HOME American Rescue Plan (HOME-ARP) Rental Guidance

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Part Two Objectives

Deep Dive into HOME-ARP Rental Development

- ✓ Financial Layering for Rental Developments
- ✓ HOME-ARP Rent Levels and Recertifications
- ✓ Reserves for HOME-ARP Developments

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Questions

- Enter questions into Question panel of GoToWebinar
- Questions may be addressed at the end of each webinar.
- For further information, email Tiara.Hardaway@tdhca.state.tx.us.

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Additional Resources

TDHCA HOME-ARP - https://www.tdhca.state.tx.us/HARP.htm

Program Guidance and Regulations

TDHCA Allocation Plan and Guidance

- HOME-ARP Approved Allocation Plan (May 2022) (PDF)
- HOME-ARP Handbook (July 2022) (PDF)

HUD HOME-APR and Homelessness Guidance

- HUD HOME-ARP Implementation Notice Fact Sheets (hudexchange.info)
- HUD Exchange HOME ARP (hudexchange.info)
- Recordkeeping Requirements for Homeless Definition (hudexchange.info)
- Criteria for At Risk of Homelessness (hudexchange.info)

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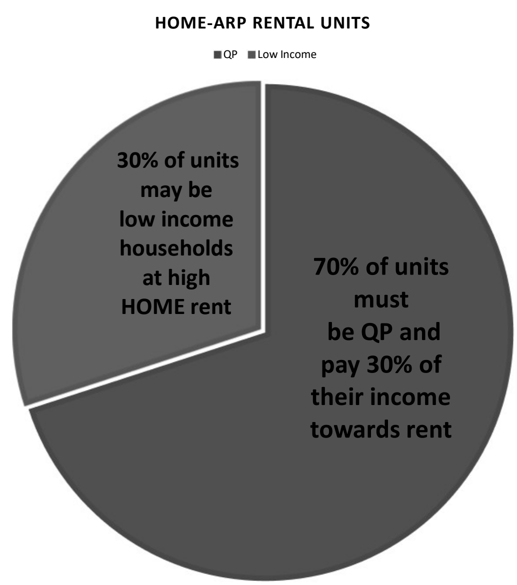
Financial Highlights for HOME-ARP Rental Program



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HOME-ARP Financial Highlights

HOME-ARP has no maximum unit subsidy

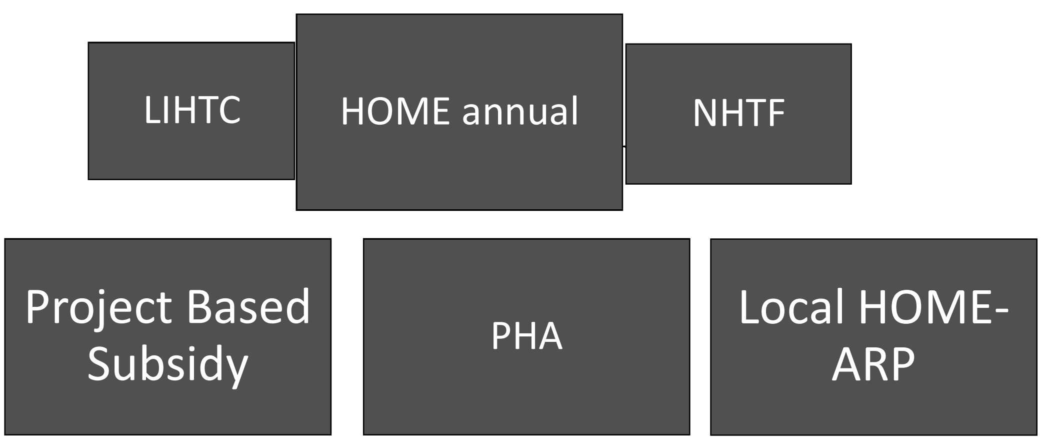
HOME-ARP offers capitalized operating assistance (COCA) for up to 15 years for QP units

May adopt the utility allowance for Public Housing Authorities

Maximum per Development HOME-ARP request amount is up to $15,000,000 (or otherwise in NOFA) and includes Cap operating costs

Funds may be loaned at amortizing, cash-flow, or deferred terms, and may be interest bearing or at 0%

Financial Layering for Rental Developments



Low-Income Housing Tax Credit (LIHTC), 4% and 9%

- HOME-ARP projects may be layered with either (9%) or (4%) LIHTCs.
- 9% LIHTC are competitive and applied for only once a year.
- 4% HTC are non-competitive and associated with tax-exempt bond financing on the property.

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Low-Income Housing Tax Credit Considerations

- HOME-ARP is subject to HUD regulations that may not otherwise be required on an LIHTC-only development
- HUD additional requirements include:
  - National Environmental Protection Act (NEPA) for part 58 or part 50 environmental clearance
  - Davis Bacon labor standards per 24 CFR §92.354
  - Uniform Relocation Assistance (URA)/Section 104(d) per 24 CFR §92.353
  - Section 3 Economic Opportunities per 24 CFR Part 75

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HOME "Annual" Multifamily Funds

- HOME funds that are awarded to TDHCA each year by HUD as part of the state's formula grant allocation
- HOME-funded multifamily units can serve households earning up to 80% AMFI.

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HOME "Annual" Multifamily Funds Considerations

Similarities

- Rent levels for low income households
- National Environmental Protection Act (NEPA) for part 58 or part 50 environmental clearance
- Davis Bacon labor standards per 24 CFR §92.354
- Uniform Relocation Assistance (URA)/Section 104(d) per 24 CFR §92.353,
- Section 3 Economic Opportunities per 24 CFR Part 75

Differences

- HOME annual MFDL funds <u>do have</u> subsidy limits per unit
- Cannot use the PHA utility allowance
- TDHCA HOME annual may be limited to Rural Areas
- Cannot layer in same unit

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National Housing Trust Fund (NHTF)

- NHTF is administered through HUD and is made available by TDHCA through the MFDL Program
- Households served must have incomes at or below the greater of either 30% AMFI or the federal poverty line

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National Housing Trust Fund (NHTF) Considerations

- HOME-ARP will not be considered federal funds when calculating the per unit subsidy maximum
- May be layered in the same unit
- Fixed/float:
  - If units NHTF float = the HOME-ARP units must float
  - If NHTF units are fixed = then HOME-ARP units must be fixed.
- Additional Federal Requirements for HOME-ARP
  - National Environmental Protection Act (NEPA) for environmental clearance part 58 or part 50
  - Davis Bacon labor standards per 24 CFR §92.354
  - Section 104d at 24 CFR Part 42

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Project-Based Subsidy

- Project-Based Vouchers (PBV) or Project-Based Rental Assistance (PBRA)
- PHAs can use up to 20 percent of their Housing Choice Vouchers
- Veterans Affairs Supportive Housing (VASH) can be project-based
- HUD's Office of Multifamily Housing may offer PBV and PBRA

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Project Based Subsidy Considerations

- HOME-ARP capitalized operating cost assistance (COCA) cannot be distributed on units with Project-Based Subsidy.
- HOME-ARP Development may adopt the PHA's utility allowances
- HOME-ARP units subject to 24 CFR Part 983 can accept the PHA or Owner's determination of annual and adjusted income per 24 CFR §982.201.
- Must complete a Subsidy Layering Review (SLR) through the local PHA or HUD

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Additional Project Based Subsidy Considerations

- Emergency Housing Vouchers serve similar populations as HOME-ARP, but EHVs cannot be project-based.
- Certain types of project-based subsidies have requirements that are not able to be combined with HOME-ARP:
  - Example: A subsidy with requirement to participate in services may not be placed on a HOME-ARP unit, because HOME-ARP does not allow mandatory social service participation per 24 CFR §92.253(b)(9).

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Public Housing Authorities (PHAs)

- Public housing was established to provide decent and safe rental housing for eligible low-income families.
- Often develop units w/ project based subsidies.

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Considerations for PHAs

- HOME regulations prohibits HOME-ARP to be used for public housing units.
- May be used for eligible costs of affordable housing units in a project that also contains public housing units.

Local HOME-ARP funds

- Local Participation Jurisdiction (PJ) could program its HOME-ARP funds for multifamily development

Considerations for Local HOME-ARP funds

Local HOME-ARP funds

- Generally may not be layered in the same unit.
- Total HOME-ARP units affects whether Davis Bacon labor standards per 24 CFR §92.354 apply
- Restrictions by the local PJ will have to be achieved, with requirements by TDHCA's HOME-ARP funds.
- Fixed/float:
  - If local HOME-ARP float = TDHCA HOME-ARP units must float
  - If local HOME-ARP units are fixed = TDHCA HOME-ARP units must be fixed

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Underwriting HOME-ARP Funds

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HOME-ARP Underwriting Requirements

- Underwriting and subsidy layering guidelines in accordance with:
  - HOME regulations at 24 CFR Part 92,
  - HUD Notice CPD 21-10,
  - 10 Texas Administrative Code (TAC) Chapter 11 Subchapter D, and
  - 10 TAC §13.8
- The federal affordability period for HOME-ARP is 15 years
- State affordability period is thirty or more years per Section 2306.185(c) of the Tex. Gov't Code

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Important Note for Underwriting Requirements:

- The applicant is responsible for ensuring that the Development has net positive cash flow for the length of the affordability period.
- Long Term Pro forma
  - Should remove any COCA (if applicable) starting in year 16 and QP units will pay low income rent, if not paired with a project-based subsidy.
  - Rents charged starting in year 16, should reflect a rent level that would have grown at 2% per year in years 1-15.
    - Example: High HOME rent is $500 in 2022. In 2037, high HOME rent with inflation would be approx. $672

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Cost Allocation

- If less than 100% of its units are HOME-ARP:
  - Calculate the eligible costs that are allocable to the HOME-ARP assisted units, per 24 CFR §92.205.
- If HOME-ARP Units Float:
  - HOME-ARP may fund proportional costs associated with common space, as long as they are HOME-eligible.

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Cost Allocation

- Cost allocation is independently required for units such as HOME annual, HOME ARP and NHTF.
- While HOME-ARP has no per unit subsidy limit, the HOME-ARP funds cannot cover costs associated with units other than HOME-ARP units.

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Cost Allocation Ineligible Costs

Ineligible costs, found at 10 TAC §13.3(e) may include:

(1) Offsite costs;

(2) Stored Materials;

(3) Site Amenities, such as swimming pools and decking, landscaping, playgrounds, and athletic courts;

(4) The purchase of equipment required for construction;

(5) Furnishings and Furniture, Fixtures and Equipment (FF&E) required for the Development;

(6) Detached Community Buildings;

(7) Carports and/or parking garages, unless attached as a feature of the Unit;

(8) Commercial Space costs;

(9) Personal Property Taxes;

(10) TDHCA fees;

(11) Syndication and organizational costs;

(12) Reserve Accounts*, except Initial Operating Deficit Reserve Accounts;

(13) Delinquent fees, taxes, or charges;

(14) Costs incurred more than 24 months prior to the effective date of the HOME-ARP Contract;

(15) Costs that have been allocated to or paid by another fund source (except for soft costs that are attributable to the entire project as specifically identified in the applicable federal rule), including but not limited to, contingency, including soft cost contingency, and general partner loans and advances;

(16) Deferred Developer Fee;

(17) Texas Bond Review Board (BRB) fees;

(18) Community Facility spaces that are not for the exclusive use of tenants and their guests;

(19) The portion of soft costs that are allocated to support ineligible hard costs; and

(20) Other costs limited by Award or NOFA, or as established by the Board.

*Waiver being requested for COCA reserves.

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Direct Loan Calculator

- Use Direct Loan Unit Calculator tool at
  - https://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm
- HOME-ARP applicable:
  - Table 1, Development Cost Schedule Direct Loan Request Info
  - Table 2, Rent Schedule Info.
- Applicable if layering with other MFDL funding (except NHTF)
  - Table 3, Actual Max per Unit Subsidy.
- Not HOME-ARP Applicable
  - Table 4, Scoring Max per Unit Subsidy

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Rent Levels

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Rent Levels

- Two types of rental unit restrictions under HOME-ARP:
  - units for qualifying populations (QP)
  - units for low-income household (not QP)
- At least 70% HOME-ARP units are QP.
- Up to 30% HOME-ARP units may be for low-income households (not QP).

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Initial Occupancy for QP

Eligibility	Tenant Contribution	Max Rent
• QP meets one of the definitions in the HUD CPD Notice 21-10.	• QPs pay no more than 30% of their income toward rent.	• Maximum rent for QPs at initial occupancy is low HOME rent (24 CFR 92.252(b))

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Recertification for QP

- Eligibility
  - The household retains QP eligibility even if does not continue to meet definition
- Recertify at ≤ 50% AMI
  - QPs pays lesser of
    - 30% of their income or
    - low HOME rent (24 CFR 92.252(b))
- Recertify at > 50% AMI and ≤ 80% AMI
  - QP pays high HOME rent

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Recertification for QP at > 80% AMI

- 100% HOME-ARP-assisted Developments
  - Tenant pays 30% of the household's adjusted income
- HOME-ARP Developments with Market Rate units
  - Tenant pays rent equal to the lesser of
    - 30% of the household's adjusted income or
    - the comparable Market rent
- HOME-ARP Development layered with other Department affordable housing programs
  - Tenant pays rent equal to the lesser of
    - 30% of the household's adjusted income or
    - the lowest rent allowable under the other layered program.

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Rental Assistance for QP

- If there is a tenant-based or project based rental voucher on a unit restricted for use by QPs and max rent is low HOME rent:
  - the tenant pays 30% of their income toward rent; and
  - the Owner can charge rent allowable under the rental assistance/project based voucher program.

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Post Year 15

- Owner is not required to set rent for QP based on 30% of income.
- Different options for rent level post year 15 depending on:
  - use of Capitalized Operating Cost Assistance (COCA)
  - layering in Development

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15-Year Federal Affordability Period Expiration w/ COCA

Owner can:

- Continue to charge QP 30% of income for rent
- Use the remaining COCA to support unit up to low HOME rent
- Increase rent after the COCA is exhausted

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15-Year Federal Affordability Period Expiration w/o COCA

Owner must:

- Identify in Application what the income and rent restrictions will be after year 15
- Commit to 20% of units for 60% or below AMI
- Commit to restrict all units for 80% AMI or below
- Max rent is high HOME rents or rents for layered programs per Contract/LURA

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Initial Occupancy for Low Income (LI)

- Eligibility:
  - Income qualify at or under 80% AMI (24 CFR §92.2 for low income).
- Max Rent:
  - An eligible household would pay high HOME rent (24 CFR §92.252(a)) unless paired with rental assistance.

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Recertification for LI

Eligibility:

- Income qualify at or under 80% AMI.
- Tenant protections apply so increases in income cannot be grounds for eviction (24 CFR §92.253(b)).

Max Rent:

- Eligible household would pay high HOME rent (24 CFR 92.252(a)), unless paired with rental assistance.

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Recertification for LI - Over 80% AMI

- 100% HOME-ARP-assisted Developments
  - Tenant pays 30% of the household's adjusted income
- HOME-ARP Developments with Market Rate units
  - Tenant pays rent equal to the lesser of
    - 30% of the household's adjusted income or
    - the comparable Market rent
- HOME-ARP Development layered with other Department affordable housing programs
  - Tenant pays rent equal to the lesser of
    - 30% of the household's adjusted income or
    - the lowest rent allowable under the other layered program.

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15-Year Federal Affordability Period Expiration LI Households

Owner must:

- Identify in Application what the income and rent restrictions will be after year 15
- Commit to 20% of units for 60% or below AMI
- Commit to restrict all units for 80% AMI or below
- Max rent is high HOME rents or rents for layered programs per Contract/LURA

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Reserves for HOME-ARP Developments

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Reserves for HOME-ARP Rental Developments

- HOME-ARP funds may provide
  1. capitalized operating cost assistance (COCA) reserves
  2. initial operating reserves
  3. replacement reserves

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CAPITALIZED OPERATING COST RESERVE (COCA) (RENTAL ONLY)

Applies to:

- Units restricted for QPs
- Units that also received HOME-ARP construction costs
- Units without an existing reserve/operating subsidy

Does not apply to:

- Units not developed with HOME-ARP financing
- HOME-ARP units that are restricted to low-income households that are not QPs

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Calculating COCA

Based on projected operating deficits remaining after payments of rent by QP's throughout the 15-year federal affordability period.

Operating deficits on QP units should calculate the tenant-paid portion of rents for QPs at zero.

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Eligible COCA

1. Employees assigned to the property:
   a) Payroll costs
   b) Employee education, training, travel
2. Property-Level Administrative costs
   a) Advertising
   b) Goods and services required for administration of housing
3. Proportional amount of property management fees
4. Maintenance of a HOME-ARP QP unit
5. Prorated staffing costs of a Resident Services Coordinator
6. Scheduled payments to a replacement reserve

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Ineligible Costs of COCA

HOME-ARP operating reserves cannot fund:

1. Supportive services (other than the staffing costs of a Resident Services Coordinator)
2. Tenant based rental assistance
3. Acquisition of a property
4. Debt service
5. Payments to the reserve for replacement if the replacement reserve is required to be capitalized by another project source.

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Management of COCA

1. Funds available for vacant units of QP if appropriate to area, size, population served
2. COCA prorated based on eligible QP units
3. Requests for reimbursements submitted to TDHCA
4. Available throughout the 15 Year Compliance Period

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Management of COCA (con't)

5. Funds held in separate interest bearing account
6. Unexpended funds after year 15
   - Retained if the project will continue to operate in accordance with HOME-ARP requirements and serve QPs, or
   - returned to TDHCA.
7. In Ownership Transfer, funds remain with development

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Initial Operating Deficit Reserve

- May be established for low-income units that are not QPs
- Units may not receive both Initial Operating Reserves and Capitalized Operating Costs

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Eligible Costs for Initial Operating Deficit Reserve

- Based on proportional share of Low-Income Units':
  - Operating expenses for first 12 months

    Note: initial operating expenses may not be the same expenses as COCA
  - 2. Scheduled payments to replacement reserve
    - Only eligible if a replacement reserve is not required by another project source
  - 3. Non-Federal funds debt service payments

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Management of Initial Operating Deficit:

- Most common:
  - If there is an investor or first lien holder other than TDHCA the requests for disbursement are managed between those parties.
- Less common:
  - If there is no investor or first lien lender TDHCA will approve withdrawals on an as-needed basis with documentation.
- Remaining funds unexpended after lease up may be returned to TDHCA.
- In an Ownership transfer, initial operating deficit reserves must remain with the Development.

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Replacement Reserve

- Based on the useful life of each major system and expected replacement cost
- Not available for new construction.
- Requested in the initial year of the compliance period for HOME-ARP units.

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Eligible Costs for Replacement Reserve

- Structural support
- Roofing
- Cladding and weatherproofing
- Plumbing
- Electrical
- HVAC

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Ineligible Costs for Replacement Reserve

- Replacement reserve for newly-constructed developments.

Management of Replacement Reserve

1. The owner may withdraw funds directly from its account once approved by TDHCA.
2. Written agreement must list the major systems eligible to be replaced.
3. Unspent funds after federal affordability period must be returned to TDHCA, unless otherwise reflected in the written agreement.
4. In an Ownership Transfer, Replacement Reserve must remain with the Development.

More Opportunities

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Still Need More?

Handbook available:

- Qualifying Populations (QP)
  More guidance to come
- Referral Methods and Preferences
- Nonprofit Capacity & Nonprofit Operating Assistance
- Reserves
- Rent Levels
- Financial Layering HOME-ARP

HOME-ARP Website at : https://www.tdhca.state.tx.us/HARP.htm

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HOME-ARP NHTF Set-Aside

- $10 million set-aside to preserve TDHCA investments in NHTF Developments
- Eligible applications for the HOME-ARP NHTF set-aside must:
  - have applied for NHTF in 2020 or 2021 with award or active application;
  - must demonstrate cost increases require additional investment;
  - have not started construction or has previously received a 24 CFR Part 50 or 58 review if construction has started;
  - not decrease the deferred developer fee and/or increase the developer fee; and
  - return HOME-ARP application materials within the timeframe provided.

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HOME-ARP NHTF Set-Aside (con't)

- Notification of application availability will be sent via email to the contacts in the NHTF application
- Application review
  - Processed per the Application Acceptance Date for the HOME-ARP NHTF Set-aside.
  - Applicants with active but not awarded NHTF may not receive an Application Acceptance Date until after receiving an award for NHTF.

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Rental Scoring Online Forum

- Scoring criteria for HOME-ARP Rental NOFA will be posted for input at https://tdhca.websitetoolbox.com/ from July 15 to July 22, 2022.
- Topics:
  - Previous Rental Experience with Persons Experiencing Homelessness
  - Project Commitments
  - Resident Services and Readiness to Proceed

Not every comment or question may receive a staff response.

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RECAP of the HOME-ARP Rental Guidance

- Financial Layering for Rental Developments
- HOME-ARP Rent Levels and Recertification's
- Reserves for HOME-ARP Developments

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THANK YOU

FOR MORE INFORMATION, PLEASE SEE THE
TDHCA HOME-ARP WEBSITE:

HTTPS://WWW.TDHCA.STATE.TX.US/HARP.HTM

Questions

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