



Texas Department of Housing and Community Affairs Housing Trust Fund (HTF)

2009 Texas Homeownership SuperNOFA Program Notice of Funding Availability (NOFA)

1) Summary.

- a) The Texas Department of Housing and Community Affairs (“the Department”) announces the availability of \$1,000,000 in funding from the Housing Trust Fund (HTF) 2009 appropriation to fund housing assistance programs. Funds will be made available for Homebuyer Assistance (HBA) and Housing Rehabilitation Assistance (HRA).
- b) The availability and use of these funds is subject to the Department’s Housing Trust Fund Rule at 10 TAC Chapter 51 (“HTF Program Rule”) and Chapter 2306, Texas Government Code in effect at the time an application is submitted. Other regulations may also apply such as, but not limited to, 24 CFR §84.36 and §2306.5545, Texas Government Code for conflict of interest, 24 CFR §5.609 for income qualification, 24 CFR Part 5, subpart A for fair housing, and Chapter 2156, Texas Government Code and the Uniform Grant Management Act (Chapter 783, Texas Government Code and 1 TAC Chapter 5) for procurement. Applicants are encouraged to familiarize themselves with all of the applicable rules that govern the program.

2) Appropriation of Housing Trust Funds.

- a) Funds are made available through the Housing Trust Fund and are not subject to the Regional Allocation Formula. All funds released under this NOFA shall be used for the creation of affordable housing for eligible homebuyers earning 50% or less of the Area Median Family Income (AMFI) as defined by the U.S. Department of Housing and Urban Development (HUD).
- b) This NOFA will be an Open Application Cycle and funding will be available on a first-come, first-served statewide basis (including Participating Jurisdictions). Applications will be accepted by the Department on regular business days until **5:00 p.m., Friday, May 1, 2009**, regardless of method of delivery. Applicants are encouraged to review the application process cited in 10 TAC §51.8 and §51.12 and as described herein.

Applications that do not meet minimum threshold criteria will not be considered for funding.

3) Limitation on Funds.

- a) The Department awards 2009 Homeownership SuperNOFA funds to eligible organizations. The maximum award amount may not exceed \$250,000, including project, administrative, and soft costs, per Program Activity.
- b) Applicants may be eligible to receive up to 4% of project costs for funding for Administrative Costs. Administrative Costs may include:
 - i) Application intake and processing;
 - ii) Affirmative marketing and brochures;
 - iii) Travel costs for administration and contract training;
 - iv) Professional Services;
 - v) Construction and disbursement documentation preparation;
 - vi) Information services;
 - vii) Procurement of Contractor;
 - viii) Project document preparation;
 - ix) Schedule of values; and
 - x) Work write-up summary.
- c) Soft costs are limited to 10% of project costs. Soft Costs may include:
 - i) Application intake and processing;
 - ii) Inspections;
 - iii) Procurement of Contractor;
 - iv) Schedule of values; and
 - v) Work write-up summary.

4) Activity and Applicant Eligibility.

- a) Eligible and Prohibited Activities are specified in the Department's Housing Trust Fund Rule. Eligible Activities will include those permissible in 10 TAC §51.6. Prohibited Activities include those in 10 TAC §51.7.
- b) Eligible Applicants are Units of General Local Government, Nonprofit Organizations, and Public Housing Authorities (PHA's). Applicants may be ineligible for funding if they meet any of the criteria listed in 10 TAC §51.8(d).
- c) Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application submission.

5) Affordability Requirements.

- a) All Housing Trust Fund-assisted housing must follow the income qualification guidelines in 24 CFR §5.609.
- b) Awarded organizations will provide the Homeownership SuperNOFA Program assistance to the homebuyer in the form of a loan. Each loan will be in the form of a 0% interest, deferred forgivable loan with a term based on the Households AMFI and as further

described in §9 of this NOFA. All loans to assisted homebuyers/homeowners must be evidenced by loan documents provided by the Department and must be payable to the Department.

- c) If at any time prior to the full loan period there occurs a resale of the property, a refinance of any superior lien, a repayment of any superior lien, or if the unit ceases to be the assisted Household's principal residence, the remaining loan balance shall become due and payable.
- d) Forgiveness of the loan balance is calculated based on a pro-rata annual share of the loan term. The anniversary date of the loan shall constitute completion of the year. Any partial year shall not be waived. The amount due will be based on the pro-rata share number of years of the remaining loan term.
- e) In the event the home is sold (voluntary or involuntary), the assisted Household will pay the loan balance from the shared net proceeds of the sale. The shared net proceeds are the sales price minus superior loan repayment (other than Homeownership SuperNOFA Program funds) and any closing costs. A copy of the HUD closing statement must be provided.

6) Construction Standards and Requirements.

- a) Housing that is constructed or rehabilitated with HTF 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, HTF-assisted new construction or rehabilitation must meet, as applicable, the International Residential Code, the HOME Program Texas Minimum Construction Standards (TMCS) and be in compliance with the basic access standards in new construction, established by §2306.514, Texas Government Code. In addition, housing that is rehabilitated with funds awarded under this NOFA must meet all applicable energy efficiency standards established by §2306.187, Texas Government Code, and energy standards as verified by RESCHECK.
- b) At the completion of the assistance, all properties must meet the International Residential Code and local building codes. If a home is reconstructed, the applicant must also ensure compliance with the universal design features in new construction, established by §2306.514, Texas Government Code, required for any applicant utilizing federal or state funds administered by TDHCA in the construction of single family homes.
- c) All other HTF-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 in 24 CFR §982.401. When HTF funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards.

- d) Housing that is assisted with HTF funds must comply with the Lead-Based Paint Poisoning Prevention Act (42 USC §§4821–4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC §§4851–4856).
- e) Awarded organizations must comply with the requirements of §2156.062, Texas Government Code and the rules promulgated by the Office of the Governor under the Uniform Grant Management Act (Chapter 783, Texas Government Code and 1 TAC Chapter 5) for applicable procurement laws and procedures.
- f) Awarded organizations must ensure that the demolition and removal of all dilapidated units on the lot occurs prior to the Household's occupancy of the Newly Constructed or Rehabilitated housing unit.
- g) Awarded organizations must ensure and verify that each building construction contractor performing activities in the amount of \$10,000 or more under the Contract is registered and maintains good standing with the Texas Residential Construction Commission in accordance with Chapters 401 and 416, Texas Property Code.
- h) Awarded organizations must ensure and verify that each housing unit being rehabilitated in the amount of \$10,000 or more under the Contract is registered with the Texas Residential Construction Commission in accordance with §426.003 of the Texas Property Code.
- i) Awarded organizations must provide building construction contractor oversight and ensure builder's risk coverage is provided.
- j) Awarded organizations must ensure that the demolition of any housing unit does not occur less than six (6) months prior to the Contract end date.
- k) Awarded organizations must ensure a Certificate of Construction Completion must be submitted to the Department upon completion of construction-related activities.

7) Affirmative Marketing Program Requirements.

- a) Recipients of Housing Trust Funds must adopt affirmative marketing policies and procedures in furtherance of Texas' commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.
- b) The affirmative marketing requirements and procedures adopted must include:
 - i) Methods for informing the public, owners, and potential tenants about Federal Fair Housing Laws and the awarded applicant's affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups);

- ii) Requirements and practices each awarded applicant must adhere to in order to carry out the Department's affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
- iii) Procedures to be used by awarded applicants to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);
- iv) Records that will be kept describing actions taken by the awarded applicants and by owners to affirmatively market units and records to assess the results of these actions; and
- v) A description of how the awarded applicants will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

8) Conflict of Interest.

- a) In the procurement of property and services by recipients of Housing Trust Funds, the conflict of interest provisions in 24 CFR §85.36 and §2306.5545 of the Texas Government Code apply.
- b) No persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with HTF funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HTF-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- c) The conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient which is receiving HTF funds.

9) Homebuyer Assistance Program Details.

- a) Funds released under this NOFA can be allocated to administer a Homebuyer Assistance (HBA), including downpayment and closing cost assistance to eligible homebuyers for the acquisition of affordable and accessible single family housing. Eligible first-time homebuyers must not have owned a home in the three (3) years prior to the receipt of assistance.
- b) Eligible homebuyers may receive loans up to \$10,000 for down payment, gap financing and closing costs.
 - i) If the assisted household has an income that is less than 50% of the area median family income, the assistance will be in the form of a 0% interest ten (10) year deferred, forgivable loan creating a 2nd or 3rd lien.

- ii) If the household income is below 30% of the AMFI, the assistance will be in the form of a 0% interest five (5) year deferred, forgivable loan creating a 2nd or 3rd lien.
- c) The following first lien purchase loan requirements are imposed for households receiving assistance:
 - i) No adjustable rate mortgage loans (ARMs) are allowed.
 - ii) No mortgages with a loan to value equal to or greater than 100% are allowed;
 - iii) No subprime mortgage loans are allowed;
 - iv) An origination fee and any other fee associated with the mortgage loan may not exceed 2% of the loan amount; and
 - v) The income ratio (back-end ratio) may not exceed 45%.
- d) The contract term for the HBA Program Activity shall not exceed twenty-four (24) months and performance under the contract will be evaluated according to the following benchmarks:
 - i) Six (6) months, 25% of funds must be committed;
 - ii) Twelve (12) months, 50% of funds must be committed, 25% of funds drawn;
 - iii) Eighteen (18) months, 75% of funds must be committed, 50% of funds drawn; and
 - iv) Twenty (24) months, 100% of funds already committed and 100% of funds drawn.

10) Homebuyer Assistance Threshold Criteria.

The following threshold criteria listed in the subsection are mandatory requirements at the time of application submission unless specifically indicated otherwise and will be included in the written agreement, if awarded funds:

- i). **Cash Reserve:** Each awarded applicant will be required to expend funds according to program guidelines and request funds from the Department for eligible expenses. Every Applicant must evidence the ability to administer the program and commit adequate cash reserves of at least \$30,000 to facilitate administration of the program during the Department’s disbursement process. Cash reserves are not permanently invested in the project but are used for short term deficits that are paid by program funds. Evidence of this commitment and the amount must be included in the Applicant’s resolution and budget.
- ii). **Resolution:** All applications submitted must include an **original** resolution from the Applicant’s direct governing body, authorizing the submission of the Application, commitment and the amount of cash reserves for use during the contract period, naming of a person and the person’s title authorized to represent the organization and signature authority to execute a contract. If an Applicant that is a nonprofit organization is requesting a waiver of the grant application fee, they must do so in the resolution, and must state that the nonprofit organization offers expanded services such as child care, nutrition programs, job training assistance, health services, or human services. The resolution must be signed and dated within the six months preceding the application deadline date.
- iii). **Description of Demand:** It will be a threshold requirement to submit a narrative that describes in detail the demand evidenced for the proposed number of units to be assisted

in the proposed service area. Source data, calculations and assumptions must be included.

- iv). **Homebuyer Counseling:** It will be a threshold requirement for each applicant to submit the level of homebuyer counseling that will be provided. A minimum of eight (8) hours of homebuyer counseling must be provided. Evidence must include documentation describing the level of homebuyer counseling proposed, including post purchase counseling. Applicant must state who will provide the homebuyer counseling. A copy of the curriculum and a copy of the proposed written agreement for service provider (if the applicant is not providing the service) must also be provided.

11) Housing Rehabilitation Assistance Program Details.

- a) Funds released under this NOFA can be allocated to administer a Housing Rehabilitation Assistance (HRA) for eligible homeowners for the rehabilitation of owner-occupied single family housing. The homeowner must own the property and it must be the principal residence of the homeowner.
- b) Eligible homebuyers may receive loans up to \$30,000 for rehabilitation costs, including barrier removal.
- i) If the assisted household has an income that is less than 50% of the area median family income, the assistance will be in the form of a 0% interest 20 year deferred, forgivable loan creating a 1st, 2nd, or 3rd lien.
- ii) If the household income is below 30% of the AMFI, the assistance will be in the form of a 0% interest 10 year deferred, forgivable loan creating a 1st, 2nd, or 3rd lien.
- c) The contract term for the HRA Program Activity shall not exceed twenty-four (24) months and performance under the contract will be evaluated according to the following benchmarks:
- i) Six (6) months, 25% of funds must be committed;
- ii) Twelve (12) months, 50% of funds must be committed, 25% of funds drawn;
- iii) Eighteen (18) months, 75% of funds must be committed, 50% of funds drawn; and
- iv) Twenty (24) months, 100% of funds already committed and 100% of funds drawn.

12) Housing Rehabilitation Assistance Threshold Criteria.

The following threshold criteria listed in the subsection are mandatory requirements at the time of application submission unless specifically indicated otherwise and will be included in the written agreement, if awarded funds:

- i). **Cash Reserve:** Each awarded applicant will be required to expend funds according to program guidelines and request funds from the Department for eligible expenses. Every Applicant must evidence the ability to administer the program and commit adequate cash reserves of at least \$30,000 to facilitate administration of the program during the Department's disbursement process. Cash reserves are not permanently invested in the project but are used for short term deficits that are paid by program funds. Evidence of

this commitment and the amount must be included in the Applicant's resolution and budget.

- ii). **Resolution:** All applications submitted must include an **original** resolution from the Applicant's direct governing body, authorizing the submission of the Application, commitment and the amount of cash reserves for use during the contract period, naming of a person and the person's title authorized to represent the organization and signature authority to execute a contract. If an Applicant that is a nonprofit organization is requesting a waiver of the grant application fee, they must do so in the resolution, and must state that the nonprofit organization offers expanded services such as child care, nutrition programs, job training assistance, health services, or human services. The resolution must be signed and dated within the six months preceding the application deadline date.
- iii). **Description of Demand:** It will be a threshold requirement to submit a narrative that describes in detail the demand evidenced for the proposed number of units to be assisted in the proposed service area. Source data, calculations and assumptions must be included.

13) Application Review Process.

- a) The application review process is described in 10 TAC §51.12.
- b) Each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a "received date" based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits as applicable. Applications will continue to be prioritized for funding based on their "received date". Applications will be reviewed for applicant and activity eligibility, and threshold criteria as described in this NOFA.
- c) All Applicants will be processed through the Department's Application Evaluation System, and will include a previous award and past performance evaluation. Poor past performance may disqualify an Applicant for a funding recommendation or the recommendation may include conditions.
- d) Applicants Must Meet or Exceed Threshold Criteria.
 - i) The Department will ensure review of materials required under the NOFA and Application Guide and will issue a notice of any Administrative Deficiencies within forty-five (45) days of the received date. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds. Applications that have completed this Phase will be reviewed for recommendation to the Board.
 - ii) 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, will be terminated without being processed as an Administrative Deficiency.

- e) Because Applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HTF funds before an Application has been completely reviewed. If on the date an Application is received by the Department, no funds are available under this NOFA, the Applicant will be notified that no funds exist under the NOFA and the Application will not be processed.
- f) 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 that are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.
- g) Funding recommendations of eligible Applicants will be presented to the Department's Governing Board of Directors based on eligibility and limited by the total amount of funds available under this NOFA and the maximum award amount.

14) Appeals and Dispute Resolutions.

- a) 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 of the Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154 of the 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.
- b) For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC, Subchapter A §1.17 and §2306.082, Texas Government Code.
- c) An Applicant may appeal decisions made by staff in accordance with 10 TAC, Subchapter A §1.7.

15) Application Submission.

- a) All applications submitted under this NOFA must be received on or before **5:00 p.m. on May 1, 2009, regardless of method of delivery.**
- b) 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. Question regarding this NOFA should be addressed to:

Texas Department of Housing & Community Affairs
Attn: Housing Trust Fund Program Administrator
HOME and Housing Trust Fund Programs Division
221 E. 11th Street
Austin, Texas 78701
Telephone: (512) 463-8921
E-mail: HTF@tdhca.state.tx.us

- c) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.
- d) Applicants must submit one complete printed copy of all Application materials and one complete scanned copy of the Application materials provided on compact disc (CD-ROM or DVD-ROM).
- e) All Application materials including manuals, NOFA, program guidelines, and all applicable HTF rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the Housing Trust Fund Program Rule and threshold 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.
- f) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30 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 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 Homeownership SuperNOFA Program.
- g) **Application Workshop:** the Department will present application workshops in locations throughout the State which will provide an overview of the Homeownership SuperNOFA Program Activities eligible under this NOFA and will also provide Application preparation and submission requirements, evaluation criteria, and state and federal program information. The Application workshop schedule and registration will be posted on the Department's website at www.tdhca.state.tx.us.
- h) **Audit Requirements:** An applicant is not eligible to apply for funds or any other assistance from the Department unless a past audit or Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application deadline for funds or other assistance per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified. Staff will not recommend applications for funding to the Department's

Governing Board unless all unresolved audit findings, questions or disallowed costs are resolved per 10 TAC §1.3(c).

- i) Applications must be sent via overnight delivery to:

**Texas Department of Housing & Community Affairs
HOME and Housing Trust Fund Programs Division
Attn: Housing Trust Fund Program Administrator
221 East 11th Street
Austin, TX 78701-2410**

or via the U.S. Postal Service to:

**Texas Department of Housing & Community Affairs
HOME and Housing Trust Fund Programs Division
Attn: Housing Trust Fund, Program Administrator
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 Housing Trust Fund Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable regulations.*