



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY DIRECT LOAN
2016-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**

- 1) Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to **\$23,109,096** in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. The availability and use of these funds are subject to 10 TAC Chapters 1 (“Administration”), 2 (“Enforcement”), and 10 (“Uniform Multifamily Rules”), and Chapter 2306 of the Texas Government Code. Applications will be subject to the Department of Housing and Urban Development (“HUD”) HOME regulations governing the HOME program found at 24 CFR Part 92 (“HOME Final Rule”). Other Federal regulations that apply to HOME funds include, but are not limited to fair housing (42 U.S.C. 3601-3619), environmental requirements (42 U.S.C. 4321; and 24 CFR part 50 or part 58 depending on the type of activity), Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD Handbook 1378, Section 104(d) of Housing and Community Development Act of 1974, and Davis-Bacon and Related Labor Acts for labor standards (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs). HOME-funded developments must comply with HUD Section 3 requirements (24 CFR Part 135). Section 3 requires HOME funded housing and community development activities to give, to the greatest extent feasible (and consistent with existing Federal, State and local laws and regulations) job training, employment, contracting and other economic opportunities to Section 3 residents and business concerns.

All Applicants, but particularly Applicants with Development Sites located outside Participating Jurisdictions, should assume that HOME funds will be awarded and should likewise be prepared to comply with the applicable regulations. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program. If HOME funds are used and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.

- 2) Sources of Multifamily Direct Loan Funds.** Multifamily Direct Loan funds are made available through program income generated from prior year HOME allocations, de-obligated funds from prior HOME allocations, the 2015 Grant Year HOME allocation, and loan repayments from the Tax Credit Assistance Program (“TCAP Repayment funds” or “TCAP RF”). The Department may amend this NOFA or the Department may release a new

NOFA upon receiving its 2016 HOME allocation from HUD or additional TCAP loan repayments. These funds have been programmed for multifamily activities including acquisition and/or refinance of affordable housing involving new construction or rehabilitation.

- 3) **Set-Asides.** All funds will be subject to the Regional Allocation Formula (“RAF”, located in Attachment A) until January 29, 2016, and then available on a statewide basis within each set-aside until June 1, 2016, at which time any remaining funds which have not been requested in the form of an application responsive to this NOFA will be available on a statewide basis regardless of set-aside. Applications under any and all set-asides may or may not be layered with 9% or 4% Housing Tax Credits (“HTC”). The funds made available under this NOFA are available under four set-asides:

Set-Aside	Amount
CHDO	\$3,236,344
Deferred Forgivable Loan	\$3,000,000
4% HTC Layered New Construction	\$4,000,000
General	\$12,872,752

- a. **CHDO Set-Aside.** At least **\$3,236,344** in HOME funds are set aside for eligible Community Housing Development Organizations (“CHDO”) meeting the requirements of the definition of Community Housing Development Organization found in 24 CFR §92.2 and the requirements of this NOFA. Applicants under the CHDO Set-Aside must be proposing to develop housing in Development Sites located outside Participating Jurisdictions.
- b. **Deferred Forgivable Loan Set-Aside.** Funds under this set-aside are intended to increase the number of 30% rent-restricted units and occupy them with households with an annual income of 30% Area Median Income (“AMI”) or less who are not currently receiving any type of rental assistance. To achieve that goal, up to **\$3,000,000** in TCAP Repayment and/or HOME funds are set aside for applications that meet the underwriting requirements in Subchapter D of the 2016 Uniform Multifamily Rules (the “Underwriting and Loan Policy”) and:
 - i. The definition of Supportive Housing in 10 TAC §10.3(a) in the 2016 Uniform Multifamily Rules including the other underwriting consideration for Supportive Housing developments Section 10.302(g)(3) of the Underwriting and Loan Policy, *or*
 - ii. The requirements below in A-D:
 - A) All units assisted with HOME/TCAP RF must be leased to households earning 30% AMI or less as defined in 10 TAC §10.1005 and have rents no higher than the 30% rent limits published by the Department.
 - B) No units assisted with HOME/TCAP RF may also be receiving project-based rental assistance.
 - C) All floating units assisted with HOME/TCAP RF may not have tenants with tenant-based voucher or rental assistance except if there are no available units within the development that the voucher-holder may occupy. This criteria does not apply for fixed HOME/TCAP units.

- D) All units assisted with HOME/TCAP RF may not have any other income or rent restrictions as a result of another income or rent restricting source of funds to the 30% level or below (e.g., 9% HTC units restricted to households earning and with rents not exceeding 30% of the AMI).
- c. **4% HTC Layered Set-Aside.** At least **\$4,000,000** in TCAP RF and/or HOME funds are set aside for applications layered with 4% HTC that are proposing new construction and do not qualify under the CHDO or Deferred Forgivable Loan Set-Asides. This set-aside will be available under at least \$4,000,000 in funds under this set-aside are awarded or until May 31, 2016, whichever occurs first.
- d. **General Set-Aside.** All remaining TCAP Repayment and HOME funds available (currently anticipated to be approximately \$12,872,752).

4) Priorities for Awards

Awards will be made subject to hard closing deadlines established at the time of award by the Department's Governing Board and which can only be extended by additional Board action on the basis of evidence of delays caused by circumstances outside the control of the applicant or non-HUD or non-USDA lender. When determining the date an application is received, staff will only assign a date that corresponds with a business day and will not assign a time. Applications received after 5pm Austin Local Time will be determined to have been received on the following business day. Applications will be determined to have been received at the time all required third party reports and application fee(s), in addition to the application, are submitted to the Department. Applications that are unable to progress on the timelines described herein due to incomplete information or lack of responsiveness will be given notice and a five day period to cure the incomplete information or non-responsiveness. Failure to cure the notice will result in a reestablishment of the application submission date to the date at which the cure to the notice was provided. As such, an applicant could be de-prioritized in favor of another application received prior to the new application submission date. **All Applications layered with 2016 Competitive (9%) HTCs will be considered to have been received not earlier than April 1, 2016, but must be provided to the Department as part of their 2016 Competitive (9%) HTC application.** Applications will be prioritized for an award as described below to the extent that funds remain available.

- a. Any complete applications received during the period of the RAF will be prioritized to the extent that funds are available both in the region and in the set-aside under which the application is received. If multiple applications are received in a region, then score will be used as the determining factor affecting the priority of the application. If insufficient funds exist in a region to fund all applications then the oversubscribed applications will wait for the collapse of funds by region be combined with other applications received by the deadlines and as described by the additional priority levels below.
- b. **Priority 1:** Applications not layered with 2016 9% HTC that are received by March 31, 2016. Priority 1 applications will be prioritized on a first come first served basis. Awards of Priority 1 applications are anticipated to be recommended for approval by or before the Board meeting on May 26, 2016.
- c. **Priority 2:** Applications layered with 2016 9% HTC will be further prioritized based on being recommended for a 2016 HTC allocation. All Priority 2 applications will receive an April 1, 2016, received date. Awards of Priority 2 applications are anticipated to be

recommended for approval at the Board meeting on July 28, 2016. Applications that will be recommended for HTC and remain tied for HOME/TCAP RF under the scoring criteria below will be further prioritized for funding based upon the scoring and award criteria in 10 TAC Chapter 11 (the “QAP”).

- d. **Priority 3:** Applications that are received between April 2, 2016 and ~~May-August~~ 31, 2016. Awards of Priority 3 applications are anticipated to be recommended for approval no later than the Board meeting on ~~September 8~~October 13, 2016.

5) Scoring Criteria. Applications will be scored based on the scoring criteria below to the extent that other applications were received on the same date *and* within the same set-aside and prioritization based on information as of the Application submission date.

- a. All applications will have the opportunity to score points in i. through iv., below:
 - i. Eligibility for points under 10 TAC §11.9(c)(4) related to the Opportunity Index based on the scale provided in 10 TAC §11.9(c)(4), for a maximum of seven points.
 - ii. Owners that have committed to providing at least ten 811 units under the 2015 811 Request for Proposals (“RFP”) to be published November 2015 (committed units may not count for points under any other program) or applicants whose proposed Development site is not within the targeted areas of the 2015 811 NOFA, but is willing to set aside at least 5 percent of the total Units for Persons with Special Needs in accordance with §11.9(c)(7)(C) of the 2016 Qualified Allocation Plan (committed units may not count for points under any other program) (1 point).
 - iii. An application that caps the per unit subsidy limit for all unit sizes at:
 - A) \$100,000 per HOME/TCAP RF unit (1 point).
 - B) \$80,000 per HOME/TCAP RF unit (2 points).
 - C) \$60,000 per HOME/TCAP RF unit (4 points).
 - iv. An application that provides Match in the amount of:
 - A) 5.1% to 9.0% of the HOME/TCAP RF requested (3 points).
 - B) 9.1% or more of the HOME/TCAP RF requested (5 points).
 - C) Match provided in an area where HUD has waived match requirements (5 points).
- b. Only applications proposing rehabilitation will have the opportunity to score points in i. through vi., for a maximum of six points:
 - i. An existing USDA 515 loan that matures January 4, 2021 or earlier (1 point).
 - ii. At least 80% of the units are Rental Assistance units (1 point).
 - iii. The Capital Needs Assessment estimates at least \$30,000 per unit in rehabilitation costs (1 point).
 - iv. The past six months’ rent rolls indicate at least 95% occupancy in all of the last 6 months for all in-service units (1 point).
 - v. The development is composed of 36 units or less (2 points).

- vi. The development will not be acquired by another entity as part of the transaction and the developer fee is capped at:
 - A) 10% of total development cost (1 points).
 - B) 5% of total development cost (2 points).

6) Maximum Funding Requests

- a. The maximum funding request for all applications proposing new construction in all set-asides except the Deferred Forgivable Loan Set-Aside, regardless of HOME or TCAP Repayment funds and regardless of layering, shall be \$2,000,000.
- b. The maximum funding request for all applications proposing rehabilitation or applications in the Deferred Forgivable Loan Set-Aside proposing either rehabilitation or new construction, regardless of HOME or TCAP Repayment Funds and regardless of layering, shall be \$1,000,000.

7) Maximum Per Unit Subsidy Limits. The following are the maximum per unit subsidy limits that an applicant may use to determine the amount of HOME/TCAP funds they may request. Stricter per unit subsidy limits are allowable and incentivized as point scoring items in the Scoring Criteria section of this NOFA. Per unit subsidy limits as well as subsidy layering analysis – ensuring that the amount of HOME/TCAP units as a percentage of total units is greater than the percentage of HOME/TCAP funds requested as a percentage of total development costs – will determine the amount of HOME/TCAP units required.

- a. 0 bedroom (efficiency): \$75,000
- b. 1 bedroom: \$90,000
- c. 2 bedrooms: \$110,000
- d. 3 bedrooms or more: \$135,000

8) Loan Structure

- a. Except for deferred forgivable loans, all Multifamily Direct Loans awarded under this NOFA will be structured as fully repayable (must pay) at not less than a 3.0% interest rate and 30 year amortization with a term that matches the term of any superior loans (within 6 months) and an ultimate interest rate that when underwritten by the Department meets a 1.15 to 1.35 debt coverage ratio. The Board may amend this NOFA to adjust the minimum rate as market conditions change.
- b. Any material changes to the total development cost and/or other sources of funds from the publication of the Underwriting Report to the time of loan closing must be reevaluated by Real Estate Analysis staff and may cause changes to principal amount and/or repayment structure for the Multifamily Direct Loan such that the Department is able to mitigate any increased risk.

9) Application Submission Requirements

- a. Applications under this NOFA will be accepted starting January 4, 2016.
- b. All Application materials including manuals, NOFAs, program guidelines, and HOME rules, will be available on the Department’s website at www.tdhca.state.tx.us. Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of the HOME Final Rule and subsequent guidance provided by HUD.

- c. An Applicant may have only one active Application per Development at a time and may only apply under one set-aside at a time.
- d. All applicants will be subject to the 2016 Uniform Multifamily Rules, except as it relates to interest rate and amortization in 10 TAC §10.307, and must use the 2016 Uniform Multifamily Application and Certifications as applicable.
- e. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department. Applicants must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (“MPPM”) in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the MPPM in effect at the time the Application is submitted.
- f. Applicants must complete the 2016 CHDO Certification Packet for Applicants applying under the CHDO Set-Aside.
- g. All 4% HTC-layered applications must have a certificate of reservation at the time of Multifamily Direct Loan application submission.
- h. Applications for funds on developments that received an award of Department assistance – not including HOME or TCAP Repayment funds – within the past three years may be submitted but may be terminated if it is determined that federal regulations would prohibit the Department to invest HOME or TCAP Repayment funds in the Development.
- i. Based on the availability of funds, Applications may be accepted until 5pm Austin Local Time on ~~May-August~~ 31, 2016.
- j. The request for project funds may not be less than \$500,000, regardless of the set-aside under which an application is being submitted.
- k. Each CHDO that is awarded HOME funds may also be eligible to receive a grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies.
- l. Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application. Payment must be in the form of a check, cashier’s check or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the Multifamily Direct Loan Program.
- m. Applications must be sent via overnight delivery, or delivered by hand to:

Multifamily Finance Division
Texas Department of Housing and Community Affairs
Attn: Andrew Sinnott
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

Multifamily Finance Division
Texas Department of Housing and Community Affairs
Attn: Andrew Sinnott
Post Office Box 13941
Austin, TX 78711-3941

10) Post Award Requirements. Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC §10, Subchapter E, as well as the Compliance Monitoring requirements in 10 TAC §10, Subchapter F.

- a. Applicants who receive an award of HOME funds must submit all required environmental clearance documentation to environmental@tdhca.state.tx.us within 30 days of approval by TDHCA's Governing Board.
- b. Awarded applicants may, at the Department's discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
- c. All Applicants will be required to record a Land Use Restriction Agreement limiting residents' income and rent for the amount of units required by the HOME/TCAP RF Unit Calculation Tool for the term of the loan.
- d. Applicants must provide documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act and will be required to comply with 10 TAC §10.617.
- e. All Developments awarded HOME funds will be required to meet applicable Property Standards in 24 CFR §92.251. Applicants will also be required to submit written cost estimates and construction documents at closing in order that TDHCA can determine if costs are reasonable and if state and local codes will be met. In addition, progress inspections will be conducted to ensure that work is done in accordance with applicable codes and construction documents. Owners of Rehabilitation projects will also be required to meet the requirements in 10 TAC §10.101 (b)(3)(D)(i-iv).
- f. The HOME/TCAP RF units must be occupied by eligible tenants within six months following completion of construction. For any housing unit that has not been rented to eligible tenants within 18 months after completion of construction, repayment of the HOME/TCAP funds is required.
- g. All applicants must be registered in the federal System for Award Management (SAM) prior to execution of a HOME/TCAP RF contract and have a current Data Universal Numbering System (DUNS) number. Applicants may apply for a [DUNS number \(duns.com\)](https://duns.com). Once you have the DUNS number, you can [register with the SAM](#).

11) Miscellaneous

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.
- b. All Applicants must comply with public notification requirements in 10 TAC §10.203.
- c. Applicants proposing developments located outside Participating Jurisdictions, must include language in the Purchase Contract or Site Control Agreement to address choice

limiting activities prior to completing the environmental review process such as the following: “Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until TDHCA has provided Purchaser and/or Seller with a written notification that: (1) it has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies in this Contract, (a) the purchase may proceed, or (b) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or (2) it has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. TDHCA shall use its best efforts to conclude the environmental review of the property expeditiously.”

- d. The Board may on a case by case basis, or in whole, waive provisions of this NOFA where such waiver or exception to the provision(s) are warranted and documented and where such exception is not in violation with any state or federal requirement(s).
- e. For questions regarding this NOFA, please contact Andrew Sinnott, Multifamily Loan Program Administrator, at andrew.sinnott@tdhca.state.tx.us.

Attachment A

**Regional Allocation Formula Amounts
Available Until 5pm Austin Local Time on January 29, 2016**

Urban Sub-Regions	HOME	TCAP RF	Total Sub-Region Amounts
Region 1	\$150,862	\$261,458	\$412,320
Region 2	\$55,426	\$94,737	\$150,163
Region 3	\$1,890,442	\$2,530,723	\$4,421,165
Region 4	\$463,781	\$223,693	\$687,474
Region 5	\$208,253	\$154,846	\$363,099
Region 6	\$472,833	\$2,215,570	\$2,688,403
Region 7	\$1,194,119	\$854,882	\$2,049,001
Region 8	\$170,076	\$274,786	\$444,862
Region 9	\$376,561	\$925,767	\$1,302,328
Region 10	\$280,388	\$258,411	\$538,799
Region 11	\$415,831	\$1,135,707	\$1,551,538
Region 12	\$258,944	\$180,156	\$439,100
Region 13	\$444,922	\$538,105	\$983,027
TOTAL URBAN	\$6,382,436	\$9,648,838	\$16,031,274

Rural Sub-Regions	HOME	TCAP RF	Total Sub-Region Amounts
Region 1	\$489,226	\$143,811	\$633,037
Region 2	\$375,590	\$112,693	\$488,283
Region 3	\$414,969	\$120,514	\$535,483
Region 4	\$1,074,373	\$310,681	\$1,385,054
Region 5	\$637,247	\$187,753	\$825,000
Region 6	\$261,967	\$80,532	\$342,499
Region 7	\$128,692	\$40,419	\$169,111
Region 8	\$377,855	\$115,020	\$492,875
Region 9	\$334,590	\$95,837	\$430,427
Region 10	\$396,212	\$115,230	\$511,442
Region 11	\$658,933	\$186,234	\$845,167
Region 12	\$282,688	\$79,544	\$362,232
Region 13	\$44,318	\$12,894	\$57,212
TOTAL RURAL	\$5,476,660	\$1,601,162	\$7,077,822