

Public Comment and Response

Draft Homeowner Assistance Fund Plan

Comment Period: June 14, 2021 through June 21, 2021

Public Hearing: June 17, 2021

Public Comment provided by Avenue CDC

Comment Summary

Asked if the calculation of income will include all household members, or just homeowner income.

TDHCA Response

The calculation of income for eligibility purposes will include all household members age 18 and above.

Comment Summary

Asked if the Reinstatement Program will include corporate and legal fees (late fees, inspection fees, attorney fees).

TDHCA Response

TDHCA is considering an amendment to the HAF Plan to provide the flexibility to pay mortgage-related corporate and legal fees (late fees, inspection fees, attorney fees), subject to Treasury's approval as qualified expenses for HAF.

Comment Summary

Asked if homeowners in active foreclosure with a pending foreclosure sale date (non FHA, VA, USDA loans) will be prioritized and expedited.

TDHCA Response

Avoiding homeowner displacement is a primary purpose of the HAF. As such, TDHCA will prioritize and expedite processing related to applications for assistance from homeowners in active foreclosure, particularly those with a pending foreclosure sale date.

Comment Summary

Noted that targeted homeowners often do not have adequate technology to submit documents or use an online portal

TDHCA Response

TDHCA recognizes the importance of all homeowners having the ability to apply for HAF assistance and the ability to submit the required documents. TDHCA recognizes that not all homeowners have the ability to apply and provide supporting documents by computer or smart phone. The Draft HAF Plan contemplates a centralized intake system utilizing an online application, through which applications can be submitted by computer or smart phone, or through intake hubs (CDCs, CDFIs, and affordable housing organizations throughout the state). Intake hubs can assist homeowners with completing their application, and with submission of required documents. TDHCA will strive to partner in a manner that

results in intake hubs throughout the state, particularly in more rural areas, to provide all homeowners access to HAF funds.

Comment Summary

Highly recommends a pilot program to work out issues before launching full program. Suggested working with existing HUD approved counseling agencies as an initial test of the system.

TDHCA Response

TDHCA is evaluating a pilot program that will provide the opportunity to implement, test, and troubleshoot the process, from initial application to payment of assistance, prior to launching the full program. The manner of implementation has not yet been determined, but working with approved counseling agencies will be considered.

Comment Summary

Suggested Public Service Announcements to reduce number of scams that will pop up when program begins.

TDHCA Response

TDHCA recognizes that delinquent homeowners may be vulnerable and susceptible to HAF-related scams and will work at the state and local level to raise awareness of HAF and to provide information in a manner that directs homeowners to legitimate avenues for assistance.

Public Comment provided by Community Loan Servicing

Comment Summary

Comment not specific to the Draft HAF Plan, but relevant to the implementation of the program. Provided data-related input included suggestions for locating and identifying low to moderate income homeowners eligible for HAF assistance, communications (common data file, electronic signature, involvement and education of stakeholders), etc. Also provided Lessons Learned from Hardest Hit Funds, specifically a suggestion to exclude or delay loans already in the loss mitigation process until that process is complete, operational recommendations for the reinstatement program including batch processing, fillable PDFs, etc., discussion of loan modifications for VA and USDA loans, limiting burdens on already distressed homeowners, and recommendations with respect to marketing and communications were provided.

TDHCA Response

TDHCA recognizes the experience and expertise of Community Loan Servicing, particularly with respect to Hardest Hit Funds, and the feedback provided. TDHCA will consider and implement or include, as applicable, the suggestions provided, as the program is developed and implemented.

Comment Summary

Noted that many Texas homeowners lack adequate flood insurance.

TDHCA Response

TDHCA confirms that flood insurance is a qualified expense under the proposed Reinstatement Program in the Draft HAF Plan.

Comment Summary

Noted that seniors on a fixed income and paying a mortgage may default on their mortgage payments as local taxes rise.

TDHCA Response

The Reinstatement Program is the initial program under the Draft HAF Plan; eligible homeowners must have a mortgage to be eligible for assistance. However, to the extent that homeowner needs warrant, and there are sufficient funds available, TDHCA may consider submitting additional programs under the HAF Plan for consideration by Treasury.

Comment Summary

Noted that HOAs are separate from mortgage payments and outside servicing systems.

TDHCA Response

Based on comments received from several parties, TDHCA is amending the HAF Plan to include reimbursement of taxes, insurance, and homeowner association fees, whether escrowed or otherwise, subject to approval by Treasury.

Public Comment provided by Habitat for Humanity Texas

Comment Summary

Expressed concern that limiting eligible mortgage loans to those with a lender or servicer with an NMLS number would exclude many Habitat for Humanity homeowners. Suggested a revision to include private lenders and servicers that qualify for an exemption under Finance Code 156.202.

TDHCA Response

TDHCA agrees with this comment and will revise the Draft HAF Plan to include private lenders and servicers that qualify for exemption pursuant to Finance Code, Section 156.202.

Comment Summary

Expressed concern that homeowners that have remained current on their mortgage loan, but increased credit card debt and are behind on tax and insurance payments may still face foreclosure.

TDHCA Response

The Reinstatement Program, which is the initial program under the Draft HAF Plan, requires that a homeowner be at least 60 days delinquent on their mortgage loan to receive assistance. However, TDHCA is evaluating additional programs and, depending on homeowner needs and available funds, may consider submitting additional programs under the HAF Plan for consideration by Treasury.

Public Comment provided by Erin Lamkin (Homeowner)

Comment Summary

Expressed concern that TDHCA will prioritize Government Loan and Affordable Housing Portfolios and not have available funds for non-traditional loans, such as those for which property taxes and insurance are paid directly by the homeowner and are not escrowed. Also noted that taxing authorities (in this case, Williamson County) appear to be unaware of the HAF program and that relief is in sight.

TDHCA Response

The Draft HAF Plan includes set-asides to assist homeowners that would not typically be included in Government Loan and Affordable Housing Portfolios. These set-asides are designed to assist homeowners with less traditional financing instruments and properties, such as contract for deed and reverse mortgages, and manufactured and mobile homes.

Public Comment provided by James Brown

Comment Summary

Opposes handouts and programs similar to HAF.

TDHCA Response

TDHCA acknowledges receipt of Mr. Brown's comments.

Public Comment provided by M.A.H. (u2thick@gmail.com)

Comment Summary

Suggested homeowners be able to inform their lenders of program; that TDHCA compile a list of accepted lenders; believes lenders should sign up to receive funds before homeowners complete application and that homeowners should complete applications once approved and ready to receive. Agrees lenders should receive the funds. Suggests that news alerts, email blasts, and social media be used to reach people.

TDHCA Response

While TDHCA is developing a comprehensive marketing and outreach plan designed to raise awareness and inform homeowners, mortgage companies, non-profits, community development corporations, housing counselors, and banks and trade groups throughout the state to reach as many delinquent homeowners as possible of the availability of assistance through the HAF program, homeowners are able to, and even encouraged to, inform their lenders of the HAF program. However, due to the number and variety of entities and individuals that provide mortgage loans in Texas, and the amount of personal and protected information that will be exchanged, it is not feasible to pre-approve lenders, nor is a lender/servicer driven process possible. Homeowners will apply for funds directly to TDHCA, using a centralized intake system. Applications can be submitted by computer or smart phone, or through intake hubs (CDCs, CDFIs, and affordable housing organizations throughout the state).

Public Comment provided by Need a Break

Comment Summary

Suggests that TDHCA let banks know about HAF assistance for delinquent homeowners.

TDHCA Response

TDHCA is developing a comprehensive marketing and outreach plan designed to raise awareness and inform homeowners, mortgage companies, non-profits, community development corporations, housing counselors, and banks and trade groups throughout the state to reach as many delinquent homeowners as possible of the availability of assistance through the HAF program.

Public Comment provided by Proyecto Azteca

Comment Summary

Expressed concern that homeowners have sold cars to make their mortgage payments and suggests ability for them to recoup those amounts. Suggested administration of funds by Hidalgo County Community Service Agency, Hidalgo County Urban County, and the County Commissioners. Non-profit assistance as well, particularly TRLA.

TDHCA Response

TDHCA recognizes that many homeowners, impacted by COVID-19, have taken actions that have strained them financially in order to make their mortgage payments. Reimbursement for actions, such as the sale of a car, is not, however, a qualified expense under the HAF Plan.

Public Comment provided by Texas Housers

Comment Summary

Recommend HAF and American Rescue Plan funds be used not just to help homeowners catch up, but to achieve equitable communities. Suggested uses that would support that goal would be providing funds for down payment assistance loans and home repairs.

TDHCA Response

In accordance with Treasury Guidance, the HAF Plan will be designed to “. . . mitigate financial hardships associated with the coronavirus pandemic by providing funds to eligible entities for the purpose of preventing homeowner mortgage delinquencies, defaults, foreclosures, loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship after January 21, 2020, through qualified expenses related to mortgages and housing.” Providing down payment assistance is not a qualified expense for the HAF. The Reinstatement Program is the initial program under the Draft HAF Plan and currently does not contemplate home repairs; however, to the extent that homeowner needs warrant, and there are sufficient funds available, TDHCA may consider submitting additional programs under the HAF Plan for consideration by Treasury.

Comment Summary

Believe mortgage loan delinquencies will become greater after the pandemic; asked how the maximum of \$30,000 was determined.

TDHCA Response

The maximum assistance amount of \$30,000 was calculated by using the PITI for mortgage loans originated through TDHCA's Texas Homeownership Division (70% at or below 80% AMFI) and calculating approximately 20 months (includes two months of lag during program development) of payments necessary to reinstate. Recognizing that it will take time to implement the program, and that some homeowner populations will take longer to reach than others, TDHCA is amending the per household maximum to \$40,000.

Comment Summary

Recommend use of HAF for repayment of home equity loans to assist people that obtained homes through heirship.

TDHCA Response

Depending on the structure and collateral, most home equity loans may be eligible for assistance through the Reinstatement Program, subject to approval by Treasury.

Comment Summary

Recommend TDHCA engage with consumer advocates, especially legal aid attorneys representing the program's target population. Recommend TDHCA include non-profits and community groups in design and implementation of the program.

TDHCA Response

TDHCA recognizes the importance of including consumer advocates, legal aid attorneys, non-profits, and community groups in the design and implementation of the program. These parties will be integral to successfully reaching and assisting homeowners in need throughout the State. To that end, we have had many individual discussions with key parties. In addition, on June 24, 2021, TDHCA held what is hopefully the first of a series of Community Engagement and Outreach Discussions, where non-profits and community development organizations voiced questions and gave input on the program. Several have followed up with written suggestions and comment.

Comment Summary

Recommend prioritization of homeowners between 30% AMI and 50% AMI due to level of cost burden. Believe program should use Texas income levels, not nationwide. Suggest targeting could be achieved by closing program to people above 80% AMI.

TDHCA Response

CHAS Data (2013-2017 Tables 1 and 8) indicates that 29% of owner-occupied households in Texas (with a mortgage) have incomes less than or equal to 100% AMFI. Of homeowners with a mortgage that have income less than or equal to 100% AMFI, approximately 70% are at or below 80% AMI, with approximately 30% between 80% and 100% AMFI. Of those homeowners between 80% and 100% AMFI,

we estimate (based on the CHAS Data) that approximately 60,000 are cost-burdened, increasing the likelihood that they may need HAF to assist with reinstating their mortgage loan. TDHCA believes limiting income to 100% AMFI aligns the purpose of HAF as established by Treasury, and will provide sufficient funds to assist homeowners up to 100% AMFI. With respect to the basis for income calculations, allowing for the greater of 100% US Median Income or 100% of AMFI may benefit homeowners in rural communities and homeowners with larger households (income is calculated including all household members age 18 and above). For example, in Willacy County, for a household of 5, the maximum income for the household, using AMFI, would be \$65,800; using US Median, it would be \$79,900, so the greater of would be \$79,900 (which was achieved using US Median). TDHCA believes that allowing for the greater of 100% US Median Income or 100% of AMFI aligns with the purpose of HAF as established by Treasury.

Comment Summary

Reiterated the concern expressed by Habitat for Humanity Texas that limiting eligible mortgage loans to those with a lender or servicer with an NMLS number may exclude many homeowners. Suggested a revision to include private lenders and servicers that qualify for exemption under Finance Code 156.202.

TDHCA Response

TDHCA agrees with this comment and will revise the Draft HAF Plan to include private lenders and servicers that qualify for exemption pursuant to Finance Code, Section 156.202.

Comment Summary

Recommend easy certification process due to lack of resources in population being served, including income documentation with alternative forms of documentation to encompass colonia residents with informal jobs in agriculture or domestic work.

TDHCA Response

TDHCA is working to provide homeowners with as easy of a process as possible, including processes for providing certification and fulfilling income documentation requirements, while fulfilling the requirements of HAF with respect to program eligibility and documentation requirements.

Comment Summary

Recommend workaround for proof of ownership as many people of color own their home through heirship, making it difficult to prove occupancy by documented buyer.

TDHCA Response

TDHCA recognizes that there will be homeowners for which proof of ownership is a challenge. As such, TDHCA is exploring non-traditional ways to establish proof of ownership, including possible adoption of an affidavit of heirship.

Comment Summary

Recommend translation of program materials, as well as marketing, in multiple languages and radio ads in Spanish.

TDHCA Response

TDHCA agrees with this comment. The Draft HAF Plan states that outreach and marketing materials, as well as application information, will be made available in multiple languages. In addition, call center operations will have language lines and translation services.

Comment Summary

Recommend paying community organizations to do intake and help applications with required documentation.

TDHCA Response

TDHCA agrees with this comment. The Draft HAF Plan describes contracting with housing counselor organizations, CDCs, CDFIs, and other affordable housing organizations throughout the State. Through a pay-for-performance compensation model, these organizations will establish help centers to serve as intake hubs, assisting homeowners in determining eligibility and with making application for the funds, as well as providing any necessary supporting documentation.

Comment Summary

Recommend review of outreach and marketing efforts bi-weekly to ensure goals and objectives are being met and marketing and outreach efforts are working in key demographics.

TDHCA Response

TDHCA recognizes the importance of monitoring outreach and marketing efforts on a regular basis to ensure that program goals and objectives are being met and expects to do so on an ongoing basis, no less than monthly, and will adjust to a more frequent review if necessary.

Comment Summary

Object to paying the per item maximum amount to the lender if the homeowner's past due amount exceeds that amount, with the concern being that HAF funds would have been spent (wasted) if the lender still forecloses on the property.

TDHCA Response

TDHCA agrees with this comment and plans to adjust the Draft HAF Plan to reflect the requirement that, to the extent a homeowner's past due amount exceeds the per item or per household maximum amount, HAF funds can only be used to reinstate the mortgage loan if an additional loss mitigation approach is implemented that will make the homeowner current on their first mortgage. If an additional loss mitigation approach cannot be implemented, the mortgage loan will be ineligible for reinstatement.

Comment Summary

Recommend publication of performance using online data dashboard similar to TDHCA's rent relief program. Recommend tracking of foreclosure rates and forbearance rates by home value, loan type, and race and ethnicity, as well as tracking limited English proficiency program participants.

TDHCA Response

TDHCA intends to publish an online data dashboard similar to that used in the Texas Rent Relief program. The tracking of statewide mortgage loan data, including foreclosure rates and forbearance rates, as well as the specifics suggested, is very difficult in Texas due to a significant amount of non-traditional mortgage loans. TDHCA will continue to track and update in these areas to the extent information is available.

Public Comment provided by Texas RioGrande Legal Aid (TRLA)

Comment Summary

Noted that seller-financed mortgages are common among their client population and expressed concern that limiting to lenders/servicers with NMLS number and excluding private mortgages will exclude many homeowners. Suggest including private mortgages held by lenders/servicers that do not have NMLS number and contracts for deed should be eligible under HAF.

TDHCA Response

TDHCA agrees with this comment and will revise the Draft HAF Plan to include private lenders and servicers that qualify for exemption pursuant to Finance Code, Section 156.202.

Comment Summary

Expressed concern that homeowners without a mortgage are at risk due to property tax and/or HOA lien foreclosure. The exclusion of taxes, insurance, or HOA fees that are not escrowed will leave homeowners vulnerable to foreclosure. Typically, HOA fees are not escrowed.

TDHCA Response

Based on comments received from several parties, TDHCA is amending the HAF Plan to include reimbursement of taxes, insurance, and homeowner association fees, whether escrowed or otherwise, subject to approval by Treasury. The Reinstatement Program does not include assistance for homeowners without a mortgage but, as stated in the Draft HAF Plan, TDHCA may submit additional Programs to Treasury for consideration if homeowner needs warrant and if there are sufficient funds available.

Comment Summary

Expressed concern that if there is not a centralized intake system, like Texas Rent Relief, that homeowners without close access to a CDC or CDFI will not be able to apply. Suggest a referral system in rural areas and on Texas-Mexico border so that local non-profits can refer homeowners directly to HAF, beyond those non-profits who can locally administer the funds.

TDHCA Response

The Draft HAF Plan contemplates a centralized intake system, similar to that of Texas Rent Relief, through which applications can be submitted to TDHCA by computer or smart phone, or through intake hubs (CDCs, CDFIs, and affordable housing organizations throughout the state). Intake hubs can assist homeowners with completing their application, and with submission of required documents. TDHCA will strive to partner in a manner that results in intake hubs throughout the state, particularly in more

rural areas, to provide all homeowners access to HAF funds. TDHCA will evaluate and consider expanding the pay-for-performance compensation model outlined in the Draft HAF Plan to include a referral component. Administration of all HAF funds will be directly through TDHCA.

Public Comment provided by Texas Mortgage Bankers Association

Comment Summary

Expressed support for the draft plan, noting that focusing on government or government-insured loans is appropriate; that an applicant/consumer driven approach is preferable to a servicer initiated approach. Encourages TDHCA to continue dialogue with HPC and NCSHA for uniform processes.

TDHCA Response

TDHCA appreciates the support of TMBA, both with respect to the public comment provided, as well as in the continued efforts of TMBA and its members in providing data and suggestions as to reach Texas homeowners, as well as how to effectively leverage HAF funds to assist as many Texas homeowners as possible, as quickly as possible.

Comment Summary

Suggested that the consumer application process be as simple and uniform as possible. Have heard concerns about lack of broadband access making online applications potentially difficult; suggest alternative means of application submission.

TDHCA Response

TDHCA recognizes the importance of all homeowners having the ability to apply for HAF assistance and the ability to submit the required documents. TDHCA recognizes that not all homeowners have the ability to apply and provide supporting documents by computer or smart phone. The Draft HAF Plan contemplates a centralized intake system utilizing an online application, through which applications can be submitted to TDHCA by computer or smart phone, or through intake hubs (CDCs, CDFIs, and affordable housing organizations throughout the state). Intake hubs can assist homeowners with completing their application, and with submission of required documents. TDHCA will strive to partner in a manner that results in intake hubs throughout the state, particularly in more rural areas, to provide all homeowners access to HAF funds.

Public Comment provided by John Woodley

Comment Summary

Comments were submitted beyond the public comment period (received July 12). No comments relevant to HAF were included.

TDHCA Response

No response.