



NATIONAL LOW INCOME HOUSING COALITION

NLIHC's Summary of Texas' Draft HTF Allocation Plan Summary

State Designated Entity: Texas Department of Housing and Community Affairs (TDHCA)
\$4,778,364 HTF Allocation for 2016

NLIHC NOTE: Advocates obtained the draft HTF Allocation Plan on July 13, but as of July 19 it is not on the TDHCA website. The draft provided is vague and confusing because it uses part of HUD's voluntary Sample HTF Allocation Form (much of which is instruction to the state on how to change the computer template for the Five-Year Consolidated Plan and Annual Action Plan that is not needed by the public and can therefore be confusing to the public). After page 17 the draft inserts pages from Texas' 2016 Annual Action Plan and 2015-2019 Consolidated Plan with some HTF changes. Although these inserts show added language pertaining to HTF, they are confusing because they are presented out of context. Much of what is provided is not informative and repetitive. The page numbers of the Annual Action Plan and Consolidated Plan do not correspond with the pages of those documents posted on the TDHCA website. The 2016 Annual Action Plan is only available by key word search (it is not on the Plans and Records page).

Affordability

“Of **highest priority** in the evaluation of applications will be the creation of new units serving ELI households **that would not otherwise exist**. While the availability of project-based rental assistance will be considered, only applications that demonstrate the ability to meet underwriting requirements will be funded.” (page 12)

NLIHC: The language “that would not otherwise exist” could be a very good feature. However the draft HTF Allocation Plan does not explicitly address affordability. Will HTF-assisted households be cost-burdened, spend more than 30% of income for rent and utilities? The greatest need is for households with income less than 15% of AMI, yet there is no discussion of creating units affordable to this significant portion of the ELI renter household population.

Length of Affordability

A minimum of 30 years is a threshold requirement.

“While applications that propose a **longer affordability period could have a scoring advantage**, they still must provide evidence of feasibility for the entire affordability period.” (page 12)

Merit of Project

“The Texas NHTF will prioritize housing needs of extremely low income households in accordance with the Analysis of Impediments and the high opportunity measures of the Texas Qualified Allocation Plan.” (page 13)

NLIHC: At a several places in the draft HTF Allocation Plan, TDHCA implies certain features, such as an affordability period greater than the minimum, required 30 years, might score higher in completion for HTF funds. However, an explicit and consistent set of priorities, such as an articulated point system is not offered.

Preference or Limits to Population Served

TDHCA’s draft HTF Allocation Plan indicates that it will limit beneficiaries and/or give preferences to several segments of the extremely low income population. However, it does not list or name these populations. Instead, the draft refers to “AP-25” of the 2016 Annual Action Plan. There is no link to the 2016 Annual Action Plan on the draft HTF Allocation Plan. (page 16)

Consequently, the public must search for the 2016 Annual Action Plan. Only the 2015 Annual Action Plan is on TDHCA’s “Plans and Records” webpage. A key word search reveals the 2016 Annual Action Plan. “AP-25” turns out to be “Allocation Priorities” as required by the Consolidated Plan regulations at Section 91.320(d). Over five pages, AP-25 discusses a very broad range of population characteristics (at least 15) for the HOME, ESG, and CDBG programs.

NLIHC: Even though the draft HTF Allocation Plan states that TDHCA will limit beneficiaries or give preferences, the public cannot know which specific population characteristic has been chosen. No one population characteristic is given a preference, nor is there any indication that HOME, ESG, or CDBG will be limited to a particular population characteristic.

Renter/Homeowner

The state will not use HTF funds to assist first-time homebuyers.

TDHCA may develop a first-time homebuyer program for NHTF in the future, but that use is not contemplated immediately. (page 15)

The state will not use HTF funds for homeownership housing. (page 16)

Un-numbered page 32 appears to be an insert of page 62 of the 2015-2019 Consolidated Plan (which actually seems to be page 244 of the ConPlan that is on TDHCA’s website). It indicates that over the five-year period, “The Texas NHTF is anticipated to serve 75 extremely low income **renter** households.”

New Construction/Rehabilitation/Preservation

“Of highest priority in the evaluation of applications will be the **creation of new units** serving ELI households that would not otherwise exist.” (page 12)

“The state plans to use HTF funds for the **rehabilitation** of housing...” (page 15)

Un-numbered page 21 of the draft HTF Allocation Plan is an insert from what appears to be page 67 of the 2016 Annual Action Plan (but seems to actually follow page 74 of the Action Plan on TDHCA’s website). The draft HTF Allocation Plan indicates, “The NHTF Program awards loans to for-profit and nonprofit multifamily developers to **construct and rehabilitate** multifamily affordable housing.”

Un-numbered page 24 is an insert from what appears to be page 85 of the 2016 Annual Action Plan (but seems to actually be page 108 of the Action Plan on TDHCA’s website). It states, “These funds are primarily used to foster and maintain affordable housing by providing funding for **preservation** of existing affordable developments, or **construction of new** affordable developments.”

Un-numbered page 26 of the draft HTF Allocation Plan appears to be an insert to page 38 of the 2015-2019 Consolidated Plan (although it seems to actually modify page 208 of the ConPlan on TDHCA’s website) It states, “The Texas NHTF will provide funding for **new construction** of multifamily developments that meet TDHCA underwriting requirements.”

Un-numbered page 27 of the draft HTF Allocation Plan appears to be an insert to page 39 of the 2015-2019 Consolidated Plan (although it seems to actually modify page 209 of the ConPlan on TDHCA’s website). It states, “The Texas NHTF will provide funding for **acquisition and rehabilitation** of multifamily developments that meet TDHCA underwriting requirements.”

Un-numbered page 30 appears to be an insert of page 54 of the 2015-2019 Consolidated Plan (which actually seems to be page 237 of the ConPlan on TDHCA’s website) It indicates that over the five-year period, 50 rental units will be **constructed** and 25 rental units will be **rehabilitated**.

Plan to Use HTF for Operating Cost Assistance

Draft is silent.

NLIHC: In order to provide HTF-assisted units to ELI renter households without them spending more than 30% of their income for rent and utilities, it might be necessary to use some HTF for operating cost assistance – especially if households with Supplemental Security Income (SSI) assistance are to be served.

Grant or Loan

Un-numbered page 21 of the draft HTF Allocation Plan is an insert from what appears to be page 67 of the 2016 Annual Action Plan (but seems to actually follow page 74 of the Action Plan on TDHCA's website).

It indicates, "Because the NHTF is required to benefit ELI households at 30% of AMI or less, the units will likely not be able to service a debt payment. The constraints on the NHTF dictate that the funds be available as **0% interest, deferred payment loan, or as a 0% interest cash flow loan**, if required, to leverage tax credits or other financing mechanisms."

NLIHC: The 0% interest policy is good. This enables projects to minimize debt and helps to make units affordable for households with incomes less than 30% of AMI. This provision also recognizes that a loan from a federal program needs to be structured so that a project with LIHTC assistance does not experience a reduction in eligible basis.

Geographic Distribution

TDHCA will distribute funds through a competitive NOFA. Initially the funds will be available geographically, based on the proportion of extremely low income renter households to the total population of renter households in each of the state's 13 State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by 13, and available competitively within each region prior to collapse into a statewide competition. (page 12)

This language is repeated on un-numbered page 22 of the draft HTF Allocation Plan as an insert to what appears to be page 71 of the 2016 Annual Action Plan (but would modify page 87 of the Action Plan on TDHCA's website.)

Un-numbered page 23 of the draft HTF Allocation Plan is an insert to what appears to be page 72 of the 2016 Annual Action Plan (but would modify page 88 of the Action Plan on TDHCA's website.) It states, "NHTF are allocated geographically using a Regional Allocation Formula, as described in Strategic Plan Section 10. Acknowledging that all regions of the State have a need to create housing for ELI households, the formula provides opportunity for access to NHTF. This process directs funds to areas of the State that demonstrate high need, but the very small amount of the PY 2106 allocation makes it difficult to differentiate."

Un-numbered page 25 of the draft HTF Allocation Plan is an insert to what appears to be the 2015-2019 Consolidated Plan (but it is not page 18 of that document). It states, "The Texas NHTF will distribute NHTF funds through a competitive NOFA process. For any year that the NHTF Allocation is less than \$10 million, the funds will initially be available geographically, based on the proportion of extremely low income renter households to the total population of renter households in each of 13 State Service Regions. A minimum will be calculated for each region as a ratio of the available allocation divided by 13, and available competitively within each region prior to collapse into a statewide competition. If

the allocation received by the State exceeds \$10 million, the Regional Allocation Formula used for the State's allocation of HOME funds will be used to distribute NHTF funds..."

NLIHC: While a \$4.7 million is not much for a state the size of Texas, and NLIHC would otherwise not suggest a means for geographic apportionment, many Texas advocates asked of such an apportionment.

Affirmatively Furthering Fair Housing

"The Texas NHTF will prioritize housing needs of extremely low income households in accordance with the Analysis of Impediments and the high opportunity measures of the Texas Qualified Allocation Plan." (page 13)

NLIHC: Giving priority on the basis of project development in areas of high opportunity is very good. Perhaps some measure of priority ought to be articulated.

Eligible Recipients

Un-numbered page 21 of the draft HTF Allocation Plan is an insert from what appears to be page 67 of the 2016 Annual Action Plan (but seems to actually follow page 74 of the Action Plan on TDHCA's website). The draft HTF Allocation Plan indicates, "The NHTF Program awards loans to **for-profit and nonprofit** multifamily developers to construct and rehabilitate multifamily affordable housing."

Un-numbered page 24 is an insert from what appears to be page 85 of the 2016 Annual Action Plan (but seems to actually be page 108 of the Action Plan on TDHCA's website). It states, "The NHTF Program provides to developments assisted by or through entities including, **public organizations, nonprofit and for-profit organizations, and PHAs.**"

Maximum Per-Unit Subsidy

Indicates that state adopted limits used in other federal programs will be used and are attached – however, those limits are not attached.

"Additional limits may apply if HTF funds are used in conjunction with other affordable housing programs." (page 14)

NLIHC: Advocates should determine whether the limits TDHCA has been using are too restrictive. In order to provide ELI rental units that do not cause assisted households to be cost-burdened, as much HTF per unit might be essential. HUD's FAQ regarding Maximum Per-unit Subsidy seems to recognize this, <http://bit.ly/1s2xWOv>.

Leveraging

“The proportion of leveraged non-federal fund sources in relation to the NHTF funds will be part of the scoring criteria. Applications with the highest proportionate leverage will have an advantage in scoring.” (page 13)

Un-numbered page 24 is an insert from what appears to be page 85 of the 2016 Annual Action Plan (but seems to actually be page 108 of the Action Plan on the TDHCA website). It states, “In addition, credits awarded through the HTC program can be **leveraged** with awarded funds from the NHTF program. When more than one source of funds is used in an affordable housing project, the State is able to provide more units of affordable housing with one funding source alone.”

Un-numbered page 26 of the draft HTF Allocation Plan appears to be an insert to page 38 of the 2015-2019 Consolidated Plan (although it seems to actually modify page 208 of the ConPlan on TDHCA’s website) It states, “NHTF funds will be used for the production of multifamily rental housing for extremely low income households, which will generally not be sufficient income to pay operating costs, therefore, NHTF will typically be **leveraged** by other resources such as HOME funds, housing tax credits and/or conventional financing, the availability of those other resources will impact the use of NHTF for new construction.” Similar language is on un-numbered page 27.

NLIHC: Leveraging will be essential. HTF-assisted units in most cases will need to be in projects that have additional resources; there are few instances where it would be feasible or appropriate to have a 100% HTF/ELI project.

Mixed Income/Close Ties to LIHTC Program

Page 18 of the draft HTF Allocation Plan inserts Table 12 of the 2016 Annual Action Plan, stating “NHTF Multifamily Development funds can be layered with 4% HTCs and 9% HTCs, and TDHCA Multifamily Development Funds, including HOME, TDHCA’s Section 811 PRA, a project-based supportive housing program for persons with disabilities, and TDHCA’s Section 8 HCV may be used within NHTF developments.” Similar language is on un-numbered page 28 in reference to modifying the 2015-2019 Consolidated Plan.

Page 20 of the draft HTF Allocation Plan is an insert from page 26 of the 2016 Annual Action Plan that contains a long paragraph that simply provides a general description of the Low Income Housing Tax Credit program. Un-numbered page 29 has similar language in reference to modifying the 2015-2019 Consolidated Plan.

Un-numbered page 24 is an insert from what appears to be page 85 of the 2016 Annual Action Plan (but seems to actually be page 108 of the Action Plan on the TDHCA website of the ConPlan on TDHCA’s website). It states, “In addition, credits awarded through the HTC program can be leveraged with awarded funds from the NHTF program.”

Un-numbered page 26 of the draft HTF Allocation Plan appears to be an insert to page 38 of the 2015-2019 Consolidated Plan (although it seems to actually modify page 208 of the ConPlan on TDHCA’s website) It states, “Finally, the demand for the housing from not only

income-eligible tenants but those who exhibit an ability to pay rent is a primary market characteristic.” Similar language is on un-numbered page 27.

NLIHC: Mixed income projects will be essential. HTF-assisted units in most cases will need to be in projects that have additional resources and units assisted at different income levels, including market-rate levels. There are few instances where it would be feasible or appropriate to have a 100% HTF/ELI project.

Use of Subgrantees

TDHCA does not intend to use subgrantees (page 10)

NLIHC: Because there is only a modest \$4.7 million for 2016, it is not practical to use subgrantees, sub-allocations by the state to big cities and counties.

Applicant Capacity

TDHCA considers this a threshold requirement. TDHCA will look at applicant’s experience completing similar projects as evidenced by TDHCA’s Experience Requirement.

TDHCA will also look at proposed project’s readiness to proceed as evidenced by site control, appropriate zoning, architectural plans, and evidence of financing. (page 12)

NLIHC: Considering applicant capacity is appropriate. Some other states inappropriately award significant scoring points for projects with high degrees of capacity, which in addition to inflating what should simply be a threshold requirement, can have the effect of greatly disadvantaging smaller, community-based, mission-based nonprofits.