

TEXAS EMERGENCY RENTAL ASSISTANCE PROGRAM (TERAP)

A COMMUNITY DEVELOPMENT BLOCK GRANT CARES ACT (CDBG-CV) PROGRAM

PROGRAM GUIDELINES

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1. Background

The Texas Emergency Rental Assistance Program (TERAP) provides rental assistance to income-eligible households impacted by COVID-19 to help them stay housed during the pandemic and help them recover economically from the impact of the pandemic. Administered by the Texas Department of Housing and Community Affairs (TDHCA), with Community Development Block Grant CARE Act funds (CDBG-CV), the program can pay up to six months of an eligible household's rent, including rental arrears, with at least one of those months covering a month of future rent. The program can specifically provide rental assistance to tenants who have been sued for eviction (i.e. forcible detainer action filed against them), providing the landlord and tenant an alternative to eviction.

Funded through the U.S. Department of Housing and Urban Development (HUD), this CDBG-CV program is specifically designed to help households prepare for, respond to, and recover from the impacts of COVID-19. The Governor of the State of Texas designated TDHCA as the administrator of the state's allocation of these funds. TDHCA has designated \$105 million to eligible jurisdictions or entities through direct awards and through a competitive process for the exclusive purpose of providing emergency rental assistance for Texans.

These program guidelines list program requirements including tenant and landlord eligibility requirements, minimum federal administration and reporting requirements, length of assistance, maximum amounts of assistance, and maximum household income.

2. Program Goals

The goal of the Texas Emergency Rental Assistance Program is to help stabilize low- and moderate-income Texas renters impacted by the coronavirus pandemic through the provision of up to six months of rental assistance.

3. CDBG National Objective

Rental assistance payments will be available exclusively to households whose incomes are at or below 80% or less of Area Median Income (AMI). This activity qualifies under the "limited clientele" category of the CDBG national objective of benefit to low- and moderate-income persons or households ([24 CFR §570.483\(b\)\(2\)\(C\)](#)).

4. Governing Requirements

The following regulations establish federal and state requirements. Relevant legal authority includes, but is not limited to, the following as now in effect or as amended in the future:

- [CARES Act \(Public Law No: 116-136\)](#)
- [Texas Government Code 2105: Administration of Block Grants](#)
- [Housing and Community Development Act of 1974 \(42 U.S.C. 5301 et seq\)](#)
- [24 CFR Part 570 Subpart I](#)
- [CDBG-CV Notice, FR-6218-N-01](#)
- [24 CFR Part 58](#)
- [2 CFR Part 200](#)
- [Uniform Grant Management Standards \(UGMS\)](#)
- [Texas Department of Housing and Community Affairs 2019 Annual Action Plan, as amended](#)
- [Texas Administrative Code: Title 10, Part 1, Chapters 1 and 2](#)

If state or federal statutes or regulations, or other laws, relating to the CDBG-CV funds are modified by the United States Congress, HUD, the Department, the Texas State Legislature, or the Governor, the changes may become effective immediately and may be applicable to existing contracts.

If there is a conflict between the state and federal regulations, the federal regulations shall prevail. In addition, the Department reserves the right, at its sole discretion, to suspend or amend the provisions governing this program. If such an action occurs, the Department will notify interested parties. Awards are also contingent upon the Department executing a grant agreement from HUD for the CDBG CARES Act funds.

Financial Management

Subrecipients must demonstrate to the satisfaction of the Department that they are in compliance with the financial management requirements at 2 CFR Part 200, including the single audit requirements of 2 CFR §200.501. All Subrecipients are subject to the requirements of 10 TAC §1.403, concerning Single Audits. If a Subrecipient utilizes subawardees the Subrecipient is responsible for monitoring the subawardees financial management systems in accordance with 10 TAC §1.402.

Previous Participation Review and Federal/State Debarment

All entities will be subject to a Previous Participation Review by the Department, as outlined in 10 TAC §1.302.

Pursuant to 24 CFR Part 5, all CDBG-CV applicants are required to verify that they and their principals, or any/all persons, contractors, consultants, businesses, subawardees, etc., that will be conducting business with the applicant as part of the rental assistance activity are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered transaction.

The Department will not award any CDBG-CV funds to organizations that are debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation from federal or state assisted programs, or that are proposing to partner, contract, or otherwise fund rental assistance activities through an organization that is debarred, suspended, proposed for debarment, or otherwise ineligible from participation in federally assisted programs. If an organization has a member of its governing body that has this status, the Department will allow the member to resign so that the organization can enter into a Contract with the Department.

5. Program Overview

The following table provides an overview of eligible program components explained in detail in subsequent sections.

Program Component	Criterion
Eligible Activities	<ul style="list-style-type: none"> • Emergency Rental assistance <ul style="list-style-type: none"> ○ Tenant/Landlord learn about the program and voluntarily apply. • Texas Eviction Diversion Program <ul style="list-style-type: none"> ○ Tenant/Landlord are referred by Justices of the Peace after the filing of an eviction (i.e. forcible detainer) and Tenant/Landlord voluntarily apply.
Income Determination	<ul style="list-style-type: none"> • Zero Income to 60% of AMI → Self-Certification form • 60% to 80% of AMI → Income Verification • Considered income-eligible if: <ul style="list-style-type: none"> ○ Household has 6 or less members and is receiving SNAP, LIHEAP or SSI (for the head or co-head of household) benefits. ○ Living in rent-restricted property, has evidence of income certification on or after April 1, 2020 (but within one year of the household assistance application), and self-certify that income does not exceed 80% of AMI.
Rent Ceilings	<ul style="list-style-type: none"> • Yes, assistance up to 120% of, and rent max up to 150% of, Small Area Fair Market Rent (SAFMR) or Fair Market Rent (FMR) Limits (as applicable). • Units with contract over 150 % SAFMR or FMR are not eligible. • Rent difference between 120% and 150% is certified to be paid by a certified responsible party.
Rent Payment	<ul style="list-style-type: none"> • Up to 6 consecutive months • Includes rental arrears and reasonable late fees • At least one month must cover a month of future rent
Administrative Costs for Grantee	<ul style="list-style-type: none"> • Salary and benefits • Supplies and equipment • Overhead (administration utilities, maintenance, etc.) • Transportation/mileage
Tenant Certification	Required
Landlord Certification	Required
Duplication of Benefits	Prohibited; Cannot have already received six months of payment from CDBG funds or another payment method covering the same time period.
Lead-based paint requirement	For more than 3 months of CDBG-CV rental assistance on units built prior to 1978 (and that do not qualify for a federal exception), a visual assessment must be performed.
Environmental review	No- TDHCA has received statewide clearance for this activity and no action is required from the program administrator.

6. Eligible Activities

Emergency Rental Assistance

To keep Texans who need assistance with rent because of the impact of COVID-19 in their homes, TERAP provides income-eligible, COVID-impacted households, with up to six months of rental assistance **including reasonable late fees**. Any combination of arrears, current and future rent will be available to assist the household so long as at least one month of assistance is not for arrears (is current or future rent). Current and future rent payments must be for consecutive months. Assistance can be in the form of a one-time lump-sum payment and/or scheduled payments for future rent up to six months of total assistance **including reasonable late fees**.

Reasonable late fees are defined as those that are not more than 12 percent of the amount of monthly rent for a dwelling located in a structure that contains not more than four dwelling units; those that are not more than 10 percent of the amount of monthly rent for a dwelling located in a structure that contains more than four dwelling units; or those that comply with the other standards established in Texas Property Code § 92.019.

Program administrators can incur the following administrative costs to deliver the emergency rental assistance program (24 CFR § 570.206(a)): salary and benefits, supplies, equipment, overhead (utilities, maintenance, etc.), and transportation and mileage.

Texas Eviction Diversion Program

It is no longer a requirement for TERAP Subrecipients to participate in the Texas Eviction Diversion Program (TEDP) as the TEDP program is being implemented statewide by the Texas Rent Relief (TRR) program. The Office of the Court Administration (OCA) has instructed all Justices of the Peace (JPs) to refer eviction diversion cases to the TEDP program.

TERAP subrecipients who have already been working with their local JPs in establishing a partnership, may still accept referrals from the courts and assist households within the TEDP set-aside. However, this outreach is not required. It should also be noted that households with more than five months of arrears will be better served through the Texas Rent Relief program by having access to more months of assistance. If a TERAP subrecipient is going to continue to serve eviction diversion clients, they will be required to continue collecting and reporting expenditure and performance data for TEDP activities.

The only difference between clients receiving general emergency rental assistance and TEDP clients is that the latter have already been sued for eviction so they have a court case number at the time of applying for assistance. When serving TEDP clients the following program requirements still apply:

Any combination of arrears, current and future rent will be available to assist the household so long as:

- the future months of assistance are all consecutive, and
- at least one month of assistance is not for arrears (is current/future rent) and
- at least one month of rent is for rent in arrears.

Assistance can be in the form of a one-time lump-sum payment and/or scheduled payments for future rent for up to six months of total assistance.

Administrative Costs

Subrecipients can incur the following administrative costs to deliver the emergency rental assistance program (per 24 CFR § 570.206(a) and UGMS): salaries and related costs, supplies, overhead (utilities,

maintenance, etc.), equipment (with Department approval), transportation, and mileage. Funds requested for administration are limited up to 13 percent of the total amount of funds requested. Preparation of the CDBG-CV application and staff time to attend pre-contract training are eligible pre-award administrative costs and may be reimbursed.

All methods of allocating administrative costs (per 2 CFR § 200.405, 414 & 416) to the Department are allowable; however, indirect costs are allowable if the entity has an approved federal indirect cost rate or are using the de minimis rate per 2 CFR §200.414(f). In the application, subrecipients must identify each department or division that will administer activities under the grant.

7. Geographic Coverage and Duplication of Benefits

A Duplication of Benefits (DOB) occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular funding need. The amount of the duplication is the amount of assistance provided in excess of the need. In the case of rental assistance, a duplication of benefits would occur if a program beneficiary (either landlord or tenant) received assistance for the same months of rent for the same unit.

Per CDBG-CV Notice Part III.B.9, it is the Department's responsibility to ensure that each CDBG-CV grantee provides assistance only to the extent that the rental assistance needs have not been met by another source.

As a Grantee, TDHCA is required to develop and maintain adequate procedures to prevent a duplication of benefits that address (individually or collectively) each activity or program. To accomplish this TDHCA has instituted the following requirements:

- Any person or entity receiving CDBG-CV assistance certifies that they have not, and will not, pursue assistance for the same period of time for the same unit and household;
- Any person or entity receiving CDBG-CV assistance (including Subrecipients) must agree to repay assistance that is determined to be duplicative (this is included in both the tenant and landlord certifications); and
- Prohibiting any geographic area from being covered by more than one CDBG-CV Subrecipient.

Any refunds the Subrecipient receives or other program income must be returned to the Department within ten calendar days.

To analyze duplication of benefits a grantee should complete the following steps:

1. **Assess Need:** Determine the amount of need (total cost).
2. **Determine Assistance:** Determine the amount of assistance that has or will be provided from all sources to pay for the cost.
3. **Calculate Unmet Need:** Determine the amount of assistance already provided compared to the need to determine the maximum CDBG-CV award (unmet need).
4. **Document analysis:** Document calculation and maintain adequate documentation justifying determination of maximum award.

Example:

A family that has suffered job loss due to the economic impact of the coronavirus seeks rental assistance under a CDBG-CV Emergency Payment program for 3 months of arrears payments and 2 months of current/ future rent.

- **Step 1: Assess Need**
Monthly Rent = \$1,000
Potential Total Need: \$1,000 * 5 months = \$5,000
- **Step 2: Determine Assistance**
In the application, the applicant was asked to report if they are receiving or expecting to receive any additional or similar assistance. The applicant reported that a local faith-based organization provided \$250/ month for the past three months, but that aid is no longer available. The family certified that it has not applied for assistance from any other source.
- **Step 3: Calculate Unmet Need**
Total Need = \$5,000
Other Assistance = \$750 (\$250/ month for three months)
Actual Unmet Need (Maximum Award) = \$4,250 (\$5,000- \$750)
- **Step 4: Document the Analysis**
Maintain documentation of calculation and justification to confirm amount of unmet need.

8. Time Period of Assistance

Landlords may receive financial assistance for past-due rent payments dating back to April 1, 2020.

9. Subcontractors and Subawards

Subcontractors

Subrecipient, in subcontracting for any performances described in this Contract, expressly understands that in entering into such subcontracts, TDHCA is in no way liable to the Subrecipient's subcontractor(s). All subcontracts must be for goods or services and paid out of administrative funds. Subcontractors must be procured in accordance with 2 CFR Part 200, UGMS, and 10 TAC §1.404.

Subrecipient has the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all Contract terms and as if such performances rendered were rendered by Subrecipient. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract.

Subawards

Subrecipient may request to the Department to enter into a subaward to a unit of local government, council of government, public housing authority, or private nonprofit organization for some or all of its program and administrative funds through a direct (non-competitive) award. The Subrecipient must fulfill all of the requirements of a pass-through entity listed in 2 CFR §200.332, and must monitor its subawardee at least once during the Contract Term.

Any subaward must contain all the applicable terms and conditions required by federal and state requirements and as further reflected in this Contract including but not limited to items specifically identified in this Contract, 2 CFR §200.332, and 2 CFR Part 200 Appendix II (as applicable) .

Subrecipient must provide the Department with the applicable contact information for all subawards to ensure that accurate contact information is available relating to both rental assistance and eviction diversion activities to include in a list of resources for landlords/tenants. Subawardees may not further subaward funds.

Before entering into a contract or other agreement with a subawardee, Subrecipient must: 1) check the Federal and State debarment and suspended lists of both the Department (all subawardees) and Texas Department of Agriculture (only if the subawardee is a non-entitlement city or county) for the entity and for governing board members of subawardees; 2) ensure that the entity (if applicable) is current on its Single Audit submission to the Federal Audit Clearinghouse; 3) request a disclosure for matters under 2 CFR §200.113, 2 CFR Part 200 Appendix XII, 24 CFR Part 9, or the Fair Housing Act; and 4) provide the Department this information on the Department's form by February 15, 2021.

The Subrecipient, in subawarding for any performances described in this Contract, expressly understands that in entering into such subawards, the Department is in no way liable to the Subrecipient's subawardee(s). Department's approval under this Section 17 does not constitute adoption, ratification, or acceptance of Subrecipient's or subawardee's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section 17 does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

Prohibition on Certain Funds Transfers

Per the CDBG-CV Notice Part III.B.5.(c)(ii), all Subrecipients that directly or indirectly receive CDBG-CV funds are prohibited from selling, trading, or otherwise transferring all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, and must use such funds only for eligible activities, in this case, emergency rental assistance and eviction diversion.

10. Tenant Eligibility Requirements

Regardless of whether the household is assisted with TERAP or TEDP, the tenant must certify the following in the Tenant Certification form to qualify for assistance.

- Income Eligibility:** The Household must have gross annual income at or below 80% of the [Area Median Income](#) (AMI) and the program administrator must follow the income verification guidelines in the following section to determine the household's *income eligibility*.
- COVID-19 Impact:** The Household must have been economically impacted by COVID-19. The household will be asked to describe the impact, but is not requested to submit documentation of such impact with their application.
- Proof of Tenancy:** Proof of tenancy is most readily established with a copy of the lease for the unit. If there is no copy of the lease provided, or no lease exists, both tenant and landlord are required to certify that the information they have provided on the application regarding the terms of the lease and the rent amount is true and accurate and proof of tenancy must be provided (e.g. cancelled check, money order, utility bill etc.).
- Unit Eligibility:** Rental units must be eligible. Ineligible units include those already receiving project-based assistance, public housing units, and units owned by a unit of government.
- No Duplication of Benefits:** The Household must:
 - Certify that they have not received assistance for the same period of time for the same unit and household, or if they do receive funding, that they will pay back Subrecipient within ten calendar days.
 - Certify that they cannot have previously received rental assistance funded with CDBG CARES funds, that would exceed 6 months in total, when combined with this assistance.
- Truth and Accuracy:** The tenant must certify to the accuracy of all they are stating.

Ineligible Clients

- Households receiving duplicative rental assistance from any other source for the same period of time for which they are seeking assistance from the CDBG-CV program. Other sources may include but are not limited to rental assistance programs run by cities, counties, nonprofits or religious organizations.
- Tenants receiving tenant-based voucher assistance, those who are in a unit receiving project-based assistance, or those who are in public housing are ineligible. Public housing authority (PHAs) properties or properties receiving federal or state rental assistance are not eligible as they are already receiving assistance to meet their rent obligations. Examples of federal rental assistance programs whose program participants are not eligible for CDBG-CV rental assistance include but are not limited to the Housing Choice Voucher program (tenant or project based), Housing Opportunities for Persons with Aids (HOPWA), and HOME Tenant-Based Rental Assistance (TBRA).

11. Appeal Procedures for Households

Subrecipient must establish a written denial of service complaint procedure to address written complaints (or an oral complaint if a person with a disability requests a reasonable accommodation based on their disability) from a household or landlord.

The appeal procedure is not applicable to a household if the landlord declines to participate in the program.

If a household's denial is solely based on income eligibility, the complaint procedure would not apply, but the household may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the household's income as ineligible, the household must be notified in writing.

If the household is not satisfied with the Subrecipient's decision under the complaint procedure, the household may appeal the decision in writing (or telephonically if a person with a disability requests a reasonable accommodation based on their disability) to the Department within 10 calendar days of notification of an adverse decision. Households who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001. The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient, for which the procedures are further described in 10 TAC §1.13 (relating to Contested Case Hearing Procedures). If the household appeals to the Department, the Subrecipient's funds that could be pledged to that household should remain unencumbered until the Department completes the appeal process.

12. Income Determination and Verification

To determine whether a household qualifies for the program they must have gross annual income at or below 80% of the [Area Median Income](#) (AMI). Program administrators must follow these guidelines and should complete the *Household Income Certification (HIC) Form* to determine a household income, unless they have a similar tool that achieves the same purpose.

The household income determination process used for this program is based on HUD's Handbook 4350.3, Part 5, Income Determination, but has been modified by TDHCA to minimize barriers to income documentation recordkeeping.

- A **household** is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.
- **Gross amount.** For the types of income counted, gross amounts means income before any deductions have been taken.

Annualized Gross Income

Annualized Gross Income provides a "snapshot" of the household's current estimated annual income. For TERAP the household's circumstances for the most recent four weeks (or month, if monthly) are used to project future income. Please refer to the Appendix 1 for details on annualizing income.

Every household must qualify under one of the following four categories of income eligibility. A list of the income types that must be excluded from consideration is provided in Appendix 2.

Income Eligibility Categories and Required Documentation

Income/Eligibility Type	Documentation
<p>1. Considered income eligible if the household has 6 or less members and is currently receiving SNAP, SSI benefits (for the head or co-head only), or LIHEAP benefits</p>	<ul style="list-style-type: none"> • Enrollment documentation for the eligible program, e.g. benefit letter(no further documentation is needed and an income self-certification is not needed). • An email from the source agency for LIHEAP enrollment.
<p>2. Considered income eligible if living in a rent-restricted property and has evidence of income certification on or after April 1, 2020, but within 12 months of the CDBG application</p>	<ul style="list-style-type: none"> • A copy of the Property/landlord’s Income Certification dated on or after April 1, 2020 (within 12 months of the CDBG application) AND • Submission of the “Self-Certification of Annual Income by Beneficiary” form certifying that their income remains below 80% of AMI.
<p>3. Zero Income to 60% of AMI</p>	<ul style="list-style-type: none"> • Submission of the “Self-Certification of Annual Income by Beneficiary” form certifying that their income is below 60% of AMI.
<p>4. 60% to 80% of AMI</p> <p><u>Included Income</u></p> <ul style="list-style-type: none"> ○ The full amount, before any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses, (before payroll deductions), ○ The net income from the operation of a business (self-employment) ○ Payments in lieu of unemployment and disability compensation, worker's compensation, and severance pay, and similar payments in lieu of earnings ○ Actual Child Support Received ○ Part-time students over 18 years of age ○ Full-time students over 18 years of age AND Head or Co-head of household ○ Full-time students over 18 years of age and NOT Head or Co-head of household 	<ul style="list-style-type: none"> • Income Verification as provided below. An income self-certification form is not permitted for households in this income range. • Pay stub(s) covering at least most recent 4 weeks (weekly, bi-weekly) or covering most recent month (monthly, semi-monthly) • Self-certification • Benefits statement from agency OR One month’s bank statement demonstrating deposit(s) made from agency. Note: unemployment benefits should be included only for the period of time the applicant is actually eligible to receive those benefits • Bank statements or payment log from attorney general <ul style="list-style-type: none"> • Bank statements or pay stub(s) covering at least most recent 4 weeks (weekly, bi-weekly) or covering most recent month (monthly, semi-monthly) • Bank statements or pay stub(s) covering at least most recent 4 weeks (weekly, bi-weekly) or covering most recent month (monthly, semi-monthly) • Proof of full-time status from institution • Do NOT count income if they can prove full-time status

<ul style="list-style-type: none"> ○ Social Security (not SSI), annuities, insurance policies, retirement funds, pensions, disability benefits, death benefits or other types of similar periodic receipts. Report the total amount received. ○ All regular pay, special pay, and allowance of a member of the Armed Forces except special pay for a family member who is exposed to hostile fire. Report total amount received. 	<ul style="list-style-type: none"> ● Social Security or other Award Letter; or Bank Statements ● Bank statements or pay stub(s) covering at least most recent 4 weeks (weekly, bi-weekly) or covering most recent month (monthly, semi-monthly)
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13. Affordable Rent Standard/ Rent Ceiling

To ensure cost reasonableness, the contract rent (the lease amount) for the unit in which the household is requesting assistance may not exceed the following limits.

- The maximum amount of rental assistance (arrears, current and future months) the program will pay is set at 120% of the [Small Area Fair Market Rent](#) (SAFMR), or where no SAFMR exists, the [Fair Market Rent](#) (FMR).
- The maximum amount of contract rent for the unit cannot exceed 150% of the SAFMR, or where no SAFMR exists, the FMR. If a unit’s contract rent exceeds this amount, the unit and household are not eligible for assistance under the program.
- If a tenant’s contract rent falls between 120% and 150% of the applicable SAFMR or FMR (as applicable), the program will still be able to assist the tenant. However, an agreed upon party, either the tenant, landlord, subrecipient or other, must pay the amount of contract rent in excess of the 120% limit, or enter into a payment plan executed by both the tenant and the landlord, before the program will pay the 120% contribution. For any forward payment of rent, the household will have to pay that amount in excess of the 120% limit each month.
- To find the 120% and 150% limits described above, use the [Rent Limit Calculator \(XLSX\) found under Program Documents](#). Enter the zip code for the unit for which assistance is being requested. If no zip code is listed, clear the zip code cell and enter the county.

Example for a housing unit with the following rent and applicable SAFMR/FMR:

If:

- The Contract Rent = \$1,300
- AND
- SAFMR or FMR = \$1,000
- 120% SAFMR or FMR = \$1,200
- 150% SAFMR or FMR = \$1,500

Then → :

- Maximum TERAP Rental Assistance = \$1,200
- AND
- Certified Responsible Party Portion (Tenant, landlord, subrecipient, or other) = \$100

14. Landlord Eligibility Requirements

The landlord must complete and certify the following in the Landlord Form and Certification to qualify for assistance.

- Proof of Tenancy:** the landlord must certify the lease term, rent amount, and be able to provide proof of tenancy by:
 - Providing a copy of the Tenant’s lease.
 - If no written lease is available, the landlord must provide:
 - Proof of Unit ownership or ability to sublease.
 - Evidence of payment from or benefiting Tenant for the unit dated on or after February 1, 2020 (e.g. cancelled checks or money order).
- Documentation of missed payments:** e.g. missed payment on ledger for rental arrears.
- Unit Eligibility:** Rental units must be eligible. Ineligible units include those already receiving project-based assistance, public housing units, and a property owned by a unit of government.
- Age of Property:** the Landlord is certifying to the accurate age of the property.
- Prevention of Duplication of Benefits Certification:**
 - Landlord cannot have received assistance from another program for the same rent for the same client and must agree to not apply in the future for the covered months.
 - The landlord receiving CDBG-CV assistance must agree to repay any assistance that is determined to be duplicative. Landlord will reimburse the Program Administrator within 10 business days if they receive duplicative payment for the same tenant and same time period.
- Non-Eviction:** To receive financial assistance, the landlord must agree not to evict the renter for non-payment of rent associated with any of the months for which the rental assistance payment is made. In the case of TEDP assistance, the Landlord must agree to release the tenant from payment liability and waive all claims raised in the eviction case and not evict the tenant for non-payment of rent for the period covered by the assistance.
- Fees and Penalty Forgiveness:** Landlord **can** agree to forgive late fees/penalties for rental arrears.
- Direct Deposit:** Landlord must have a bank account with direct deposit, unless otherwise agreed to with the program administrator.
- W-9:** Submission of a W-9 form completed by the landlord.
- Assistance cannot cover rent any earlier than April 2020.
- Truth and Accuracy:** The landlord must certify to the accuracy of all items on the certification.

15. Required Documentation for Application

Landlord	Tenant
<ul style="list-style-type: none"> • Copy of the executed lease with the tenant or if no written lease, required certification proving tenancy and ability to provide proof of tenancy (e.g. cancelled check, money order, or missed payment on ledger). 	<ul style="list-style-type: none"> • Personal ID for one household member that is on the lease, or where the member demonstrates occupancy through another identification method such as a sublease agreement, utility bill, voter registration, school registration form, etc.

<ul style="list-style-type: none"> • Documentation of missed payments (e.g. missed payment on ledger for rental arrears) • IRS W-9 • Completed <u>Landlord Form and Certification</u> • <u>If applicable</u>, copy of the Property's Income Certification dated on or after April 1, 2020 (within 12 months of the CDBG application) for the applicable household 	<ul style="list-style-type: none"> • Written lease OR certification to tenancy and another method (e.g. cancelled check, money order, utility bill, etc.) • Evidence of income eligibility under other qualified program OR income determination documentation • Completed <u>Tenant Application</u> • Completed <u>Housing Income Certification</u> • Completed <u>Tenant Certification</u>
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16. Environmental Review

The Department has received statewide environmental clearance for this rental assistance program and program administrators *will not* have to perform individual environmental reviews.

17. Lead Based Paint Requirements

Emergency Rental Assistance, provided for any period of time longer than 100 days for current or forward rent, is covered by the Lead Safe Housing Rule (LSHR) at Title 24, Part 35 and must follow the requirements of Subpart K, whether occupied by a child less than six years or not. Rental assistance for arrears does not trigger the LSHR. The Landlord Certification form requires the Landlord to disclose the date the property was constructed. If the date disclosed is 1978 or newer, no further action is required by the Subrecipient. However, units built before 1978 and receiving four or more months of assistance are subject to this requirement.

Subpart K requires that most dwelling units built prior to January 1, 1978, that receive Federal assistance undergo a visual assessment for deteriorated paint (inside, outside and all common areas) by a trained grantee or subrecipient. Visual Assessment training is free and may be taken through this link: <https://apps.hud.gov/offices/lead/training/visualassessment/h00101.htm>.

The results of the visual assessment must be documented. Should deteriorated paint be identified, the household is not eligible to be assisted unless the administrator elects to follow the compliance steps to properly address the deteriorated painted surfaces, detailed in Subpart K. A list of exemptions to the LSHR, steps to comply with Subpart K, and associated resources can be reviewed here: <https://portalapps.hud.gov/CORVID/HUDBLPAdvisor/welcome.html>.

The Office of Lead Hazard is allowing virtual visual assessments to mitigate the spread of coronavirus. If deteriorated painted surfaces are identified, it must be stabilized by a certified EPA or state RRP program renovator and unit clearance achieved by a third party risk assessor/inspector or clearance technician.

18. Affirmatively furthering fair housing

All Subrecipients must affirmatively further fair housing. This includes but is not limited to marketing the program to those least likely to apply. Examples of actions of affirmative marketing are reaching out to organizations that work with persons with disabilities or marketing the program to communities that may not speak English or speak English less than well in their preferred spoken language.

19. Program Administration and Performance

Execution of Grant Documents

Before accessing the CDBG-CV funds, the Subrecipient must execute and deliver a Contract to TDHCA and must provide to TDHCA all executed, legally enforceable grant documents, as applicable, and any other documents reasonably requested by TDHCA in connection with these funds.

One-Time Advance of Funds

Per 2 CFR 200.305, the Subrecipient may request a one-time advance of funds (no more than 30 days cash need) by submitting to TDHCA a properly completed planned expenditure report that includes a request for advance funds, in a format specified by TDHCA. TDHCA shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment until TDHCA has reviewed and approved such request. TDHCA may request Subrecipient to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein as may be necessary or advisable for compliance with the Federal Act and Program Requirements.

The Subrecipient's requests for the advance of funds shall be limited to the minimum amounts needed for effective operation of programs, and shall be timed as closely as possible to be in accord with actual cash requirements. The Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from TDHCA to the Subrecipient and the spending of such funds and shall ensure that such funds are disbursed as soon as administratively possible. If Subrecipient subgrants any part of its award, it must have financial management systems in place to pay the subgrantee for expenses under the agreement, generally within 30 days.

Performance Benchmarks, Contract Term and Deobligation

The contract will be issued for a term of 12 months, subject to extension requests at the sole discretion of the Department.

Contract benchmarks will be reflected in the contract with the Subrecipient that require expenditures as follows:

- No later than the end of the fourth month of the contract, at least 20% of total contracted funds must be reported as expended.
- No later than the end of the sixth month of the contract, at least 40% of total contracted funds must be reported as expended.
- No later than the end of the ninth month of the contract, at least 70% of total contracted funds must be reported as expended.
- No later than the end of the twelfth month of the contract, at least 100% of total contracted funds must be reported as expended.
- Failure to achieve contract benchmarks may be cause for a partial or complete deobligation of the remaining unexpended contract funds, as determined by TDHCA on a case-by-case basis.

Once General Administration expenditures reach 40% of the budgeted amount, the Department will only reimburse Subrecipient for additional General Administration costs at a rate such that the percentage of budgeted General Administration funds reimbursed is no more than 20 percentage points higher than the percentage of budgeted Emergency Payments expended.

Reporting Responsibilities & Records to be maintained

Subrecipients will be required to submit monthly performance reports outlining households assisted, funds expended, client demographic data and verification of grant-funded program expenses. The reports will be reviewed for accuracy, performance measures and compliance. In addition, monitoring and auditing of grantees for ongoing compliance and eligibility will be performed by the State to ensure federal requirements are being met.

Subrecipients will be required to maintain client data supporting client eligibility for services provided. Data shall include, but not be limited to: how the person/household was directly impacted by the coronavirus, number of persons/households served, family size, race/ethnicity and income documentation.

Subrecipients will also be required to maintain client and program data relating to the Texas Eviction Diversion Program including, but not limited to: number of persons whose evictions were diverted, client eligibility and demographic information.

By the 15th of each month, Subrecipient shall report:

Aggregate-level data to be reported via the Housing Contract System:

1. Summary data for households served by race, ethnicity, and household income level, and other demographic data as required by HUD.
2. Number of Households that received emergency rental assistance.
3. Number of Households that received emergency rental assistance through the Eviction Diversion program ([report eviction diversion here even if using regular emergency rental assistance funds](#)).
4. Total number of households served.
5. Number of pending Households to receive assistance in the following thirty (30) days.

Texas Eviction Diversion Program [Referrals by Household](#):

1. Number of eligible tenants referred to the program for the previous month's activity.
2. Number of ineligible tenants referred to the program for the previous month's activity. Number of eligible landlords referred to the program for the previous month's activity.
3. Number of ineligible landlords referred to the program for the previous month's activity.
4. Number of referred tenants withdrawing from the program.
5. Number of referred landlords withdrawing from the program.
6. [Number of tenants assisted with security deposits.](#)
7. [Number of tenants assisted with utility deposits.](#)

Subrecipient must also report household-level data, including demographic data, as described on TDHCA's Excel Monthly Performance Report spreadsheet.

20. Other Federal Cross-cutting requirements

- [24 CFR 570 Subpart K](#)
- [Fair Housing Act](#)
- [Federal reporting requirements - 24 CFR 91.520](#)
- [Monitoring and reporting program performance - 2 CFR 200.329](#)
- [Monitoring requirements - 24 CFR 91.330](#)

21. List of Program Forms

Tenant Forms

- Tenant Application Form
- Rent Limit Calculator
- Household Income Certification
- Income Self-Certification
- Tenant Certification Form

Landlord Form

- Landlord Certification Form

Appendix 1: Annualized Income

In general, a Subrecipient evaluating a household's income should assume that the household's circumstances today will continue for the next 12 months (ANNUALIZE), unless there is verifiable evidence to the contrary.

For example, if a head of household is currently working for \$7.00 per hour, 40 hours per week, the Subrecipient should assume that this family member will continue to perform that work for that rate and amount of time for the next year. Thus, estimated earnings will be \$7.00 per hour multiplied by 2,080 hours (40 hours per week for 52 weeks of the year), or \$14,560 per year.

This method should be used even when it is not clear that the type of income received currently will continue in the coming year.

For example, assume a family member has been receiving unemployment benefits of \$100 per month for 16 weeks at the time of income certification. It is unlikely that the family member will continue on unemployment for another 52 weeks. However, because it is not known whether or when the family member will find employment, the Subrecipient should use the current circumstances to anticipate annual (gross) income. Income would therefore be calculated as follows:

- \$100 per week x 52 weeks, or \$5,200.

The exception to this rule is when documentation is provided that current circumstances are known to be time limited or about to change. For example, an employer might report that an employee currently makes \$7.50 an hour, but a negotiated union contract will increase this amount to \$8.25 an hour eight weeks from the date of assistance. In such cases, income can be calculated based on the information provided. In this example, the calculation would be as follows:

- $\$7.50/\text{hour} \times 40 \text{ hours/week} \times 8 \text{ weeks} = \$2,400$
- $\$8.25/\text{hour} \times 40 \text{ hours/week} \times 44 \text{ weeks (remaining weeks in the year)} = \$14,520$
- $\$2,400 + \$14,520 = \$16,920 = \text{Anticipated and Annualized Gross Income from that household member.}$

Methods to annualize for part-time and full-time gross income

Weekly pay:

4 pays stubs: Add the four gross amounts of each stub and divide by four to give you the weekly average. Multiply the weekly average by 52 to arrive at the gross annualized income.

Bi-weekly (every two weeks) pay:

2 pay stubs: Add the two gross amounts of each stub and divide by two to give you the bi-weekly average. Multiply the bi-weekly average by 26 to arrive at the gross annualized income.

Semi-monthly (twice per month) pay:

2 pay stubs: Add the two gross amounts of each stub and divide by two to give you the semi-monthly average. Multiply the semi-monthly average by 24 to arrive at the gross annualized income.

Monthly pay:

One pay stub: Multiply gross amount by 12 to arrive at the gross annualized income.

Irregular pay:

Use a reasonable, consistent method to arrive at the gross annualized income.

Appendix 2: Excluded Income

The calculation of annual income shall not include the following:

A. Income from Children, which is income from the employment of children (including foster children) under the age of 18 years.

B. Payments Received for the Care of Foster Children, including foster adults (usually persons with disabilities, unrelated to the family, who are unable to live alone).

C. Lump-Sum Payments, including additions to family assets, such as inheritances, insurance payments (e.g., health and accident insurance, and worker's compensation), capital gains and settlement for personal or property losses [except as provided].

D. Reimbursement for Medical Costs, including all payments received by the family that are specifically for, or in reimbursement of, medical expenses for any family member.

E. Live-in Aide, including the income of a live-in aide employed because of a medical condition or disability of a family member. A live-in aide is determined to be essential to the care and well-being of the person, not obligated for the support of the person, and would not be living in the unit except to provide the necessary supportive services.

F. Education Assistance, including the full amount of educational scholarships paid directly to the student or to the educational institution, and Government funds paid to a veteran for tuition fees, books, equipment, materials, supplies, transportation and miscellaneous personal expenses of the student. Any amount of such scholarship or payment to a veteran not used for the above purposes that is available for subsistence is to be included in income.

G. Government Programs, including the following: Amounts received under training programs funded by HUD and earnings and benefits from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government.) Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income (SSI) eligibility and benefits, because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS). Amounts received by a participant in other publicly-assisted programs, which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and made solely to allow participation in a specific program. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the U.S. Housing Act of 1937. Amounts paid by a State agency to a family with a member who has developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member living at home.

H. Temporary Income, considered temporary, nonrecurring or sporadic in nature (including gifts).

I. **Income of Full-Time Students**, earnings in excess of \$480 for each full-time student 18 years old or older attending school or vocational training (excluding the head of household and spouse).

J. **Property Tax Refunds**, including amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling of the unit.

K. **Adoption Assistance Payments**, in excess of \$480 per adopted child.