the Administrator. If the loan file is suspended, the Administrator will be sent a Suspense Notification Letter (**Exhibit 5**) explaining all conditions. Documents returned to the Department to clear these conditions must be submitted with a copy of the Suspense Notification Letter and marked with the condition number the document is satisfying. All conditions must be received by the Department within ten (10) business days from the date the Suspense Notification Letter was mailed/faxed or the loan will be considered withdrawn.

Note: *The Administrator must inform the Department's Program Services Division that it is ready to proceed to closing at least 15 days prior to closing. An updated title commitment must be provided to the Department in order for the Department to prepare the loan closing documents. In addition all deficiencies listed in the Applicant Eligibility Letter must have been satisfied in order for HTF staff to*

prepare a request for real estate loan documents and forward the file to Program Services. Please allow up to 15 days from the date the file is forwarded to Program Services for the Department to prepare the necessary closing documents.

TABLE FUNDING/CLOSING DOCUMENTS

At the Administrator's request, the Department may table fund the loan; however, the Department will prepare the HBA closing documents. The Administrator must provide a copy of the title commitment, warranty deed and must complete the Funding Request Form (**Form 6**). All closing and wiring instructions must be provided to the Department at least 15 days prior to the closing date. The Administrator must complete the Funding Request Form (**Form 6**) and provide all information requested on the Funding Request Form (**Form 6**). Administrator must verify with their financial institution the ABA # (routing #) for same day wires. In addition all documents requested on the Applicant Eligibility Letter must be submitted to the Department prior to closing.

FUNDING PACKAGE

Once the loan is closed and ready to be funded by the Department the Administrator must submit to the Department the documents listed on the Funding Request Checklist (**Form 5**) and the closing instructions provided to the closing agent. If the HBA loan proceeds have already been disbursed by the Department, the Administrator must request the administrative fee at this time.

If necessary Department Staff will notify the Administrator of any missing documents or corrections that are needed in order to fund the loan. Department Staff will review all closing documents prior to funding the loan and/or Administrative Fee. After the Department approves the closing documents and all other documents listed on the Funding Request Checklist (**Form 5**) and closing instructions the file will be forwarded for funding.

FUNDING REQUESTS

Funds may be reimbursed to the Administrator for eligible Project Costs and Administrative Fees that occur within the Contract period. The Administrator must complete the Funding Request Form (**Form 6**) and provide all information requested on the Funding Request Form (**Form 6**). Administrator must verify with their financial institution the ABA # (routing #) for same day wires.

- Project Costs Funding Requests. The Administrator must submit a Funding Request Form (**Form 6**) along with all documents required by the Department, please refer to the Funding Request Checklist (**Form 5**) and closing instructions provided to the closing agent.
 - Administrative Fee requests. After an eligible Borrower closes the mortgage loan, the Administrator must submit a Funding Request for the Administrative Fee.
-
- Upon submission of the Funding Request to the Department, the Department will review the submitted documentation within **ten (10) business days** in accordance with the NOFA and HTF Rule.

- If a Funding Request is in “disapproved” status for more than **thirty (30) days** in the Reservation System without further correction(s) from the Administrator, the Department will delete the reservation from the Reservation System.

LOAN DOCUMENTS

In order for the Department to prepare the HBA Program closing documents, the Administrator must submit to the Department the title commitment, warranty deed and the funding request at least 15 days prior to the closing date.

The Administrator may prepare the HBA Program closing documents on behalf of the Department. Upon request the Department will provide an Administrator a complete set of the HBA Program closing documents that are required to be executed at closing. The Administrator must ensure that the closing documents are prepared by an attorney and submitted to the Department for approval prior to closing any loans. In addition to the Department’s closing documents, the Administrator may be requested to also submit to the Department a copy of the Warranty Deed, Note and Deed of Trust for all other lien holders. Please allow 30 days for the Department’s Legal Department to review and approve closing documents.

At the Administrator’s request, the Department may table fund the loan; however, the Department will prepare the HBA closing documents.

**CHAPTER 6:
COMMUNICATION**

MAILING ADDRESSES

All packages should be sent, as applicable, to the appropriate addresses shown below:

Setup Packages:

Texas Department of Housing and Community Affairs
ATTN: Raul Gonzales – Direct Lending Officer
P. O. Box 13941
Austin, Texas 78711-3941
Phone: (512) 475-1473
Fax: (512) 475-2365

Closing Requests Packages:

Texas Department of Housing and Community Affairs
ATTN: Raul Gonzales – Direct Lending Officer
P. O. Box 13941
Austin, Texas 78711-3941
Phone: (512) 475-1473
Fax: (512) 475-2365

Funding Packages:

Texas Department of Housing and Community Affairs
ATTN: Raul Gonzales – Direct Lending Officer
P. O. Box 13941
Austin, Texas 78711-3941
Phone: (512) 475-1473
Fax: (512) 475-2365

Loan Servicing:

Texas Department of Housing and Community Affairs
Attn: Melissa M. Whitehead, Single Family Loan Servicing Department
P.O. Box 13941
Austin, Texas 78711-3941
Phone: (512) 475-0220