



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2023-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**ANNUAL NOFA**  
**FIRST AMENDMENT – EFFECTIVE JULY 31, 2023**

**(1) Summary. This First Amendment suspends the assignment of Application Acceptance Dates as of 5:00 PM on July 31, 2023.**

The Texas Department of Housing and Community Affairs (the Department) announces the availability of \$6,116,029 in HOME Investment Partnerships Program (HOME)<sup>1</sup> and \$42,637,605 of national Housing Trust Fund (NHTF)<sup>2</sup> funding for the development of affordable multifamily rental housing for low-income Texans. Applicants under the 2023-1 NOFA will be accepted from **January 2, 2023**, through **October 31, 2023** (if sufficient funds remain). Applicants applying for 2023 9% Housing Tax Credits are not eligible to apply under this NOFA until August 1, 2023, although this prohibition does not apply to Applicants for 2023 Supplemental Tax Credits. The availability and use of these funds are subject to the following rules, as applicable:

**a. Texas Administrative Code**

10 TAC Chapter 1 (Administration)

10 TAC Chapter 2 (Enforcement)

10 TAC Chapter 10 (Uniform Multifamily Rules)

10 TAC Chapter 11 (Qualified Allocation Plan)

10 TAC Chapter 12 (Multifamily Housing Revenue Bonds)

10 TAC Chapter 13 (Multifamily Direct Loan Rule)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=3&ti=10&pt=1](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1)

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<sup>1</sup> HOME funds under this NOFA may only be awarded to Applications with Development sites in non-Participating Jurisdictions.

<sup>2</sup> NHTF funds under this NOFA are subject to federal Commitment deadlines, and the Board may require a Contract Execution Deadline to enable the Department to meet these federal Commitments regardless of any other time period listed in the Texas Administrative Code. Failure to meet that Contract Execution Deadline could result in the Applicant having the award reduced in whole or in part.

- b. Texas Government Code  
Tex. Gov't. Code Chapter 2306  
<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>
- c. U.S. Department of Housing and Urban Development (HUD) Program Regulations  
24 CFR Part 92 ([HOME Investment Partnerships Program Final Rule](#))  
24 CFR Part 93 ([Housing Trust Fund Interim Rule](#))
- d. Fair Housing  
Federal Fair Housing Act, 42 U.S.C. 3601-19.  
<https://www.tdhca.state.tx.us/fair-housing/index.htm>
- e. Other Federal laws and regulations may that apply depending on funding source:

Environmental Compliance

All federal sources must have some type of environmental review in accordance with 24 CFR Part 93 or 24 CFR Part 58 as applicable.

<https://www.tdhca.state.tx.us/program-services/environmental/index.htm>

Minimizing Resident Displacement

All federal sources must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; HOME must follow Section 104(d) of Housing and Community Development Act of 1974; and all federal sources must follow the HUD Handbook 1378.

<https://www.tdhca.state.tx.us/program-services/ura/index.htm>

Labor Standards

HOME funds are regulated by Davis-Bacon and Related Labor Acts (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs).

<https://www.tdhca.state.tx.us/program-services/davis-bacon/index.htm>

Employment Opportunities

HOME, and NHTF require compliance with 24 CFR Part 75 (Section 3).

<https://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>

- (2) **Set-Asides.** NHTF funds will be subject to the Regional Allocation Formula (RAF, located in Attachment A) from January 2, 2023, until **January 31, 2023**. Those who apply during the Regional Distribution period must request at a minimum \$1,500,000, unless such an amount exceeds the applicable Region's allocation, in which case the Applicant must request the maximum amount available in the Region.

Applicants in the General Set-Aside that did not apply during the Regional Distribution period must request, at a minimum, \$4,000,000. An Applicant in the General set-aside may request no more than \$8,000,000. Applicants in the CHDO set-aside may request no more than \$6,116,029.

Applications must choose a set-aside based on the restrictions set forth below. In addition to the RAF, the funds made available under this NOFA are offered under the following Set-Asides:

- a. **Community Housing Development Organization (CHDO) Set-Aside.** \$6,116,029 in HOME funds are reserved for nonprofit organizations that can be certified as Community Housing Development Organizations (CHDOs).
- b. **General Set-Aside.** This set-aside consists of NHTF in the amount of \$42,637,605. For Applications within another HOME Participating Jurisdiction, Applicants may only select NHTF funds and restrict rent and income for all Direct Loan-assisted units to 30% AMI as defined in 24 CFR Part 93. Other Participating Jurisdictions in Texas are listed in **Attachment B**.

A list of HOME Participating Jurisdictions in Texas are attached to this NOFA and may be found at: [https://www.tdhca.state.tx.us/home-division/docs/HUD\\_PJs\\_Full\\_List.pdf](https://www.tdhca.state.tx.us/home-division/docs/HUD_PJs_Full_List.pdf).

Set-Aside	Eligible Activities and Geographic Scope	Fund Source and Amount Available		Maximum Request <sup>3</sup>
CHDO	NC, A/R, R, outside Participating Jurisdiction	HOME	\$6,116,029	\$6,116,029
General	NC, A/R	NHTF	\$42,637,605	\$8,000,000

**Key:**

NC – New Construction (For the General Set-Aside, New Construction includes Reconstruction, as defined in 24 CFR Part 93)

A/R – Acquisition/Rehabilitation

R – Rehabilitation

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<sup>3</sup> This total includes any other Multifamily Direct Loan Funds previously awarded to the Applicant by the Department for the Development, including any outstanding loan balances that will remain after the Direct Loan closing.

**(3) Application Acceptance Dates and Priorities.** Applicants may submit during one of several Application acceptance periods. Within those windows, applications will be reviewed in accordance with the listed priorities.

**a. General Set-Aside Application Periods:** NHTF funding will be distributed in accordance with the following timelines. Each application period has certain conditions that must be met for staff to assign an Application Acceptance Date. Dates and relevant restrictions are listed below.

**i. Regional Distribution:** NHTF funds will be subject to the Regional Distribution from **January 2, 2023 to January 31, 2023, at 5:00 pm Austin Local Time.** All eligible Applications submitted during this period will be given an Application Acceptance Date **of January 31, 2023.** The only eligible Application during the Regional Distribution period is one that received an Application Acceptance Date under the 2022-1 Annual NOFA Covid Impact Set-Aside, where the 2022-1 application was not withdrawn or terminated, and where the amount requested under the 2023-1 Annual NOFA is at or below the Regional Distribution amount for the Region.

**ii. Unfunded 2022-1 Applications:** From January 2, 2023 to **February 2, 2023, at 5:00 pm Austin Local Time,** All eligible Applications submitted during this period and applications submitted during the Regional Distribution period but not recommended for an award due to lack of funding in the Region will have an Application Acceptance Date of February 2, 2023. The only eligible Applicant during this Application Acceptance Period is one that received an Application Acceptance Date under the 2022-1 Annual NOFA (regardless of whether the Application was later withdrawn or terminated), or that Submitted an Application under that NOFA but did not receive an Application Acceptance Date, where the amount requested under the 2023-1 Annual NOFA is at or above \$4,000,000, or an amount requested but not recommended for an Award under the Regional Distribution period. If an Applicant applies under the Regional Distribution amount and withdraws that Application or is terminated then that Applicant is not eligible to have an Application Acceptance Date under this Application acceptance period.

**iii. First Lien:** From February 6, 2023 to February 28, 2023, at 5:00 pm Austin Local Time. All eligible Applications submitted during this period will have an Application Acceptance Date of February 28, 2023, conditional upon being listed as first lien during the permanent period on the Sources and Uses tab. Any application submitted with their funding request listed in another position will not be accepted as this time.

iv. **Open Applications: Starting on March 1, 2023**, all eligible Applications will have an Application Acceptance Date on the business date of receipt ending at 5:00 pm Austin Local Time

**b. CHDO/ HOME Application Period:** The first application period for Community Housing Development Organizations requesting HOME funds is January 2, 2023 until January 31, 2023 at 5:00 pm Austin Local Time. All eligible Applications submitted during this period will have an Application Acceptance Date of January 31, 2023. Applications after this date will have an Application Acceptance Date on the business day of receipt ending at 5:00 pm Austin Local Time.

b. **Priorities:** Within each of the above Application acceptance periods, except the Regional Distribution period, staff will determine application priority based upon three clearly delineated criteria. The order of reviews and eventual funding will first be based upon Priority 1. Staff will move on to Priorities 2 and 3 only if a tie occurs and each Application cannot be funded. During the Regional Distribution Application Acceptance Period, Priorities 2 and 3 will be used.

i. **Priority 1:** Staff will first prioritize applications with the same Application Acceptance Date based upon the amount of HOME or NHTF funds requested. Staff will give precedence to applications requesting larger amounts.

ii. **Priority 2:** If multiple applications with the same Application Acceptance Date cannot be funded, staff will score each in accordance with **10 TAC §13.6** and give precedence to the higher scoring application, including the listed tie-breaker.

iii. **Priority 3:** If a tie persists, staff will fund the application that provides a higher match percentage of the Direct Loan funds requested.

#### (4) Loan Terms

a. **Product: Construction-to-Permanent Loans.** All Direct Loan Applications will be structured as construction-to-permanent loans. All products will reflect the interest rate listed in the table below.

**b. Interest Rates**

Set-Aside or Priority	Interest Rate
CHDO	2%

General	2%
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**c. Loan Structure.**

i. Except for Applicants proposing a Federal Housing Administration (FHA) loan, funds must be requested as **Fully Amortizing Loans**. Loans will be structured with regular principal and interest payments sufficient to fully repay the loan within the loan term.

ii. For Applicants proposing an FHA-insured senior loan subject to the MAP Guide, loan payments will be calculated using 75% of Surplus Cash, as defined by FHA. Any portion of the loan not repaid will be due the earlier of the end of the Loan Term or upon sale, refinance, or transfer of the Property.

**d. Underwriting Limitations.** If an Application features a Debt Coverage Ratio below the stated minimum the underwriter **will not** make adjustments to the financing structure in accordance with **10 TAC §11.302(d)(4)(D)(i)**.

**(5) Maximum Per-Unit Subsidy Limits and Maximum Rehabilitation Per-Unit Subsidy Limits.**

The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the 2023 Maximum Per-Unit Subsidy Limits table provided in this Section 5:

<b>2023 Maximum Per Unit Subsidy Limits<sup>4</sup></b>		
<b>Bedrooms</b>	<b>Non-elevator property</b>	<b>Elevator-served property</b>
0 bedroom	\$170,777	\$179,722
1 bedroom	\$196,911	\$206,023
2 bedroom	\$237,481	\$250,530
3 bedroom	\$303,987	\$324,105
4 bedroom or more	\$338,652	\$355,765

<b>2023 Maximum Per Unit Rehabilitation Subsidy Limits<sup>5</sup></b>		
<b>Bedrooms</b>	<b>Non-elevator property</b>	<b>Elevator-served property</b>

<sup>4</sup> If these limits are updated prior to expiration of this NOFA, the Department will provide notice via its website and revise the NOFA accordingly, and then will accept Applications based on the updated limits. Applications pending at the time of such revision will be given opportunity to revise their Application without impact to Application Acceptance Date. These limits are inclusive of any federal fund sources in the Development, as applicable.

<sup>5</sup> If these limits are updated prior to expiration of this NOFA, the Department will provide notice via its website and revise the NOFA accordingly, and then will accept Applications based on the updated limits. Applications pending at the time of such revision will be given opportunity to revise their Application without impact to Application Acceptance Date. These limits are inclusive of any federal fund sources in the Development, as applicable.

0 bedroom	\$56,922	\$61,488
1 bedroom	\$64,617	\$70,490
2 bedroom	\$78,107	\$85,717
3 bedroom	\$98,036	\$110,887
4 bedroom or more	\$110,779	\$121,723

Smaller per unit subsidies are allowable and incented as point scoring items in **10 TAC §13.6**. Once the Applicant commits a number of Direct-Loan Units in the Application, the number may be raised or lowered only in the Department’s sole discretion and provided that it would not have impacted the award of an application, to account for a change in Development costs or to account for other federal funding.

**(6) Accommodations for Unique Circumstances**

If the Department deems an Application to be better suited for another fund source in this NOFA or other Department multifamily NOFA, the Department will provide the Applicant a fourteen calendar day period (which may be extended another fourteen days for information required from third parties) to provide the supplemental information needed to evaluate the Application under that fund source without impact to the Application Acceptance Date.<sup>6</sup>

**(7) Application Submission Requirements**

- a. Application Acceptance Period. Applications under this NOFA will be accepted starting at 8:00 a.m. Austin local time on January 2, 2023, through October 31, 2023 at 5:00 p.m. Austin local time (if sufficient funds remain).** An Applicant may have only one active Application per Development at a time under this or any other Department NOFA, and may only have that Development apply under one Set-Aside at a time.
- b. Application Submission Materials.** All Application materials including manuals, NOFAs, program guidelines, and rules will be available on the Department’s website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us). Applications will be required to adhere to the requirements in effect at the time of the Application submission including any requirements of federal rules that may apply and subsequent guidance provided by HUD.
- c. Application Forms.** An Application must be on forms provided by the Department, and cannot be altered or modified, and must be in final form before submitting it to the Department. An Applicant must submit the Application materials as detailed in the Multifamily Programs Procedures Manual (Manual) in effect at the time the Application is submitted. All scanned copies must be scanned in

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<sup>6</sup> However, the Applicant will not be given an Application Acceptance Date earlier than what could have been applied for under this NOFA or other Department NOFA.

accordance with the guidance provided in the Manual in effect at the time the Application is submitted.

**d. Match Submission Requirements.**

- i. All Applicants must provide Match in the amount of **at least 7.5%** of the Direct Loan funds requested. Except for Match in the form of the net present value of a below market interest rate loan or a property tax exemption under Sections 11.111, 11.18, 11.181, 11.182, 11.1825, or 11.1827 of Texas Property Tax Code, Match must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of Direct Loan funds.
- ii. All Applicants will be required to provide HOME Match-Eligible Unit(s) in accordance with **10 TAC §13.2(a)(6) and §13.10(c)** and federal guidance at <https://www.hudexchange.info/resource/2676/notice-cpd-97-03-home-programmatch-guidance/>

**e. CHDO Applicants.** The 2023 CHDO Certification Packet must be submitted with the 2023 Uniform Multifamily Application for Applicants applying under the CHDO Set-Aside.

- i. Each CHDO that is awarded HOME funds may also be eligible to receive a CHDO operating grant of up to \$50,000 for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and Page 12 of 17 benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies.
- ii. An award of HOME funds under the CHDO Set-Aside does not guarantee that a CHDO will receive a grant for CHDO Operating Expenses.

**f. Bond Reservation.** All 4% HTC-layered applications must provide evidence of a Reservation with submission of the MFDL Application submission.

**g. Limitations for Previous Department Applicants.**

- i. The amount of funding that may be requested is limited to: the documented increase in Building Costs and Site Work from the previous Application, within the limitations of **10 TAC §13.3(e)** related to Ineligible Costs; the documented costs of compliance with regulations at 24 CFR Part 92 and 93 (that are not already required by the funding sources identified as part of a previous HTC award); and the documented costs of compliance



with the Uniform Relocation Act/104d (that are not already required by the funding sources identified as part of a previous HTC award).

- ii. The Developer Fee may not increase, and the deferred Developer Fee may not decrease from the latest Real Estate Analysis report.
- iii. If an applicant has previously been approved for MFDL funding, they may only request additional funds from the same source as the original award. HOME awardees may not request NHTF funding, nor can NHTF awardees request HOME funding.

#### **h. Environmental Clearance**

- i. For HOME, a choice-limiting action may not have occurred, except for site acquisition that was completed before the contemplation of the submission of the multifamily application, except where the Application has prior environmental clearance under 24 CFR Part 50 or Part 58, and where the prior 24 CFR 50 or 58 "Responsible Entity" agrees in writing by the Application Acceptance Date, to make a determination of supplemental funding or perform a re-evaluation of the original review.
- ii. For NHTF, if construction has started (except for necessary health and safety repairs) the Applicant must cease construction at application submission until environmental clearance is received, a period which could last 120 or more days; Applications will not be recommended for an award if they do not meet Department standards for environmental clearance.

#### **i. Waivers for Regional Distribution and Unfunded 2022-1 Applications.** Texas Administrative Code Waivers:

- i. 10 TAC §11.101(a)(2) related to Undesirable Risk Features, so long as that the undesirable feature was disclosed at original Application and does not impact Environmental or Site and Neighborhood review;
- ii. 10 TAC §11.01(a)(3)(B)(iv) related to schools, including disclosure requirements, to the extent that the risk factor was disclosed at original Application;
- iii. 10 TAC §13.1(c)(1) related to Waivers for Layered Developments, instead Applicant requested Waivers will be treated under 10 TAC §13.1(c)(2);
- iv. 10 TAC §13.4(s)(1)(A)(ii)(III) related to 30% units restricted by Housing Tax Credits;
- v. 10 TAC §13.5(c) related to Market Analysis; 10 TAC §13.5(h)(2) and (3)(A)-(C) related to eligibility determinations;

**j. Waivers for Prior Department Funded Applications.**

- i. 10 TAC §13.5(i) related to Effective Rules, only to the extent that the requirements of the applicable 2020, 2021, or 2022 QAP requirements for prior HTC or Multifamily Direct Loan awards will instead be utilized for 10 TAC §11.101(4) Mandatory Development Amenities, 10 TAC §11.101(5) Common Amenities, 10 TAC §11.101(6) Unit Requirements, and 10 TAC §11.101(7) Resident Supportive Services.

- k. **Application Fee.** An Applicant under the General or CHDO Set-Aside who is not simultaneously applying for 9% or 4% Housing Tax Credits is required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$1,000.00 per Application, unless exempted as described at **10 TAC §11.901(3)(B)**. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Tex. Gov't Code §2306.147(b) requires the Department to waive Application fees for private 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 a reimbursable cost under the Multifamily Direct Loan Program.

- l. **Application Transmittal Required Steps.** An Application must be uploaded to the Department's secure web transfer server in accordance with **10 TAC §11.201(1)(C)**, and separate email notification must be made to [connor.jones@tdhca.state.tx.us](mailto:connor.jones@tdhca.state.tx.us)

**(8) Post Award Requirements.** Applicants are strongly encouraged to review the applicable Post Award requirements in 10 TAC Chapter 10, Subchapter E, Post Award and Asset Page 14 of 17 Management Requirements and 10 TAC Chapter 13, as well as the Compliance Monitoring requirements in 10 TAC Chapter 10, Subchapters F and G.

- a. Awarded Applicants may, at the Department's discretion, be charged fees for underwriting, asset management, and ongoing monitoring.
- b. An Applicant will be required to record a Land Use Restriction Agreement (LURA) limiting residents' income and rent for the greater amount of Units required by the Direct Loan Unit Calculation Tool along with any require HOME Match-eligible units, or as represented in the Application for the term of the LURA.
- c. An Applicant must have a current Unique Entity Number (UEI) and be registered in the federal System for Award Management prior (SAM) prior to execution of a Direct Loan contract. The General Services Administration (GSA) has provided

tools to assist registering entities entity and obtaining a UEI. Visit the SAM website at <https://sam.gov/content/entity-registration> to access a number of resources related to the UEI implementation. Once an Applicant has a UEI register with the SAM.

- d. An Applicant may be required to meet additional requirements prior to contract, as determined by the Board, or federal or state requirements.
- e. An awarded Applicant may be required to meet additional documentation requirements in order to draw funds, in accordance with its Previous Participation results.

#### **(9) Miscellaneous**

- a. This NOFA does not include text of the various applicable regulatory provisions pertinent to the fund sources. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations.
- b. Utility allowances must be for HUD-regulated buildings and approved by TDHCA prior to application (**10 TAC §11.614**).
- c. All Applicants must comply with public notification requirements in **10 TAC §11.203**.
- d. Waivers of any substantive or procedural provision of this NOFA, if available, will be treated in accordance with **10 TAC §13.1(c)**. **10 TAC §13.1(c)** may not be waived.
- e. For questions regarding this NOFA, please contact Connor Jones, Multifamily Direct Loan Program Manager, at [connor.jones@tdhca.state.tx.us](mailto:connor.jones@tdhca.state.tx.us).

**Attachment A**

**NHTF Regional Distribution under the General Set-Aside**

**NHTF**

<b>Region</b>	<b>Region Distribution Amount</b>
1	\$1,253,394
2	\$725,205
3	\$10,327,086
4	\$1,721,142
5	\$1,346,753
6	\$10,028,691
7	\$3,032,331
8	\$2,021,225
9	\$4,020,224
10	\$1,238,312
11	\$4,469,605
12	\$848,106
13	\$1,605,525