

1. Environmental

- a. Would an applicant owning the land, which is being proposed to be developed, for several years prior to application constitute a choice limiting action?
No, an applicant owning the land, which is being proposed to be developed, for several years prior to application would not constitute a choice limiting action.
- b. Would environmental clearance be needed in the event that TCAP Repayment Funds (TCAP RF) are awarded?
Environmental clearance may be required in the event that TCAP RF are awarded. The Department may choose to place HOME restrictions, including environmental clearance, on some TCAP RF awarded applications in order to count the full value of TCAP RF as Match. Applicants should assume that HOME funds will be awarded and should likewise be prepared to comply with the applicable regulations.
- c. How would environmental clearance requirements impact an application that is already under construction?
It would be very difficult to put Multifamily Direct Loan funds into a project that has already started due to the Environmental requirements. HUD requires that all work stop until the environmental review is completed. In addition, regardless of whether HOME or TCAP RF is awarded, we would have to receive a title policy without exception for construction already started – in general title companies will require that work stops for 30 days and lien waivers from all parties be presented before they will insure.
- d. Will environmental clearance that I received in connection with other federal funding be sufficient for TDHCA environmental clearance? **No, much of the information gathered for the other review may be utilized for HUD's part 58 review but there are certain elements known as the HUD environmental standards that are unique to the Part 58 review including Airport Clear Zones, Noise, Explosive and Flammable as well as contamination and hazards. Another piece that must be met is the need for publication and public comment utilizing HUD's notification templates.**
- e. Will transferring the property from the parent developer organization (ie: Texas Development Company, LLC) to the newly-formed single asset entity (ie: Texas Development Company Austin, LP) between the time of application and the time of Multifamily Direct Loan closing be a choice limiting action? **YES, HUD considers this transfer to be a transaction and as such it would trigger a choice limiting action.**

2. Underwriting

- a. What would the affordability period and loan term be for an application awarded under the Deferred Forgivable Loan set-aside?
The affordability period is a minimum of 30 years and potentially up to 40 years if there is a superior loan with a loan term greater than 30 years. The loan term will likewise be at least 30 years and potentially up to 40 years. For example, with a 30 year loan term, the multifamily direct loan amount will be forgiven 1/30 annually. An application awarded under the Deferred Forgivable set-aside that has a superior loan with a loan term of less than 30 years OR that has no foreclosable debt would have a Deferred Forgivable loan term of 30 years and an affordability period of 30 years.

- b. Will the minimum 1.15 and maximum 1.35 Debt Coverage Ratio be imposed on applications submitted under the Deferred Forgivable Loan Set-Aside that meet the requirements in 3)b.ii. A-D of the NOFA?
Yes, for applications submitted under the second part of the Deferred Forgivable Loan Set-Aside, the minimum and maximum debt coverage ratios will apply. Minimum and maximum debt coverage ratios will not apply to applications submitted under the first part of the Deferred Forgivable Loan Set-Aside; those applications that meet the definition of Supportive Housing in 10 TAC §10.3(a)(125) and the underwriting requirements in 10 TAC §10.302(g)(3).
- c. Would the Department consider awarding funds as a permanent loan only rather than the typical construction-to-permanent loan?
While there is no prohibition on the Department awarding Multifamily Direct Loan funds as a permanent loan to take out construction financing in state rules or in the NOFA itself, the federal rule at 24 CFR 92.206(g) states that if HOME funds are used to “pay off a construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if the loan was used for eligible costs specified in this section and the HOME assistance is part of the original financing for the project and the project meets the requirements of this part.” Also, we are unsure of how cross cutting federal regulations such as Environmental, Davis-Bacon, Uniform Relocation Act, and Section 3 would apply retroactively after construction is complete. If the project is subject to Davis Bacon (12 or more HOME units), construction must not begin until release of Notice to Proceed, which locks-in Department of Labor (DOL) prevailing wage mandates. If the project is subject to special circumstance, approval must be obtained from HUD Office of Labor Enforcement, which is extremely difficult to attain. Furthermore, the ability for mechanics liens to be filed prior to closing on the Multifamily Direct Loan would make the Department reluctant to award funds as a permanent loan only.
- d. Are all applications submitted under the Deferred Forgivable Loan Set-Aside prohibited from having 30% rent-restricted units receive any type of rental assistance?
No. Applications received under the first part of the Deferred Forgivable Loan Set-Aside – those that meet the definition of Supportive Housing in 10 TAC §10.3(a)(125) and the underwriting requirements in 10 TAC §10.302(g)(3) – may have 30% rent-restricted units that receive rental assistance as well.
- e. What is the minimum number of 30% AMI income and rent restricted units for applications that are not submitted under the Deferred Forgivable Loan Set-Aside?
There is no minimum number of 30% AMI units required if you are applying under the General, CHDO, or 4% HTC Layered Set-Asides. The only income and rent restriction requirements for these three set-asides are: 1) all Multifamily Direct Loan units must be at 80% AMI income/High HOME rent or less, 2) 20% of Multifamily Direct Loan units must be at 50% AMI income/ Low HOME rent or less, and 3) 90% of the Multifamily Direct Loan units must be at 60% AMI income/High HOME rent or less at initial occupancy. Also, there must be a proportional number of Multifamily Direct Loan units among the various unit types in a development. For example, in an 18 unit development composed of 6 1-bedroom units, 6 2-bedroom units, and 6 3-bedroom

units and in which there are 6 Multifamily Direct Loan units, 2 of each unit type should be a Multifamily Direct Loan unit.

3. Regional Allocation Formula/ Participating Jurisdictions

- a. If my development site is in a Participating Jurisdiction, is the TCAP RF amount the amount that is available to my application within my sub-region or is the Total Sub-Region Amount (HOME and TCAP RF) the amount that is available to my application in my sub-region?

The amount available to your application in this scenario is the total amount available in that particular sub-region. The Regional Allocation Formula (RAF) amounts will be available to applications submitted January 4, 2016 through January 29, 2016. After January 29th, all funds will collapse and be available on a statewide basis within each set-aside until June 1, 2016. For example, if we get two applications in Region 3 Rural between January 4th and January 29th, and one is requesting \$1,000,000 and the other is requesting \$500,000, we would fund the one requesting \$500,000 first since that application is below the \$535,483 available in that sub-region regardless of which application was received first. After 1/29/16, to the extent we still have funds available, we would fund the application requesting \$1,000,000. The RAF will not apply to 9%-layered applications.

- b. Should I assume that I will receive an award of TCAP RF and will therefore not have to comply with HOME requirements if my development site is in a Participating Jurisdiction?

No. You should assume that HOME funds will be awarded and should likewise be prepared to comply with the applicable regulations.

- c. Can I apply for TCAP RF if my development site is not in a Participating Jurisdiction?

You will apply for Multifamily Direct Loan Funds. The 2016 Multifamily Uniform Application no longer gives you the option of applying for HOME or TCAP RF. Applicants will be notified which funds they are going to be awarded prior to the Board meeting in which the application is recommended for an award.

4. Set-Asides

- a. I believe my organization would qualify as a CHDO for purposes of receiving a CHDO Operating Expenses Grant but I plan on submitting my application under the Deferred Forgivable Loan Set-Aside rather than the CHDO Set-Aside. Is this allowable?

No. 9c of the NOFA states "An Applicant may have only one active Application per Development at a time and may only apply under one set-aside at a time." In this scenario, you must choose either the CHDO Set- Aside or Deferred Forgivable Loan Set-Aside. Those applications submitted under the Deferred Forgivable Loan Set-Aside will not be able to pursue a CHDO Operating Expenses Grant.

5. Scoring

- a. How would scoring work if I am submitting an application that is composed of multiple development sites and only some of the sites score or score differently under the scoring criteria in the NOFA?

Staff will assess points based on the number of units at each development site as a percentage of the total units in the Development multiplied by the qualifying number

of points attributed to each development site. In addition, staff will round the result down to the nearest whole value.

6. Application and Third Party Reports

- a. What parts of the application do not need to be completed if I am *only* applying for Multifamily Direct Loan Funds?

If you are *only* applying for Multifamily Direct Loan Funds, you need to complete all parts of the application as applicable except the following:

Tab 1b (Meeting Selection)

Part 4 (Resolutions) of Tab 7 (Site Info Part I)

Tab 9 (Site Info Part II) unless you are claiming Opportunity Index points in Part 2

Part 3 (30% Increase in Eligible Basis Boost) of Tab 11 (Site Info Part III)

Part 8 (Qualified Low Income Housing Development Election of Tab 17 (Dev. Narr.)

Tab 19 (Development Activities II) unless you are claiming points for Tenant

Populations with Special Housing Needs in Part 5

Tab 34 (Finance Scoring)

Tab 36 (Sponsor Characteristics)

Tab 45 (Credit Limit Docs)

Tab 47 (Community Input)

- b. If our Multifamily Direct Loan application already has a file number from a previous 9% award for FTP upload purposes, can we use that file to upload our Multifamily Direct Loan application?

No, we will assign you a new file number for the Multifamily Direct Loan application and you will need to complete a new Electronic Filing Agreement.

- c. The NOFA language regarding points for Tenant Populations with Special Housing Needs is different than the language in Part 5 of Tab 19 of the 2016 Multifamily Uniform Application. Which document is correct for point scoring purposes?

Applications that qualify for points under A, B, or C of Part 5 of Tab 19 of the 2016 Multifamily Uniform Application will be eligible for 1 point for purposes of the NOFA.

- d. For the Site Design and Development Feasibility Report, if we are submitting an application for a project that already provided this report in connection with a previously awarded housing tax credit application and which is already under construction, do we still have to submit this report?

If the project is already under construction and you already provided this report in connection with a previously awarded housing tax credit application, you do not have to submit this report, although other requirements will apply (see responses at 1.c. and 2.c.). If the project has not started construction, you must submit this report even if it was already provided in connection with a previously awarded housing tax credit application and it should reflect everything that has transpired since the original report.

- e. Is the Required Third Party Reports section of the rule (10 TAC §10.205) applicable to all applications submitted under this NOFA? What if the application is for a project that already had its Third Party Reports reviewed and accepted by the Department as a result of application submission under a previously awarded 9% HTC application?

Yes. Furthermore, letters or updated reports for Third Party Reports older than what is required in 10 TAC §10.205 should reflect everything that has transpired since the original Third Party Report.