

## HOME American Rescue Plan (ARP) Gap Financing Applicant Eligibility Certification

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All defined terms used in this certification and not specifically defined herein have the meanings ascribed to them in Tex. Gov't Code Chapter 2306, §42 of the Internal Revenue Code, 24 CFR Part 92 and 10 TAC §11.1(d). This certification is for Multifamily Applications with previously-awarded Texas Department of Housing and Community Affairs Multifamily Direct Loan Funds or 4%/9% Housing Tax Credits.

The undersigned, in each and all of the following capacities in which it may serve or exist or be contemplated to bring a new entity into existence (Applicant, Development Owner, Developer, Guarantor of any obligation of the Applicant, or Principal of the Applicant and hereafter referred to as "Applicant," whether serving in one or more such capacities), is hereby submitting its Application to the Department for consideration of HOME-ARP funding.

Applicant hereby represents, warrants, agrees, acknowledges and certifies to the Department and to the State of Texas that:

It affirms that they have read and understand HUD Community Planning and Development (CPD) Notice 21-10 and Appendix: Waivers and Alternative Requirements for Implementation of the HOME-ARP Program.

It affirms Applicant Eligibility Certification and Development Owner Certification, Acknowledgement and Consent signed as part of an Application Packet previously submitted for multifamily funding under Application number \_\_\_\_\_ are still valid and apply to the HOME-ARP Application, if the HOME-ARP Application is supplementing an existing award or active Application.

It has obtained all necessary consents and approvals, and conducted all necessary diligence to enable it to make these certifications and to perform any and all agreements and to give all

consents provided for or made herein.

All representations, undertakings and commitments made by Applicant in the Application process for a Development, expressly constitute conditions to any Commitment, Determination Notice, or HOME-ARP Contract for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, or HOME-ARP Contract by the Department. To the extent allowed under Tex. Gov't Code §2306.6720, if any such representations, undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all shall be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department or the tenants of the Development, including but not limited to enforcement by assessment of administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement, the entry of orders by the Department's Governing Board requiring strict performance, or the obtaining of injunctive relief.

The HOME-ARP Application was not submitted after the Application submission deadline (time or date); is not missing multiple parts of the Application and does not have a Material Deficiency. The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the multifamily funding programs are true and correct, and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. The Applicant agrees that the Department may, at its discretion, request additional information and/or documentation in its evaluation of this Application and is authorized but not obligated under this document to conduct its own investigation regarding any information required requested and or provided in relation to the Application or the Development. Further, the Applicant hereby expressly represents, warrants, and certifies that the individual whose name is

subscribed hereto has read and understands all the information contained in this form of the Application.

**Relocation and Anti-Displacement**

The property proposed for this Application was \_\_\_\_\_ was not \_\_\_\_\_ occupied as of the Application Acceptance Date of the original National Housing Trust Fund or HOME annual application, as applicable. (check one)

If occupied, the occupant(s) are owners \_\_\_\_\_, tenants (residential) \_\_\_\_\_, tenants (commercial inclusive of businesses, nonprofit organizations, and farms), \_\_\_\_\_ (check all that apply).

The property will have a transfer of federal assistance from an existing multifamily development \_\_\_\_\_ yes \_\_\_\_\_ no.

**Labor Standards**

On behalf of the Applicant and all affiliates of the Applicant (hereinafter “Applicant”), I (We) hereby certify that the Applicant is familiar with the applicable provisions and requirements of the Davis-Bacon Act (40 U.S.C. §§3141-3144 and 3146-3148).

I (We) understand that a Development assisted by the Department under this Application containing more than twelve (12) HOME-ARP assisted Units, must use the appropriate rate as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. §§3141-3144 and 3146-3148).

I (We) understand that contracts involving such employment shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§3701-3708) as supplemented by the Department of Labor regulations (“Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction” at 29 CFR Part 5), Copeland (Anti-Kickback) Act (40 U.S.C. Sec. §3145 et seq.) and 24 CFR Part 70 (with regards to volunteers).

I (We) understand that construction contractors and subcontractors must comply with regulations issued under these Acts and with other federal laws and regulations pertaining to labor standards and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs, as applicable.

I (We) agree to put the Department’s Davis-Bacon clause in all applicable contracts.

(initial)

**HOME-ARP Applications**

HOME-ARP may be able to be layered with other local, state, or federal funds, including but not limited to HTC (both 9% and 4% credits). Per 24 CFR §92.206(g), there are some limitations on costs incurred before the application for HOME-ARP funds is accepted. National Environmental Protection Act (NEPA) requirements are applicable for these funds.

For an Applicant that has a prior Department award, Applicant certifies that there has been no change to the Applicant Eligibility or Original Owner Certification since the most recent application was approved, or the updated materials are included in the HOME-ARP application.

(initial)

For an Applicant that has a prior Department award, Applicant certifies there have been no changes since the most recent application has been approved that would require additional disclosure or mitigation, or render the proposed Development Site ineligible. Any change must be addressed under the requirements of 10 TAC §10.405 (relating to Amendments and Extensions).

(initial)

For an Applicant that has a prior Department award, Applicant certifies there have been no change to Site Control, other than extensions or purchase by the Requester, since the most recent application was approved. If the nature of Site Control has changed, updated support documentation must be submitted.

(initial)

For an Applicant that has a prior Department award, Applicant certifies that the Previous Participation form has not changed from most recent approved application, unless resubmitted with the HOME-

ARP application (submittal is required for Developments that previously only received LIHTC). We (I) understand that even if there is no change to the form, the results of the Previous Participation Review may be different from the review conducted for the previous application.

(initial)

Applicant certifies that Units serving Qualified Populations are only able to charge a household 30% of the tenant's income and that for purposes of underwriting for the first 15 years, these Units will all be underwritten with no income, unless project based assistance or operating assistance is on the units.

Applicant may request and be awarded capitalized operating reserves. Amounts for operating reserves will be established by TDHCA and if approved, the costs may be capitalized at the time of closing or with the first draw. Operating reserves for a Unit will be for a Development's administrative expenses, property management fees, insurance, utilities, property taxes, maintenance of a Unit, and other expenses described in HUD CPD Notice 21-10 and as further outlined in the 2023 HOME-ARP Gap Financing Application Manual. It affirms that the requested amount of operating reserves is only for eligible expenses, which do not include debt service for the HOME-ARP Units or any other ineligible cost.

Applicant must follow TDHCA's existing rules and policies for rental housing and/or Supportive Housing, unless otherwise described in the application materials and the 2023 HOME-ARP Gap Financing Application Manual.

At the end of the HOME-ARP affordability period and depletion of the capitalized operating reserves, it affirms that all HOME-ARP Units will continue to have a state-required affordability period.

Up to 30% of the HOME-ARP Units may be for low-income households that are not Qualified

Populations, as allowed by the HUD CPD Notice 21-10, and for which the eligible households may be charged high HOME rents.

Applicant confirms that after year 15, the state affordability requirements apply. These include that at least 20% of the HOME- ARP Units must be for households at 60% or below AMI, and all HOME ARP Units must be for households at 80% or below AMI.

Applicant understands that HOME-ARP Units may float or be fixed in the Developments per 24 CFR §92.252(j), but if other awards have floating Units, then HOME-ARP Units must be floating as well.

### **Preferences, Limitations, and Referrals**

If Owner has requested and received approval from the Department to use a limitation or preference on the Development in the most recently approved application, the limitation or preference is (list all that apply) \_\_\_\_\_.

For HOME-ARP Units, owner may utilize any one or more of the following preference categories in managing its tenant waiting list where one member of the household is from one of the categories, including combining categories if so reflected in their application and approved by TDHCA in the written agreement and LURA:

- Persons who are experiencing homelessness
- Persons who were formerly homeless but housed with temporary resources
- Persons With Disabilities (which includes Persons with Substance Use Disorders and Persons Living with HIV/AIDS)
- Persons With Violence Against Woman Act (VAWA) Protections and Human Trafficking
- Colonia Residents
- Farmworkers
- Chronically Homeless
- Homeless or At-Risk of Homelessness Veterans (including Wounded Warriors as defined by the Caring for Wounded Warriors Act of 2008)
- Homeless or At-Risk of Homelessness Families with Children

- Persons Impacted By A State Or Federally Declared Disaster
- Persons At-Risk of Homelessness
- Persons Exiting Institutions or Systems of Care/Reentry
- Persons referred through Coordinated Entry

Applicant may also request to have a preference or limitation required by another federal fund source in the Development such as Persons with Disabilities, or a specific disability such as Persons Living with HIV/AIDS. Applicant may request to have a limitation for the elderly, as required by the Housing for Older Persons Act.

Applicant affirms that if the property is intending to use only Coordinated Entry and not a project-specific waitlist for the QP Units for the first 15 years, the system will meet the requirements in HUD CPD Notice 21-10, which requires that Coordinated Entry provide sufficient referrals for the project and that all qualifying populations have an opportunity to participate within the project's geographic region. If any of these factors are not met, then a project-specific waitlist will also be used. This may mean before Coordinated Entry can be used as the basis for a property's waitlist, the local system may have to add:

- persons who are at-risk of homelessness with incomes up to 50% AMI (not under 30% AMI, as is common in other federal homeless programs);
- persons who have income at or below 30% AMI and are paying more than 50% of monthly household income toward housing costs; and
- households who have qualified as homeless previously, are housed with temporary/emergency assistance, and who need additional housing assistance or supportive services to avoid a return to homelessness.

These three HOME-ARP qualifying populations are unique, and may not be included in other homelessness assistance programs; therefore, they may not already be incorporated into Coordinated Entry. In addition, the geographic region for the project will include the entire primary market area of the rental development, as defined in 10 TAC §11.303(d)(8).

If Coordinated Entry is used with other referral methods, the Applicant will establish prioritization criteria between the Coordinated Entry and other referral methods and maintain any waitlists in chronological order. If using expanded Coordinated Entry alone, with other referral methods, or in coordination with a project-specific waitlist, the waitlist must take persons in chronological order, with priority given to those with preferences stated in the written agreement between the Owner and the Department.

If up to 30% of the HOME-ARP Units are reserved for low-income households who are not qualifying populations, a project-specific waitlist must be used for these Units.

Applicant certifies that no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability, unless a federal fund source requires it.

**Waiver of Rules (10 TAC §11.207 and 10 TAC §13.1)**

The Development Owner certifies that waiver of rules under 10 TAC §11.207 and 10 TAC §13.1:

\_\_\_\_\_ is **not** necessary.

\_\_\_\_\_ has already been requested for the following: \_\_\_\_\_ (specify).

\_\_\_\_\_ The Development Owner requests waiver of \_\_\_\_\_ (specify section, if not already requested in the existing/previous application); and

\_\_\_\_\_ Documentation to support waiver was previously provided or is in the Application; and

\_\_\_\_\_ Documentation submitted establishes how the need for the waiver was not within the control of the Applicant or is due to an overwhelming need and plans for mitigation or alternative solutions has been submitted (as applicable); and

\_\_\_\_\_ Documentation submitted establishes how, by granting the waiver, it better serves the policies and purposes articulated in referenced sections of Tex. Gov't Code than not



granting the waiver.

HOME-ARP Application number \_\_\_\_\_

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

THE STATE OF \_\_\_\_\_ §

§

COUNTY OF \_\_\_\_\_ §

Before me, a notary public, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared and certified that the statements therein contained are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

(Seal)

\_\_\_\_\_  
Notary Public Signature