

# HOME Investment Partnerships Program Single Family 2012 Rules Changes

Administered by



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# Single Family HOME - 2012 Rules Changes

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- This presentation addresses recent changes made to rules governing Texas Department of Housing and Community Affairs (the Department) under Title 10 of the Texas Administrative Code (10 TAC)
- Changes to 10 TAC became effective November 1, 2012, and are referred to as the “2012 Rules”
  - HOME Contracts and Reservation Agreements awarded on or after November 1, 2012, are subject to the 2012 Rules
  - Administrators of existing HOME contracts less than 12-months old may opt in to 2012 Rules

# Background – TDHCA Organizational Changes

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- In 2012, the Department adopted organizational changes and a new Single Family (SF) business model. The intent of our new business model is to:
  - Improve access to SF programs
  - Promote consistency among the Department's various SF programs
  - Increase efficiency
  - Improve coordination among SF programs and Department divisions
  - Improve delivery and distribution of programs and products
- 10 TAC was re-structured in order to better accommodate organizational changes and promote Departmental consistency
  - Umbrella Rules – regulations common to all SF programs
  - Program Rules – regulations specific to a particular SF program

# Background – TDHCA Organizational Changes

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- 2012 10 TAC - HOME Program is subject to:
  - Umbrella Rule – Chapter 20
    - Identifies rules that are applicable to all Single Family (SF) programs
  - Program Rules – Chapter 23
    - HOME SF rules relocated to Chapter 23
  - Administration – Chapter 1
  - Compliance – Chapter 60
- Find 10 TAC at: <http://www.tdhca.state.tx.us/>

# SF Umbrella Rules – 10 TAC, Chapter 20

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## Overview of the Single Family Umbrella Rule – Chapter 20

# Purpose and Applicability – Sections 20.1 and 20.2

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- Section 20.1 – Purpose - Umbrella Rules address elements common to all SF programs administered by the Department:
  - HOME Program (HOME)
  - Housing Trust Fund (HTF)
  - Bond/First Time Homebuyer (FTHB)
  - Taxable Mortgage Program (TMP)
  - Neighborhood Stabilization Program (NSP)
  - Office of Colonia Initiatives (OCI)
  - Other SF programs to be developed by the Department
- In the event Program Rules conflict with Umbrella Rules, the requirements of the Umbrella Rules will control program decisions.
- Section 20.2 – “Applicability” - Program Rules may impose additional requirements

# Definitions – Section 20.3

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- Section 20.3 – Definitions - terminology and definitions have been standardized across all SF programs. Terms changed or added include:
  - Activity
    - The form of assistance provided to a household:
      - Homeowner Rehabilitation Assistance (HRA)
      - Homebuyer Assistance (HBA)
      - Tenant-Based Rental Assistance (TBRA)
    - *Change: “Activity” was also previously used to identify a specific address*
  - Administrator
    - Entity which executed written Agreement or Contract with the Department
    - Same as Subgrantee or Subrecipient
    - *Change: Previously referred to as Contract Administrator*

# Definitions – Section 20.3

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- Housing Contract System (HCS)
  - TDHCA online electronic reporting system
  - *Change: Previously referred to as Contract Database System (CDB)*
- Person with Disabilities (PWD)
  - Any person who has a physical or mental impairment that substantially limits one or more major life activity and has a record of such impairment
  - *Change: Previous Rules did not specifically define PWD*
- Reconstruction
  - Demolition and rebuilding of a SF unit on the same lot in substantially the same manner
    - Number of housing units on the lot may not be increased
    - Number of rooms may be changed
  - Includes replacing a Manufactured Housing Unit (MHU) with a new MHU or a site-built house
  - *Change: Previous Rules did not specifically define*



# Eligibility Requirements – Sections 20.4 thru 20.8

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- No changes were made to eligibility requirements. The HOME Program Rules specifically address all the requirements identified in these Umbrella Sections:
  - Section 20.4 – Eligible SF Activities
  - Section 20.5 – Funding Notices used for making funds available to eligible Administrators
  - Section 20.6 – Applicant Eligibility requirements for entities applying for funding
  - Section 20.7 – Household Eligibility Requirements
  - Section 20.8 – SF Unit Eligibility Requirements

# General Administration – Section 20.9

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- Section 20.9 – General Administration and Program Requirements
  - Travel reimbursement to Administrators is now based on U.S. General Services Administration (GSA) per diem rates
    - *Change: Previous Rules permitted the Administrator to define reimbursement policies*

# Inspections for Construction Activities – Section 20.10

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- Section 20.10(a) - Initial Inspections
  - (1) Must provide copies to the Department and the homeowner or homebuyer
    - *Change: Previous requirements did not include providing copy to homeowner or homebuyer*
  - Reconstruction threshold: a Rehabilitation Project becomes eligible for Reconstruction if the initial inspection estimates the repair costs to exceed \$40,000 or pre-rehabilitation value, whichever is less
    - *Change: Previous rehab limit was \$30,000*
    - *Change: Use assessed tax valuation as pre-rehab value*
  - (2) Rehabilitation Projects: all deficiencies identified in the initial inspection must be addressed in the work write-up
    - *Change: Previous Rules did not specify*

# Inspections for Construction Activities – Section 20.10

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- Section 20.10(b) – Final Inspections
  - (1) Final inspection must verify compliance with accessibility requirements at Texas Government Code 2306.514
    - *Change: Previous Rules did not require final inspection to include written verification of compliance with accessibility requirements*
    - (1)(A) Must provide copy of proposed plans and specifications which are:
      - Prepared and signed by an architect; or
      - Include written certification of compliance with accessibility requirements, signed and stamped by an architect
      - *Change: Previous Rules did not require submittal of plans/specs or certification of accessibility compliance*
  - (3) Provide copy of final inspection to the Department and the homeowner
    - *Change: Previous Rules did not require providing copy to homeowner*

# Inspections for Construction Activities – Section 20.10

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- (4) Provide a Certificate of Occupancy (CO) with retainage draw request
  - If no CO is available from the area, provide a document from the local government entity verifying the unit has passed all applicable building codes
  - *Change: Previous Rules did not require submittal of CO*

# Inspections for Construction Activities – Section 20.10

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- Section 20.10(c) – Professional Inspectors and Qualified Inspectors
  - All initial and final inspections must be completed by a professional inspector or a qualified inspection individual
    - *Change: Previous Rules did not address “professional” or “qualified” requirements*
  - If Project is located inside city limits and/or extraterritorial jurisdiction (ETJ), ensure the municipal code official has conducted inspections for compliance with applicable code
    - *Change: Previous Rules did not address inspection by municipal officials*
- Professional home inspector:
  - Has received current and comprehensive training which enables him/her to conduct effective construction inspections
    - Retain documentation of training certification in file
    - Texas Real Estate Commission (TREC) inspection certificate is acceptable evidence of such training
    - *Change: Previous Rules did not define “professional” inspector*

# Inspections for Construction Activities – Section 20.10

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- Qualified home inspection individual:
  - Individual who has professional certifications, relevant education, or minimum 5 years experience in a field directly related to residential construction, including but not limited to:
    - Installing
    - Servicing
    - Repairing or maintaining
    - Mechanical
    - Plumbing
    - Electrical
    - Evidenced by inspection logs, certifications, training courses or other documentation
    - Administrator must certify individual is qualified
    - *Change: Previous Rules did not define inspector qualifications*

# Inspections for Construction Activities – Section 20.10

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- Section 20.10(d) – All inspectors must:
  - Utilize Department-approved inspection forms and checklists
    - *Change: Previous Rules did not specify use of Department-approved forms*



# Surveys for Acquisition Activities – Section 20.11

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- Section 20.11 – Surveys are required when HOME assistance provided is an acquisition mortgage where:
  - The Department is 1<sup>st</sup> lien holder (e.g. CFDC, SFD, HRA with Refinance); **and**
  - Department funds are used for:
    - Enlarging the home's footprint; or
    - Reconstruction or new construction
- (1) Provide a “Category 1A Survey” (Texas Society of Professional Surveyors)
  - Existing surveys may be used if allowed by the Program Rules
    - Household must certify no changes were made to the property
- (2) The Department may also require a survey if it is determined necessary and would benefit the Project
- *Change: Previous Rules did not require surveys*

# Insurance for Acquisition Activities – Section 20.12

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- Section 20.12 – Insurance applicable to acquisition activities with non-conforming Department mortgage loans
  - Non-conforming loans are 1<sup>st</sup> lien loans for acquisition and construction applicable to:
    - Single Family Development (SFD)
    - Contract for Deed Conversion (CFDC)
    - Homeowner Rehabilitation Assistance (HRA) with Refinance
  - (a) Title Policies: A mortgagee title policy must be provided
    - Policy must be in the amount of the loan
    - Mortgagee: Texas Department of Housing and Community Affairs
    - *Change: Previous Rules did not address title policy requirements for these Activities*
  - (c) Builder's Risk: Required where acquisition and construction is financed by Department
    - *Change: Previous Rules did not specify builder's risk insurance*

# Insurance for Acquisition Activities – Section 20.12

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- (e) Flood insurance must be maintained for all structures located in flood hazard areas
  - Department must be named as loss payee on the policy
    - *Change: Previous Rules did not specify Department as loss payee*
  - Evidence of coverage must be provided to the Department
    - *Change: Previous Rules did not require evidence of coverage be provided to the Department*

# Loan, Lien, Mortgage Requirements for Acquisition – Section 20.13

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- Section 20.13 – Applies to non-conforming loans
  - (f) Escrow Accounts
    - Escrow accounts for taxes, and hazard insurance must be established when the Department is in first lien position and the HOME loan requires monthly payments.
    - The Department may require escrow accounts when in a subordinate lien position if the first lien does not require escrow.
    - Applicable to SFD and HRA with Refinance

# Amendments and Modifications to Agreements – Section 20.14

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- Section 20.14(b) – Requesting contract amendments and/or modifications
  - Time Extensions: Division Director may grant up to a cumulative 12-month extension
    - Provide an explanation of the need for the time extension identifying any unusual, un-foreseeable or extenuating circumstances
    - If more than 12-months are requested, or if there are no unusual circumstances, the request must be approved by the Board
    - *Change: Previous Rules permitted Director approval for 6-month extensions*

# Sanctions and Deobligation – Section 20.15

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- Section 20.15 – Sanctions (other than debarment) and deobligation remedies identified in other provisions of 10 TAC will apply to all SF Activities.
  - *Change: Previous Rules did not specifically tie SF programs to other program provisions related to sanctions and deobligation*

# HOME Program Rules – 10 TAC, Chapter 23

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## Overview of 2012 HOME Program Rules – Chapter 23

- *General Guidance*

# Definitions for SF HOME – Section 23.2

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- Section 23.2 – Additions to HOME definitions include:
  - (7) Direct Project Costs – the TOTAL of all costs applicable to a Project
    - HRA – hard construction costs and match
    - HBA – acquisition costs and closing costs
    - TBRA – rental subsidy, utility subsidy, and deposit subsidy
    - CFDC – acquisition costs, closing costs, hard construction costs and match
    - *Change: Previous Rules did not include this terminology*
  - (15) Project – a single housing unit with a unique physical address
    - *Change: Previous Rules did not include this terminology*



# Applying for HOME Funds – Sections 23.20 thru 23.24

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- No changes were made to requirements for applying for HOME funds.
  - Section 23.20 – Availability of Funds and Regional Allocation Formula (RAF)
  - Section 23.21 – Application Forms and Materials and Deadlines
  - Section 23.22 – Contract Award Application Review Process
  - Section 23.23 – Reservation System Participant Review Process
  - Section 23.24 – General Threshold and Selection Criteria

# Contract Award Limitations – Section 23.25

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- Section 23.25 – Contract Award Limitations
  - (a) Project Funds Limit: Project funds for contract awards are limited to:
    - *Change: Increased HRA and CFDC maximums by \$10,000*

Activity	Maximum Award
Homeowner Rehabilitation (HRA)	\$510,000
Contract for Deed Conversion (CFDC)	\$510,000
Homebuyer Assistance (HBA)	\$300,000
Tenant-Based Rental Assistance (TBRA)	\$300,000

# Reservation System Participant (RSP) Agreements – Section 23.26

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- Section 23.26 – Extremely low-income ( $\leq 30\%$  AMFI) households
  - (c) RSP must serve at least one 30% AMFI household out of every 4 households submitted for assistance
  - For counties in which the area median income is lower than the statewide median income, the statewide extremely-low income limit may be used
    - Does not apply to Disaster Relief, HBA, or SFD awards
    - *Change: Previous Rules did not permit use of statewide 30% limit for these low-AMFI counties*
    - *Effective date: May 24, 2013*

# Reservation System Participant (RSP) Agreements – Section 23.26

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- Section 23.26(d) – Match for RSPs
  - Match waiver is extended to December 31, 2013 for “automatically required” match
    - Match included in the Application for funding in order to meet Application threshold requirements *is not waived*
    - Example: The automatic match for City of Somewhere, population 12,000, is 12%. However, in order to meet the funding Application threshold, the City must provide 14% match. The automatic match waiver allows the City to provide only the 2% difference and still meet the threshold requirements for Application.
    - *Change: Extended waiver date to December 31, 2013*
    - *Change: Previous Rules did not specify that if match was included in the Application in order to meet threshold criteria, then the waiver does not apply*

# General Administrative Requirements – Section 23.28

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- Section 23.28 – Administration of HOME funds
  - (10) – Updated income eligibility requirements for TBRA
    - *Change: Deleted the requirement for interim revisions for TBRA households who experience an increase of income*
    - Note: Annual recertification of income is still required.
  - (15) – Project Completion Report (PCR) data must be submitted within 60 days after completion of the Project
    - *Change: Previous Rules permitted 30 days*
    - Note: PCR data is submitted electronically in the HCS

# Resale and Recapture – Section 23.29

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- Section 23.29 – Resale and recapture provisions have been relocated into this separate section
  - (b) Describes the recapture method which the Department has elected for Projects requiring a federal period of affordability.
    - Federal affordability period is usually required with deferred loans, and sometimes with repayable loans.
  - (d) and (e) – Describes the method the Department has chosen to ensure state imposed period of affordability is met.
    - Always the case with grants, and sometimes with repayable loans.
  - If the Administrator offers deferred loans instead of grants, then the deferred loan may be subject to either 23.29(b) OR 23.29(d)-(e).
  - Resale: Resale provisions at 23.29(c) are not applicable to any SF HOME Program currently administered by the Department

# HOME Program Rules – 10 TAC, Chapter 23

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## **Overview of 2012 HOME Program Rules – Chapter 23**

- *Homeowner Rehabilitation Assistance (HRA) Activity*

# HRA Program Threshold and Selection Criteria – Section 23.30

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- Section 23.30 – HRA Application threshold requirements
  - (1) Match – Requirements for automatically required match are waived until December 31, 2013.
    - Match included in the Application for funding in order to meet Application threshold requirements *is not waived*
    - *Change: Extended waiver date to December 31, 2013*
    - *Change: Previous Rules did not specify that if Match was included in the Application in order to meet threshold criteria, then the waiver does not apply*



# HRA Program Threshold and Selection Criteria – Section 23.30

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- (A) Defines “automatic match” tiered requirements

Tiered Match Requirements for 2012 Rules		
POPULATION		
City < 5,000 Unincorporated Area < 25,000	City >= 5,000	Unincorporated Area >=25,000
0% of Project funds (NO MATCH REQUIRED)	1% of Project funds for every 1,000 persons, to maximum of 12%	1% of Project funds for every 10,000 persons, to maximum of 12%
<i>Change: Previous Rules 0% was only permitted for populations of 3,000 (cities) and 20,000 (unincorporated areas)</i>	<i>Change: Previous Rules required 10% for populations 3,001-5,000</i>	<i>Change: Previous Rules required 10% for populations of 20,001-75,000</i>  <i>Change: Previous Rules required 12.5% for all other applications</i>

# HRA Program Requirements – Section 23.31

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- Section 23.31(a) – HRA Project eligibility requirements
  - (3) Replacement with an MHU or new construction of site-built housing on another site is contingent upon written approval of the Department
    - *Change: Previous Rules did not specify written Department approval*
  - (4) Uninhabitable housing – Household may be eligible for HRA if the housing unit is uninhabitable as a result of:
    - Disaster; OR
    - Condemnation by the local unit of government; OR
    - Housing conditions pose imminent threat to life, health, or safety of its occupants, as determined by local unit of government
      - Housing unit must have been household's principal residence, as evidenced by homestead exemption with local taxing authority
    - *Change: Previous Rules permitted only disaster or condemnation by local government*
    - *Effective date: May 24, 2013*

# HRA Program Requirements – Section 23.31

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- Section 23.31(d) – HRA Direct Project Cost limits
  - Calculation of maximum Direct Project Cost excludes match
    - *Change: Previous Rules required inclusion of match in the Project cost limit*
  - (1) Reconstruction and new construction of site-built housing:
    - Lesser of \$78 per square foot or \$85,000; or
    - For households with 6 or more persons: Lesser of \$78 or \$90,000
    - *Change: Previous Rules maximums \$73 / \$80,000, and \$73 / \$85,000*
  - (3) Reconstruction threshold: a Rehabilitation Project becomes eligible for Reconstruction if estimated repair costs exceed \$40,000 or pre-rehabilitation value, whichever is less
    - *Change: Previous Rules maximum \$30,000*
    - *Change: Use assessed tax valuation as pre-rehab value*

# HRA Program Requirements – Section 23.31

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- Section 23.31(f) – HRA Project soft costs limits
  - (1) Reconstruction and new construction: \$9,000
    - *Change: Previous Rules maximum \$7,000*
  - (4) Third-party soft costs are not limited (must be reasonable)
    - *Change: For HRA, “closing costs” are referred to as “third-party costs”*

# Program Requirements – Section 23.31

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- Section 23.31(h) – Loans
  - Loans for households with >60%-80% AMFI will be REPAYBLE over a 30-year term, but the affordability period will be based on 24 CFR 92.254
    - *Change: Previous Rules required repayment term of 15 years (same as the affordability period)*

Loans and Affordability Periods		
Household Income	Type	Affordability Period
<=30% AMFI	Grant or deferred, forgivable loan	5 years
>30% and <= 50%	Grant or deferred, forgivable loan	10 years
>50% and <=60%	Grant or deferred, forgivable loan	15 years
>60% and <=80%	Repayable Loan - <b>term 30 years</b>	<b>15 years</b>

# HRA Program Requirements – Section 23.31

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- Section 23.31(i) – HRA with Refinance - Debt-to-Income (DTI) ratios
  - Front-end ratio 20%: The loan term for the portion of HOME funds used for refinancing is based on a house payment amount at least 20% of the household's gross monthly income. The loan term shall not exceed 30 years.
    - *Change: Previous Rules required 25% of gross monthly income*
    - *Change: Previous Rules did not specify maximum repayment term*
  - Back-end ratio 45%: The percentage of the household's income that goes toward payment of debt may not exceed 45%.
    - *Change: Previous Rules did not specify back-end ratio for refinance Activities*

# HRA Administrative Requirements – Section 23.32

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- Section 23.32(a) – Submitting an HRA Project setup request
  - (4) Submit the Intake Application form prescribed by the Department
    - *Change: Previous Rules did not require use of Department's forms*
  - (12) For assistance provided in the form of a grant, a title report may be submitted in lieu of a title commitment
    - *Change: Previous Rules did not permit title reports*
  - (14) Submit an appraisal which establishes the after-rehabilitation or after-reconstruction value of the assisted property
    - Provide an “as-built” appraisal based on construction plans
    - *Change: Previous Rules did not require appraisals*

# HRA Administrative Requirements – Section 23.32

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- Section 23.32(b) – Updated title commitments
  - (1) If expires prior to closing, must be updated at closing and must not have adverse changes
    - Note: An update to an expired title report is not required for grants
    - *Change: Previous Rules required updated title commitments prior to closing*



# HRA Administrative Requirements – Section 23.32

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- Section 23.32(c) – Disbursement of HRA funds
  - (1) For Loans: provide down-date endorsement with draw requests
  - (2) For Grants: provide either a down-date endorsement or lien release
    - *Change: Previous Rules did not permit lien releases*
  - Note: 2012 Rule cites “lien waivers” but the statutorily required “lien releases” must be submitted. Available online at:  
[http://www.tdhca.state.tx.us/home-division/forms/home\\_forms\\_hra.htm](http://www.tdhca.state.tx.us/home-division/forms/home_forms_hra.htm)
  - (8) Administrative funds: Draws for Admin funds must be proportionate to the amount of Direct Project Costs already disbursed
    - *Change: Previous Rules permitted a 10% up-front Admin draw*

# Single Family HOME - 2012 Rules Changes

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**Thank you for participating in today's webinar!**

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