

TEXAS EVICTION DIVERSION PROGRAM – FAQs

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Client Eligibility

Question: What are requirements for income eligibility? Is the program requirement CSBG and applicable Texas Administrative Code compliance? For example:

- i. Included and Excluded Income Sources?
- ii. Income Determination Formula – 30-day lookback period, calculation of income?
- iii. Income Determination – Income for all adult Household Members for a specific period of time?
- iv. Documentation requirements – collection of all income sources, included and excluded income, family assessment, program notes, etc.

Answer: You will use the exact same income qualification process as you do for CSBG and as provided in TAC.

Question: Are citizenship requirements going to be part of the household intake process? Is the subrecipient required to use SAVE for all household members?

Answer: No, there are no legal residency requirements because of the emergency nature of the assistance.

Question: Are undocumented individuals eligible for TEDP?

Answer: Yes. Citizenship is not an eligibility requirement for this program.

Question: Define economic hardship due to COVID-19—what is considered a certification of COVID-impact?

Answer: A household must certify that they are impacted by COVID-19, which means their household has either had a loss of household income due to the COVID-19 pandemic, or that their Household has had increased household costs due to school closures or medical expenses associated with the COVID-19 pandemic. They are not required to provide evidence but are required to sign and certification with a short explanation of how they have been impacted.

Question: If an applicant does not qualify, where is the applicant or landlord referred to?

Answer: Subrecipients can either refer them to other local resources they may be aware of or to the Department’s Help for Texans webpage.

Question: Certification Documents listed in “documents needed” – are these documents currently available, or will the subrecipient be required to develop documents?

Answer: Subrecipients will not be required to develop any documents. All documents will be provided by TDHCA.

Question: Income eligibility states household income as “at or below 200% FPL or 80% of Area Median Income.” Using Area Median Income is new to CSBG criteria. Do we try qualifying the household using the FPL first? If the household is over income under FPL, then we try qualifying at 80% of Area Median Income?

Answer: For the pilot program, we will only use 200% FPL. The 80% of Area Median Income will be relevant for the full-scale program later this year.

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Question: Does other rental assistance from local non-profits i.e. Sam ministry, Catholic Charities make individual ineligible?

Answer: No, that would not automatically make tenants ineligible. However, participants cannot have had the same months' rent paid by another entity. They must certify that they have not received rental assistance for the months they're applying to have covered by TEDP and cannot seek assistance for those same months in the future.

Question: Will the paperwork/referral sent from the JP office need to have something in the notes referring to the tenant being affected by COVID or do we just need something written in the application?

Answer: We can ensure the tenant is impacted by COVID by having them sign the tenant certification that is part of the application documents. There is no additional requirement to monitor that.

Question: On page 2 - (Section E. Housing Assistance on the Unit)... The applicant is selecting a Source of Housing Assistance.

The TDHCA 1-pager states Tenants are INELIGIBLE if they are receiving tenant-based voucher assistance, are in a unit receiving project-based assistance, or are in public housing. If an applicant selects "YES" to receiving E(3) Section 8; E(4) TBRA; E(5) Project Based then the tenant is NOT qualified. Is that correct?

Answer: Yes.

Question: The TDHCA 1-pager states if you are living in a qualifying rent-restricted property then you are auto-eligible. If an applicant selects "YES" to receiving E(1) FEMA or E(2) SBA then the tenant is QUALIFIED. Is that correct?

Answer: Yes.

Question: And with F(6), if the unit is "YES", public housing. Then the Tenant is NOT qualified. Is that correct?

Answer: Yes.

Question: Can tenants who were sued for eviction prior to 10/12/20 still participate in TEDP?

Answer: Yes, they can be processed through the TEDP. In fact, if the hearing date is on or after 10/12, the judge *must* inform the parties of the program.

Landlord/Unit Eligibility

Question: Must landlords/vendors be verified for non-debarment?

Answer: No, because they are not vendor, but are simply receiving payment on behalf of the client, no debarment check is needed.

Question: Define project-based assistance for ineligible units:

Answer: Project-based assistance is when a multifamily property has one or more units receiving a contractual rent payment from some governing body (a city, county, state, HUD) that is correlated to the property, not to the individual tenant. Some tenants may know that their unit falls in this category and some may not. The landlord is also having to certify that they do not violate this requirement.

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Question: I received several landlord calls about tenants who have received CARES relief funds. Due to the eviction moratorium, they have not filed in court. Landlords are calling to find out if tenants can be assisted with TEDP since tenants continue to be behind with rent. I have also received call from tenants asking the same question. Please advise.

Answer: Unfortunately, the only people eligible for the pilot program are those who have been referred by the court system and have a docket number. An eviction being filed is the trigger point that makes tenants and landlords eligible (assuming they meet the income requirements).

Benefits

Question: The TEDP states five (5) months of arrears rent, if client does not owe 5 months arrears can subrecipients apply monies to future payments?

Answer: Yes, but at least one month must be for arrears because some amount of arrears must exist for the landlord to have initiated the eviction process. This program is not for tenants who “could be” evicted, but only for those who have had a suit of eviction filed. The payment can be any combination in which at least one month is arrears and at least one month is a future payment.

Question: Out of the 6 months payments for rent-how much can we pay forward after paying arrears?

Answer: You may pay 6 months total, which can be a combination of arrears and forward payments. For example, 5 months arrears, 1 month forward; 3 months arrears, 3 months forward, etc., but the total cannot exceed 6 months. Must be at least one month forward in order to participate.

Question: Are payments for base rent only, or are other applicable fees considered, such as late fees and court fees?

Answer: The landlord is required to waive late fees and penalties, and is not allowed to pass court costs to the tenant (and must certify to that effect).

Question: Rent may not exceed maximum limits: What are the maximum limits?

Answer: The rent for the household assisted may not exceed the Department’s maximum limits which is 120% of the Small Area Fair Market Rents (SAFMR) or if there is no SAFMR for the area, the Fair Market Rent (FMR). If the unit’s monthly contract rent is between 120% and 150% of the SAFMR or FMR (as applicable) the program will cover the payment up to the 120% level and the tenant must pay the difference in one lump sum at time of entry into the program and before payment is made to the landlord. An Excel tool is available on the Department’s web page to find this information readily.

Question: We can assist with payment up to 120% FMR and even up to 150% FMR if the client pays anything over 120%, however, if the client is over 150% we cannot assist at all, meaning they do not meet a requirement for assistance. Is this correct?

Answer: You are correct. No clients over 150% FMR and if they’re over 120%, client must pay the difference.

Program Requirements

Question: What programmatic reporting is required?

Answer: Typical CSBG reporting for households served is required as well as several additional fields that are correlated to the pilot successfully.

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Question: Are monthly expenditure and performance reports required?

Answer: Yes.

Question: Are we allowed to report demographics and services provided through the regular CSBG contract?

Answer: For the reporting, please use the Excel tracking spreadsheet we sent last week and simply enter 0s on the MPR in our contract system.

Question: Terms – contracts should be available by October 15 or sooner, when is the anticipated date of funding availability? Anticipated timeframe to receive monies following request?

Answer: Contracts are effective October 12, 2020 and are being provided to subrecipients the week of October 13, 2020.

Question: Order expires December 18 – is this the final contract date?

Answer: No, the court will extend the order, as needed, as long as an executive disaster declaration continues and there are funds available for the program.

Question: Is the Department considering a procurement waiver? With a program start date within 7 business days (October 12, 2020) the participating Agency may have program supplies or technology needs (i.e. computers/data storage/user licenses/website/printing) which will need to be purchased in a very short timeframe?

Answer: If needed, the Department may consider such a request on a case-by-case basis.

Question: Due to COVID-19, does the Department plan to waive signature requirements?

Answer: Whatever process each subrecipient is using for other CSBG program signature requirements, should be applied to this program. This contract does require a signed certification form that the household has been impacted by COVID-19, and a PDF of that signature or an electronic signature will suffice. This is a federal provision in regard to government benefits.

Question: Which line items are approved Administrative costs?

Answer: All expenses associated with administering the program other than the direct payments to landlords are considered administrative.

Question: Are staff costs, for example, Specialists (direct program) considered a Direct Service item?

Answer: No, the only costs that are considered direct costs are payments to landlords.

Question: Is it allowable to have existing staff budgeted to other CARES funding (CSBG and CARES or CSBG-only) expensed to TEDP funds?

Answer: Yes, staff originally budgeted to other CARES funds who work on TEDP assistance can instead be expensed to TEDP if that is consistent with their actual work performed during those hours. Please note that indirect cost allocation requirements apply under circumstances where costs benefit multiple programs and cannot be direct charged.

Question: Are there future monitoring plans for TEDP funds?

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Answer: The program is not specifically identified for monitoring but based on the risk assessment performed by the Compliance Division, a TEDP contract may be selected for monitoring.

Question: Are courts pre-screening for eligibility OR making blind TEDP Referral(s)?

Answer: Some courts may elect to do so, but the order requires only that the court provide them with the program brochure, so referrals may not have been pre-screened.

Question: Is there an expected processing time the application once the case is referred to the subrecipient from the courts?

Answer: Ideally, files should be processed within a 14 day period.

Question: Is the administration fee restricted or non-restricted?

Answer: The administration funds are still restricted to eligible uses under the CSBG-D Act, as would any other discretionary contract. In this instance, the administration is limited to activities that benefit the COVID-19 impacted rental assistance clients. This can be done directly or on a cost allocated basis (direct and indirect costs) with an approved Cost Allocation Plan or de minimis indirect cost rate.

For example, the administrative dollars could be used to directly support the rental assistance activity (e.g. a percentage of the Program Manager's time overseeing a case worker doing intake evaluation), or to coordinate and support other resources for rental assistance clients (e.g. a percentage of a job coordinator or credit counselor working with rental assistance households). This is because these funds are for a specific purpose, not general activities eligible under the CSBG Act.

Question: Are lump sum payments to landlords only for back rent? How are future rents paid?

Answer: They can all be paid in one lump sum transaction. The landlord is required to certify that should for any reason the assisted household not occupy the unit for the full period of remaining received payments, they must repay the subrecipient.

Question: Are forms available in Spanish?

Answer: Yes, we have the form in Spanish on our website here:

<https://www.tdhca.state.tx.us/TEDP.htm> See the link that says Spanish under the Program Documents header. We also have it in 8 other languages here: <http://www.txcourts.gov/programs-services/eviction-diversion-program/>

Acceptable Documents

Question: What documents suffice for the tenant's "personal ID?"

Answer: State-issued driver's license or identification card.

Question: What qualifies as documentation of missed rent payments?

Answer: Copy of an account balance, general ledger, signed agreement between both parties (tenant and landlord).

Question: What qualifies as evidence of unit tenancy?

Answer: Signed copy of lease or signed agreement between both parties that lease was verbally extended.

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Question: What qualifies as evidence of income eligibility?

Answer: Same as CSBG.

Question: Can we accept expired ID (individual perhaps unable to renew due to COVID)?

Answer: Yes, this is permitted.

Question: What will the actual referral look like from the JP office and what paperwork will we be needing from them?

Answer: While we don't currently have a set format, OCA is working on drafting a document to share with the courts. We will share it with you when available, and it will be posted on our website.

Question: In regard to the tenant application, what defines application complete? Are ALL fields required on the application? Are any fields optional or considered Unknown/Not Reported?

Answer: All fields are required.

Question: We had one inquiry from a tenant whose lease agreement is for one year, after the one year the lease is month-to-month. Does the tenant need to sign a new lease with the landlord or do we have the landlord send over the lease and certify that the tenant is month-to-month at the conclusion of original lease date?

Answer: Having the landlord certify that the tenant is month-to-month at the end of their lease should suffice. However, if the lease expires shortly after we make a payment, they need to have a formal lease demonstrating they will remain in the home for the remainder of the covered months.