



August 2, 2016

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Texas Department of Housing and Community Affairs
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Mr. Irvine, Mr. Gouris and Ms. Holloway:

In April, we joined a coalition of advocates and housing providers with recommendations for how TDHCA could take advantage of the rare opportunity presented by the National Housing Trust Fund and best serve the low income Texans most in need of affordable housing. We have serious concerns that the agency's recently-released draft allocation plan does not provide a clear path toward those goals and, if implemented, would fail to live up to the Trust Fund's potential.

The utter inaccessibility of TDHCA's draft makes public input on Trust Fund allocation very difficult, and is unusual for a state housing agency. Advocates and housing providers met for weeks prior to the TDHCA roundtables to come to consensus regarding what priorities should be in the plan and we are disappointed that this Action Plan does not adequately reflect those priorities. Ed Gramlich, a policy expert at the National Low Income Housing Coalition who has reviewed Trust Fund allocation plans from state agencies around the country, wrote that he found the TDHCA draft "vague and confusing...not informative and repetitive."

Moreover, it appears from the vague nature of the draft that TDHCA intends for much of the rulemaking for the Trust Fund to come not via this allocation plan, but instead through the agency's Notice of Funding Availability. The NOFA is not required to be submitted for public comment, and given the inaccessible and incomplete nature of the draft, it appears very possible that the Trust Fund allocation plan could be implemented without meaningful input from the public.

This would be an unacceptable result for the first new funding program for ELI housing in decades. We appreciate the department's concerns with long-term financial viability and at the same time want to ensure the state takes full advantage of this opportunity to address Texas' chronic shortage of affordable housing for the most vulnerable Texans. We ask to meet with you regarding recommendations we have made that are not adopted into the next draft or NOFA, and ask that the NOFA process be opened to the public in order to forge the best NOFA possible.

With input from NLIHC's Ed Gramlich, we submit the following comments on the TDHCA draft:

New affordability: The draft states that "highest priority in the evaluation of applications will be the creation of new units serving ELI households that would not otherwise exist." This language could be very useful in ensuring that the Trust Fund expands affordability, increasing the total number of units for ELI households rather than replacing, repairing or expanding existing units. The requirement that any Trust Fund-aided activity, including the refinancing of development debt, must be undertaken in a manner that produces additional affordability should be reiterated and strengthened throughout the draft.



Unfortunately, *the draft does not explicitly address affordability*. As we noted in our recommendations, the greatest need in Texas is for households with income below 15 percent of AMI, yet the draft does not mention creating units affordable to this population. By not including extra points for applications serving those below 15 percent, the draft plan misses a critical opportunity to reduce our state’s affordable housing gap.

Length of affordability: We recommended that the state would get the most from its NHTF allocation by requiring that units created with Trust Fund dollars be affordable for ELI households for 50 years. While we were pleased to see the draft plan state that “applications that propose a longer affordability period could have a scoring advantage,” it does not specify what that advantage would be nor what requirements or incentives would be provided to lengthen the affordability of Trust Fund units. Without those details, it is unlikely that the Trust Fund will result in affordable units for longer than 30 years.

Diversify development: The draft promises that the “NHTF Program awards loans to for-profit and nonprofit multifamily developers” but offers no solutions for the high barriers to funding access for small, mission-driven developers who are well-suited to serve ELI households. By maintaining the TDHCA Experience Requirement for all applicants, the allocation plan will inappropriately award significant points to large developers by inflating what should simply be a threshold requirement, greatly disadvantaging small mission-driven organizations.

Current developer experience requirements are prohibitive to participation by CHDOs and small, mission-driven non-profits – those who are most deeply committed to serving ELI households and who may be able to achieve integration through the scale of their projects.

We believe some of these requirements are unnecessary and recommend that TDHCA ease such requirements for small, mission-driven developers. The extra, unnecessary expense increases the cost of the project and, again, is prohibitive to smaller organizations and mission-driven non-profits serving the lowest-income Texans – the very people that the National Housing Trust Fund is designed to serve.

Prioritization: The draft plan implies that certain features, such as “the needs of extremely low income households” or an affordability period greater than the minimum 30 years, could be prioritized or might score higher in competition for NHTF funds. But an explicit, consistent set of priorities, such as an articulated point system, is not offered. Moreover, the plan indicates that Trust Fund awards will be limited to several segments of the ELI population but does not list or name these beneficiaries, instead referring readers to “AP-25” of the 2016 Annual Action Plan but providing no link to that document.

Rather than limit awards to undefined segments of the ELI population, our recommendations laid out one clear strategy for prioritization: To provide housing opportunity to the most underserved households, the allocation plan should prioritize projects that will serve and set rents affordable for those under 15 percent AMI. In order to best serve this group, the plan could also award extra points to projects that lower physical and systemic barriers to housing, including proof of employment, credit checks, services and case management as a condition of tenancy, limited criminal history and more

Transparency: That the draft plan does not articulate or provide a link to its list of target populations is an example of the document’s overall lack of accessibility to the public. Only the 2015 Annual Action Plan is listed on TDHCA’s “Plans and Records” webpage, and though a keyword search reveals the 2016 Annual Action Plan, one would need to know that “AP-25” means “Allocation Priorities.” Even then, over five pages, AP-25 discusses a very broad range of more than 15 population characteristics prioritized



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by the agency. Despite the Trust Fund draft stating that population preferences will be chosen, it is impossible for the public to know which groups will be given preference.

We hope that our comments are given serious consideration and that we will be able to continue to provide sorely-needed public input throughout the NOFA process and the implementation of this critical program.

Sincerely,

Karen Paup, co-director
Texas Low Income Housing Information Service