



Texas Department of Housing and Community Affairs
HOME Investment Partnerships Program
Rental Housing Development
Supporting New Job Creation and Economic Development in Rural Texas
Notice of Funding Availability (NOFA)

Summary

The Texas Department of Housing and Community Affairs (“the Department”) announces the availability of approximately \$5,000,000 in federal funding from the HOME Investment Partnerships Program (HOME) to develop affordable rental housing for low-income Texans in conjunction with rural economic development projects that have been recently developed or are currently under development. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 (“HOME Rules”) in effect at the time the NOFA is released, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306, Texas Government Code. Other Federal regulations may also apply such as, but not limited to, 24 CFR parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR 85.36 and 84.42 for conflict of interest and 24 CFR part 5, subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

Allocation of HOME Funds

These funds are made available through de-obligated HOME funds that the Department has distributed through the Regional Allocation Formula and have remained unutilized or been returned by the original applicant. All funds released under this NOFA are to be

used for the creation of affordable rental housing for low-income Texans earning 80 percent or less of the Area Median Family Income (AMFI).

Funding must be tied to the creation of new or expanded job opportunities in non-participating jurisdictions within the past 18 months for rural Texas. The jobs created must not be related, directly or indirectly, to the operation or construction of the proposed housing development. Projects where limited housing is a factor in the overall site selection for new businesses or institutions will be a priority. Only development sites where businesses or institutions that are new or expanding and will employ at least ten persons (new positions) from the area will be considered. Such new employment locations must be no more than twenty miles from the proposed housing development site. Development of business facilities must be underway at the time of application and/or be no more than 18 months from the opening date of the facility. The application must provide evidence of a definite and long-term employment commitment from the business or institution. The term of the commitment must be consistent with the federal tier of affordability for the affordable housing development described in § 4(b)(i) of this NOFA.

Rental development funds will not be eligible for use in a Participating Jurisdiction (PJ).

In accordance with 10 TAC § 53.58, this NOFA will be an Open Application Cycle and funding will be available on a first-come, first-served Statewide basis. Applications will be accepted until 5:00 p.m. **October 1, 2007** unless all funds are committed prior to this date. Applicants are encouraged to review the application process cited above. Applications that do not meet minimum threshold, minimum score or financial feasibility will not be considered for funding recommendations.

The Department awards HOME funds, typically as a loan, to eligible recipients for the provision of housing for low, very low and extremely low-income individuals and families. Award amounts are limited to no more than \$3 million per development, pursuant to 10 TAC § 53.54(2). The minimum HOME award may not be less than

\$1,000 per HOME assisted unit. The maximum award may not exceed 90% of the total development costs. The remaining 10% of total development costs must be in the form of loans or grants from private or public entities. The per-unit subsidy may not exceed the per-unit dollar limits established by United States Department of Housing and Urban Development (HUD) under § 221(d)(3) of the National Housing Act which are applicable to the area in which the development is located, and as published by HUD. The Department will evaluate the net operating income of the Development and the existing debt service capacity to determine if the award will be made in the form of a loan or grant or a combination thereof. The Department's underwriting guidelines in 10 TAC § 1.32 will be used which set as a minimum feasibility a 1.15 debt coverage ratio. Where the anticipated debt coverage ratio in the year after completion exceeds 1.35, a loan or partial loan will be recommended.

Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per unit in direct hard costs, unless the property is also being financed by the United States Department of Agriculture's Rural Development program. When HOME funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR § 92.251(a)(1).

Funds will be awarded in accordance with the rules and procedures as set forth in the State HOME Program rules at 10 TAC § 53.50-53.63. The Department may, at its discretion and based upon review of the financial feasibility of the development conducted in accordance with 10 TAC § 1.32, determine to award HOME funds as either a loan or as a grant. Loans cannot exceed amortization of more than 40 years.

Eligible and Ineligible Applicants

The Department provides HOME funding from the federal government to qualified nonprofit organizations, for-profit entities, sole proprietors, public housing authorities and units of local government.

Applicants may be ineligible for funding if they meet any of the criteria listed in § 53.53(b) of the Department's HOME rule, clarification for § 53.53(b)(6) creates ineligibility with any requirements under 10 TAC 49.5(a) of this title excluding subsections (5) thru (8) or 10 TAC 1.3. Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application submission.

Affordability Requirements

Applicants should be aware that there are minimum affordability standards necessary for HOME assisted rental developments. Initial occupancy income restrictions require that at least 90% of the units are affordable to persons below 60% AMFI and that 20% of the units are affordable to person below 50% AMFI. Over the remaining affordability period at least 20% of HOME assisted units should be affordable to persons earning 50% or less than the AMFI, all remaining units must be affordable to persons earning 80% or less than the AMFI.

Each development will have a two-tier affordability term.

The first tier will entail the federally required affordability term. For new construction or acquisition of new housing, this term is 20 years. For rehabilitation or acquisition of existing housing, the term is 5 years if the HOME investment is less than \$15,000 per unit; 10 years if the HOME investment is \$15,000 to \$40,000 per unit; and 15 years if the HOME investment is greater than \$40,000 per unit. This first tier is subject to all federal laws and regulations regarding HOME requirements, recapture, net proceeds and affordability.

The second tier of affordability is the additional number of years required to bring the total term of affordability up to 30 years or the term of the loan agreement. For example, the second tier of affordability on a 10-year federal affordability term is 20 additional years. The second tier, or remaining term, is subject only to state regulations and affordability requirements.

Properties will be restricted under a Land Use Restriction Agreement (“LURA”), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

Match Requirements

Applicants will be required to submit documentation on all financial resources to be used in the development that may be considered match to the Department’s federal HOME requirements. Applicants must provide firm commitments as defined in accordance with the Federal HOME rules at 24 CFR § 92.218 and the Department’s Match Guide and will be provided with the appropriate forms and instructions on how to report eligible match.

Site and Development Restrictions:

Pursuant to 24 CFR § 92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable, International Building Code (IBC) or its appropriate sub code, and/or the Minimum Property Standards (MPS) in 24 CFR § 200.925 and § 200.926. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a MPS inspection performed by a qualified person. If no other and more stringent property standard is applicable, the Texas Minimum Construction Standards (TMCS) should be used as a minimum standard of acceptability. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

All other HOME-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the Housing Quality Standards (HQS) in 24 CFR § 982.401. When HOME funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR § 92.251(a)(1).

Housing must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and covered multifamily dwellings, as defined at 24 CFR § 100.201, must also meet the design and construction requirements at 24 CFR § 100.205, which implement the Fair Housing Act (42 U.S.C. § 3601–§ 3619). Additionally, pursuant to the 2007 Qualified Allocation Plan (QAP), § 49.9(h)(4)(G), developments involving new construction (excluding new construction of nonresidential buildings) where some units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one-bedroom, two-bedroom, three-bedroom) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A certification will be required after the development is completed from an inspector, architect, or accessibility specialist. Any developments designed as single family structures must also satisfy the requirements of § 2306.514, Texas Government Code.

All of the 2007 Qualified Allocation Plan and Rules, 10 TAC § 49.6, excluding subsections (d), (f), (g) and (h) applies to any housing proposed under this NOFA.

Developments involving new construction will be limited to 76 units. This maximum unit limitation also applies to those developments which involve a combination of rehabilitation and new construction. The minimum number of units shall be 4 units, pursuant to 10 TAC § 53.53(f).

Proposed units may be scattered sites but must be organized as one project. Unit types may be single family, duplex, triplex, fourplex or larger but applicants should be aware

that scattered site and certain building types may add to the project cost, present zoning and infrastructure issues and contribute other difficulties that may make the proposed development infeasible as affordable housing.

Threshold Criteria

Evidence of a definite and long-term employment commitment from a business or institution will be required to be consistent with term of the federal tier of affordability for the housing development described in § 4(b)(i) of this NOFA. The evidence must demonstrate that a minimum of 10 new full-time paid positions will be created as a result of this activity. The jobs created must not be related, directly or indirectly, to the operation or construction of the proposed housing development. The evidence must be a written certification from the most senior officer or Board of Directors of the business or institution that indicates the minimum number of positions to be created, the timeline for facility development, proof of capital investment and other pertinent details.

Housing units subsidized by HOME funds must be affordable to low, very-low or extremely low-income persons. Mixed income rental developments may only receive funds for units that meet the HOME program affordability standards. All applications intended to serve persons with disabilities must adhere to the Department's Integrated Housing Rule at 10 TAC § 1.15.

For funds being used for rental housing developments, the recipient must establish a reserve account consistent with § 2306.186, Texas Government Code, and as further described in 10 TAC § 1.37 pursuant to 10 TAC 53.53(i).

All applications will be required to meet HQS detailed under 24 CFR § 982.401, TMCS, as well as the Fair Housing Accessibility Standards and Section 504 of the Rehabilitation Act of 1973. Developments must also meet all local building codes or standards that may apply. If the development is located within a jurisdiction that does not have building codes, developments must meet the most current IBC.

Pursuant to 10 TAC § 53.53(j), Applicants for Rental Development activities will be required to provide written notification to each of the following persons or entities 14 days prior to the submission of any application package. Failure to provide written notifications a minimum of 14 days prior to the submission of an application package will cause an application to be terminated under competitive application cycles. Applicants must provide notifications to:

- the executive officer and elected members of the governing board of the community where the development will be located. This includes municipal governing boards, city councils, and County governing boards;
- all neighborhood organizations whose defined boundaries include the location of the Development;
- executive officer and Board President of the school district that covers the location of the Development;
- residents of occupied housing units that may be rehabilitated, reconstructed or demolished; and
- the State Representative and State Senator whose district covers the location of the Development.
- The notification letter must include, but not be limited to, the address of the development site, the number of units to be built or rehabilitated, the proposed rent and income levels to be served, and all other details required of the NOFA and Application Manual.

An applicant shall provide certification that no person or entity that would benefit from the award of HOME funds has provided a source of match or has satisfied the

Applicant's cash reserve obligation or made promises in connection therewith, pursuant to 10 TAC § 53.53(k).

All contractors, consulting firms, and Administrators must sign an affidavit to attest that each request for payment of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions, pursuant to § 53.53(l).

The application must meet all of the requirements of the 2007 QAP and Rules at 10 TAC § 49.9(h), excluding subsections (4)(I), (11), (12) and (15) with the exception of (14) Supplemental Threshold Reports. The deadline for submission of the Supplemental Threshold Reports is the date of the application submission. If the Supplemental Threshold Reports are not submitted in conjunction with the application, the application will be terminated.

Selection Process

Distribution.

Awards will be made on a statewide basis.

Scoring Criteria.

Applicants may receive up to 103 points based on the scoring criteria listed below and must obtain a minimum score of 70 points to be considered for award. Evidence of these items must be submitted in accordance with the 2007 Final Application Submission Procedures Manual (ASPM), effective as of the date of issuance of this NOFA. Applicants must also select each item as part of their self score to receive points.

The scoring criteria to be used are:

New Job Creation per Unit Proposed –

Applications will be awarded points for the number of positions per units of housing for persons currently earning at or below 60% AMFI. The jobs created must not be related, directly or indirectly, to the operation or construction of the proposed housing development. To receive points, the activity must provide one new full-time paid position for each unit proposed.

- For activities that create at least 1 new position per unit proposed but less than 1.5 positions per unit proposed: **10 points**
- For activities that create at least 1.5 new positions per unit proposed: **20 points**

Maximum 20 Points.

New Job Creation –

Applications will be awarded points for the number of new full-time paid positions created. The jobs created must not be related, directly or indirectly, to the operation or construction of the proposed housing development. One point will be awarded for every 5 new positions over the minimum 15 new positions required.

Maximum 15 Points.

Public Private Partnership-

5 points will be awarded to applicants that can provide a memorandum of understanding between the business entity and a local economic development corporation that indicates the commitment of the economic development corporation to the business entity and 5 points will be awarded for a resolution from the local government endorsing both the housing and the business entity.

Maximum 10 Points.

Leveraging of Public and Private Financing:

To encourage the involvement of other public agencies and private entities in affordable housing, applicants will receive 5 points if their HOME request represents greater than 25% but less than 50% of the total development costs, or will receive 10 points if their HOME request represents less than 25% of the total development costs. Applications requesting 50% or more of the total development costs through a HOME award will receive no points. Applicants may use the estimated equity value of Housing Tax Credits in the calculation of leveraged financing.

Maximum 10 Points.

Extremely Low-Income Targeting.

To encourage the inclusion of families and individuals with the highest need for affordable housing, applicants will receive 5 points for proposed developments that provide at least 5% of units to families or individuals earning 30% or less of the area medium income for the development site. Applicants will receive 10 points for proposed developments that provide at least 10% of units to families or individuals earning 30% or less of the area medium income for the development site. Rents for these units targeting families or individuals earning 30% or less of the area medium income may not exceed the Department's 30% rent limits for the Housing Trust Fund and Housing Tax Credit programs.

Maximum 10 Points.

Matching Funds:

To ensure that the Department continues to meet its federal obligation to provide matching funds under the HOME program, Applicants will receive 3 points for having at least 10% of their total development costs covered by eligible HOME matching financing, or will receive 7 points for having at least 5% of their total development costs covered by eligible HOME matching financing, as outlined in the application materials. Applicants with less than 5% of their total development costs covered by match financing will receive no points.

Maximum 7 Points.

Location of Development:

To encourage the creation of rental housing in communities where affordable units may not already exist, applicants will receive 5 points for developments that are located in Cities or Places that have no other affordable rental developments that have received funding from the Department.

Maximum 5 Points.

Cost-Effectiveness of a Proposed Development:

To encourage reasonable and cost effective building strategies, applicants will receive 10 points for developments that do not exceed \$70 per square foot for new construction and \$38 per square foot for rehabilitation. This figure will be calculated by dividing the total development costs by the total net rentable square footage.

Maximum 10 Points.

Program Design.

Pursuant to 10 TAC § 53.60(2), applicants will receive 10 points if evidence is provided that the proposed development meets the needs identified in the needs assessment, whether the design is complete and whether the development fits within the community setting. Information required includes, but is not limited to: community involvement; support services and resources; scope of program; income and population targeting; marketing, fair housing and relocation plans, as applicable.

Maximum 10 Points.

Capability of Applicant.

Pursuant to 10 TAC § 53.60(3), applicants will receive 6 points if evidence is provided that the Applicant has the capacity to administer and manage the proposed development, demonstrated through previous experience either by the applicant, cooperating entity or key staff (including other contracted service providers), in program management, property management, acquisition, rehabilitation, construction, real estate finance counseling and training or other activities relevant to the proposed program, and the extent to which applicant has the capability to manage financial resources, as evidenced by previous experience, documentation of the applicant or key staff, and existing financial control procedures.

Tie Breakers

Pursuant to 10 TAC § 53.59(c)(4), in the event that two or more Applications were received on the same day and receive the same number of points and are both practicable and economically feasible, the Department will utilize the factors in this

paragraph, in the order they are presented, to determine which development will receive a preference in consideration for an award. The Department may also recommend a partial funding recommendation.

The Number of Jobs Created. The number of new full-time paid positions created will be used as the first tie breaker criteria. The Applicant with the highest number of new jobs created will win the tie breaker.

Long-term Feasibility. The second tie breaker criteria will be average debt coverage ratio calculated on the Applicant's originally submitted proforma. The Applicant with the highest average debt coverage ratio over the period of time represented in the proforma will win the tie breaker.

Submission and Review Process

All applications submitted under this NOFA must be received on or before 5:00 p.m. on October 1, 2007. The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. Applications will be reviewed for Applicant and Activity Eligibility, Threshold Criteria, Scoring and Financial Feasibility as described in this NOFA.

All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.

Pursuant to the QAP 49.5(a)(9) if a submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. If an application is determined ineligible pursuant to this § , the Application will be terminated without being processed as an Administrative Deficiency.

Pursuant to 10 TAC § 53.59(3), a site visit will be conducted as part of the HOME Program development feasibility review.

Applicants must receive recommendation for approval from the Department to be considered for HOME funding by the Board.

The Department may decline to consider any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The Department reserves the right to negotiate individual elements of any Application.

In accordance with § 2306.082 Texas Government Code and 10 TAC § 53.58(d), it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code § 1.17.

Pursuant to § 2306.1112 and § 2306.6731 of the Texas Government Code, after eligible Applications have been evaluated, ranked and underwritten in accordance with this NOFA, the Department staff shall make its recommendations to the Executive Award and Review Advisory Committee. The Committee will develop funding priorities and

shall make commitment recommendations to the Board. Such recommendations and supporting documentation shall be made in advance of the meeting at which the issuance of Commitment is discussed. The Committee will provide written, documented recommendations to the Board which will address at a minimum the financial or programmatic viability of each Application and a list of all submitted Applications which enumerates the reason(s) for the Development's proposed selection or denial.

An Applicant may appeal decisions made by staff in accordance with 10 TAC § 1.7.

Application Submission

Application materials must be organized and submitted in the manner detailed in the 2007 Final ASPM for rental housing developments.

The application consists of three parts: bound items, unbound items and electronic submission. A complete application for each proposed development must be submitted. Incomplete applications or improperly bound applications will not be accepted. The bound volumes of the application must be bound using red pressboard binders. Each volume must be submitted in a separate red pressboard binder. If the required documentation for a volume exceeds the capacity of one binder, a second binder may be used to subdivide the volume. Applicants must submit one complete printed copy of all application materials and one complete scanned copy stored on compact disc of the application materials as detailed in the 2007 Final ASPM. All scanned copies must be scanned in accordance with the guidance provided in the 2007 Final ASPM.

All application materials including manuals, NOFA, program guidelines, and QAP and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold and applicable portions of the QAP requirements in effect at the time of the application submission. 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 are required to remit a non-refundable application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$500.00 per application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. § 2306.147(b) of the Texas Government Code requires the Department to waive application fees for 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 an allowable or reimbursable cost under the HOME Program.

Applications received after 5:00 P.M. on October 1, 2007 will not be accepted. The deadline is strictly adhered to; therefore the Department strongly encourages you to consider traffic and travel delays when planning your submission. For questions regarding this NOFA please contact Skip Beard at 512-475-0908 or via e-mail at skip.beard@tdhca.state.tx.us or Barbara Skinner at 512-475-1643 or via e-mail at barbara.skinner@tdhca.state.tx.us.

Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs

HOME Division

221 East 11th Street

Austin, TX 78701-2410

Or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs

HOME Division

Post Office Box 13941

Austin, TX 78711-3941

NOTE: This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular HOME Rental Housing Development Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.