



TEXAS AFFILIATION OF
AFFORDABLE HOUSING
PROVIDERS



March 3, 2026

Ms. Brooke Boston, Deputy Executive Director
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
brooke.boston@tdhca.state.tx.us

Re: Public Comment on Proposed PRWORA Implementation Rulemaking for Multifamily HOME, HOME-ARP Rental, and NHTF Developments

Dear Ms. Boston:

On behalf of the Texas Affiliation of Affordable Housing Providers (TAAHP) and the Texas Apartment Association (TAA), thank you for the opportunity to comment on TDHCA's proposed PRWORA implementation rulemaking for multifamily HOME, HOME-ARP Rental, and National Housing Trust Fund (NHTF) developments. Our members—owners, developers, compliance professionals, and property management teams—will carry out these requirements at move-in and through ongoing file maintenance and monitoring.

This letter focuses on the changes that will most improve clarity, consistency, and administrability while reducing avoidable resident fear and operational risk. We are also submitting a separate annotated redline with proposed rule text edits and brief explanations.

Thank you for considering these comments. We welcome continued discussion and are available to provide practical implementation examples, including mixed-finance and floating-unit scenarios, to support a clear and administrable final rule.

Sincerely,

Roger Arriaga
TAAHP Executive Director

Chris Newton
TAA Executive Vice President

About the Texas Affiliation of Affordable Housing Providers (TAAHP)

The Texas Affiliation of Affordable Housing Providers (TAAHP) is a non-profit trade association serving more than 800 affordable housing industry professionals involved in the financing, design, development, and management of affordable housing communities in Texas through public/private partnerships.

About the Texas Apartment Association (TAA)

The Texas Apartment Association (TAA), representing more than 12,000 housing owner/operators statewide is a non-profit trade association that provides exceptional advocacy, education and communication for the Texas rental housing industry. We serve all types of rental professionals, including property owners, builders, developers, property management firms and service providers.



I. Executive Summary

TAAHP and TAA submit this comment letter on TDHCA's proposed PRWORA verification rules and the related preamble analyses, including fiscal cost and impact considerations. This executive summary is limited to our three highest-priority issues for revision because they will have the greatest effect on implementation feasibility, statewide consistency, and objective, file-based monitoring across TDHCA's HOME, HOME-ARP Rental, and NHTF portfolio.

1. Limit verification to assisted units, not property-wide

Section 10.628(b) should explicitly state that PRWORA verification applies only to persons signing the lease for units designated as HOME, HOME-ARP Rental, or NHTF assisted. As drafted, the floating unit language can be read and implemented as a property-wide screening requirement even when only a subset of units are assisted, increasing workload and tenant-facing disruption without improving assisted-unit compliance.

Applying HUD's Paperwork Reduction Act benchmark (1.25 hours per response at \$52/hour) to TDHCA's portfolio data shows why §10.628(b) must be unit-based. Also, these figures are conservative because HUD's burden estimate is per person completing verification steps, and §10.628 applies to each lease signer. If households average two lease signers, the one-time burden roughly doubles.

- **Unit-based scope (assisted units only):** 9,126 assisted units across 391 developments, approximately 11,408 staff hours and \$593,190 for a one-time cycle.
- **Property-wide scope (all units in affected developments):** 28,895 total units, approximately 36,118 staff hours and \$1,878,175 for a one-time cycle.

Recommendation: Amend §10.628(b) to limit verification to lease signers in HOME, HOME-ARP Rental, and NHTF assisted units only, and for floating units require verification only when a unit is designated as assisted. Require a minimum audit trail in the tenant file showing the designated assisted units, the effective date of each unit designation, and the household occupying the unit as of that date (e.g., executed TIC).

2. Establish uniform procedures for pending, delayed or disputed verification

The proposed rule does not provide a uniform statewide process for cases where verification does not immediately yield a confirmed result. That gap will drive inconsistent site practices, inconsistent treatment of applicants and residents, and subjective monitoring outcomes, because delayed and disputed results are foreseeable under SAVE. Recently, the Texas Tribune reported that in the voting context, more than 5% of people flagged by SAVE as noncitizens were ultimately confirmed to be U.S. citizens in counties that conducted follow-up review. PRWORA verification is more complex than a binary citizenship check, making clear statewide procedures essential.

Recommendation: Add uniform standards for non-confirmed results, including required written notices, timelines and extension criteria, documentation requirements, a dispute/cure process, and a compliance safe harbor when an Owner timely initiates verification and follows TDHCA procedures but results are delayed outside the Owner's control.

3. Amend the "harboring" lease attestation

The proposed "not harboring an illegal immigrant" lease attestation should be amended. It imports an undefined criminal-law concept into a lease without an objective, monitorable compliance standard. In practice, it will be explained and applied inconsistently across properties, increase fair housing and other liability risk, and create tenant confusion about ordinary, lawful conduct. It also does not improve §10.628 verification outcomes, which are achieved through verification of lease signers and documentable tenant file requirements.

Recommendation: Amend the "harboring" attestation with a verification-tethered, file-based certification. Lease signers certify that the information and documentation submitted for §10.628 verification is true and complete, acknowledge consequences for knowingly providing false information, and agree to notify the Owner when lease signers change so any new signatory can be verified.



II. Core Rule Text Recommendations

§10.612(a)(6) Tenant File Requirements – Required Attestation

(6) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 (relating to 10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) an attestation signed by all parties signing the lease that they are not harboring an illegal immigrant in violation of federal law.

The proposed “not harboring an illegal immigrant” attestation imports a criminal law concept into a lease document without defining the standard or tying it to an objective, monitorable compliance control. As drafted, it is unworkable in practice, extremely burdensome, and counterproductive to TDHCA’s stated compliance objectives.

The undefined term is likely to be interpreted differently across properties and program administrators, leaving residents unsure what they are being asked to certify and increasing the risk of fair housing complaints and other liability. Residents could reasonably ask whether ordinary, lawful situations could be misread as “harboring.” If a tenant hires a babysitter, lets a child’s church friend sleep over, or temporarily shelters a neighbor fleeing domestic violence, could any of that be construed as a violation? That ambiguity invites inconsistent enforcement and creates a chilling effect that falls hardest on working families, while weakening the informal support networks that help households stay stable and move forward.

Ultimately, this attestation adds uncertainty without improving §10.628 verification outcomes, which are already addressed through verification of lease signers and documentable tenant file requirements.

Recommendation

Replace the “harboring” attestation with a verification tethered attestation that is file based and monitorable. Lease signers certify that information and documentation submitted for §10.628 verification is true and complete, acknowledge consequences for knowingly providing false information, and agree to notify the Owner when lease signers change so any new signatory can be verified.

§10.628(b) Applicability – Keep verification unit-based (not property-wide)

(b) Applicability. This rule applies to existing and future National Housing Trust Fund, HOME-ARP Rental and HOME Developments for their state and federal affordability periods. For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit’s lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section. Populations that are documented by the Development as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

The central implementation issue is scope. Section 10.628 should state clearly that PRWORA verification applies only to persons signing the lease for Units that are designated as HOME, HOME ARP Rental, or NHTF assisted. As drafted, the floating unit sentence can be read and operationally implemented as a property wide screening requirement even when only a subset of units are assisted, increasing workload and tenant facing disruption without improving assisted unit compliance.



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Paperwork Cost Burden

To quantify the workload impact of scope, we use HUD's own Paperwork Reduction Act burden methodology outlined in their recently released proposed Section 214 verification rule. In that proposed rule, HUD tabulates estimated paperwork burden for verification activities and uses 1.25 burden hours per response and an hourly labor cost of \$52 (about \$65 per verification event) as a standardized benchmark.

Applying that benchmark to TDHCA's portfolio data illustrates why §10.628(b) must be unit based:

Unit based scope (assisted units only): 9,126 assisted units across 391 developments, approximately 11,408 staff hours and \$593,190 for a one-time cycle.

Property wide scope (all units in affected developments): 28,895 total units, approximately 36,118 staff hours and \$1,878,175 for a one-time cycle.

A site level example makes the spillover concrete. A San Antonio property has 321 total units but only 30 NHTF assisted units. Under a unit-based approach, the paperwork burden is approximately 37.5 hours and \$1,950. Under a property wide interpretation, it is approximately 401.25 hours and \$20,865. The difference, approximately 363.75 staff hours and \$18,915, is driven solely by expanding verification to 291 units that are not assisted units subject to PRWORA under this rule.

These figures are conservative because HUD's burden estimate is per person completing verification steps, and §10.628 applies to each lease signer. If households average two lease signers, the one-time burden roughly doubles. TDHCA should acknowledge this in its fiscal note and estimate average lease signers or present a sensitivity range.

Scope Risk by Geography and Program Mix

Rural properties tend to have higher assisted-unit shares and are overwhelmingly HOME, meaning many rural sites will be near fully affected even under a unit-based rule and will have fewer staff resources to absorb fixed per-lease requirements. Urban properties are larger and more layered, including more NHTF and HOME-ARP, which increases operational complexity and the likelihood of administrative error if the rule is not explicit. In major metro counties, the primary risk is spillover beyond assisted units; for example, in Travis County the affected properties include 714 assisted units but 3,292 total units. Overall, the 391-property portfolio is predominantly mixed-income, making precise unit-coverage tracking and clear, monitorable documentation standards essential.

Recommendation

Revise §10.628(b) to state explicitly that verification is required only for persons signing the lease for a Unit designated as HOME, HOME-ARP Rental, or NHTF assisted. For floating unit Developments, clarify that verification is triggered when the assisted designation is assigned to a specific Unit, as shown by the Development's Unit designation documentation and the executed lease document or other executed document implementing that assisted designation.

§10.628(e) Implementation Timing

(e) Implementation Timing. All HOME, HOME ARP Rental, and NHTF Developments must confirm legal status at initial lease-up of a Unit and at the time of the first Unit recertification or lease renewal that occurs after the effective date of this rule. Verification does not need to be confirmed thereafter for a household if no changes to the household members having signed the lease have changed; any new signatories to the lease at the time of subsequent Unit recertification or lease renewal must be confirmed for legal status. To the extent that the household no longer qualifies to reside in the Unit notification requirements as provided for in §10.613, must be met.

The timing framework in §10.628(e) is directionally correct, but it still needs sufficient precision to ensure uniform statewide implementation and consistent monitoring. The phrase "first Unit recertification or lease renewal that occurs after the effective date" will be applied differently unless TDHCA specifies the controlling date that determines when



a renewal “occurs,” which is especially important for leases and renewals being executed now before the rule becomes effective. Without a clear execution date standard, owners will face conflicting expectations about whether finalized lease files must be reopened or whether verification can wait until the next renewal cycle, creating inconsistent tenant treatment and inconsistent monitoring outcomes.

This subsection also needs clearer triggers for common operational realities. For HOME units, a formal lease renewal may not occur because leases can continue month to month, and full income recertification timing can be less frequent than annual. In those cases, owners need a defined recurring compliance touchpoint, such as the annual HOME review or annual household certification event, so “recertification or renewal” is not a null trigger. In floating unit Developments or other structures where a Unit becomes assisted after the effective date, timing should follow the fully executed lease document that implements the assisted designation for that specific Unit, because that is the objective file-based event TDHCA can monitor.

Pending litigation and evolving federal direction are also relevant to implementation timing. PRWORA related federal requirements and enforcement may shift through court orders or updated federal guidance after TDHCA has begun implementation. In August 2025, in *State of New York v. U.S. DOJ*, a court filed stipulation temporarily paused enforcement and application of the new PRWORA “federal public benefit” interpretation in the plaintiff jurisdictions, which include Washington, D.C. and 21 states. Texas is not a plaintiff jurisdiction, and TDHCA has treated federal notices as effective immediately here while other states are delaying rule changes until the litigation is resolved. This creates a real risk that owners will expend significant resources implementing procedures that later require adjustment, and that tenant files already in process will be treated inconsistently unless TDHCA can issue uniform transition instructions.

Recommendation

Adopt the attached markup to §10.628(e), which (1-3) establishes initial lease-up, post-effective-date recertification/renewal, and newly designated Unit triggers; (4) defines “lease renewal” by full execution, meaning the last required signature, so timing is based on signature date rather than lease term start or occupancy; (5) limits reverification to new lease signers; and (7) transition guidance authority for material federal changes or controlling court orders.

§10.628(f)(2)(D) Transmittal, Security, and Record Retention

(D) In the administration of subparagraph (B) of this paragraph, the Owner must provide and maintain a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its vendor, and ensures the secure safekeeping of such paper and/or electronic files, and receipt of subsequent response back from the Department or its contracted party. In the administration of subparagraphs (B) or (C) of this paragraph, the Owner or its procured provider must maintain sufficient evidence and documentation that verification has taken place so that such verification can be confirmed by the Department.

As drafted, §10.628(f)(2)(D) relies on discretionary standards such as “sufficient” transmittal systems and “sufficient” evidence that verification occurred. In practice, that invites inconsistent implementation across Owners and vendors, encourages over collection and over retention of sensitive personal information, and makes monitoring subjective because TDHCA staff will be left to decide case by case what was “sufficient.” This is especially risky here because the rule authorizes three different verification pathways that generate different records and involve different parties. A single, vague recordkeeping standard will not produce consistent files.

The tenant file standard should instead be objective and method specific. Owners need to know exactly what must be kept for each pathway, and TDHCA needs a uniform checklist that can be applied consistently during monitoring. Clear minimum documentation requirements reduce rework, reduce disputes and findings driven by missing or inconsistent paperwork, and better protect confidentiality by limiting retention to what is necessary to confirm compliance.



Recommendation

Replace the discretionary “sufficient” standard with minimum documentation requirements aligned to each verification method. For SAVE under paragraph (2)(A), require retention of the SAVE case number or unique identifier, the initial response, and any subsequent responses or final result where additional verification is requested. For TDHCA or vendor verification under paragraph (2)(B), require secure electronic transmittal and retention of proof of submission, including the submission date and confirmation number, plus the subsequent response or determination returned. For TDHCA approved third party verification under paragraph (2)(C), require documentation identifying the verifier and evidence of TDHCA approval, the verification request for each lease signer required to be verified, and the verification result or determination provided to the Owner.

§10.628(f)(2)(F)–(K) Pending, delayed, or disputed verification

The proposed rule does not provide a uniform statewide process for cases in which verification does not immediately yield a confirmed result. That is a material gap because delayed, manual, and inconclusive outcomes are foreseeable under SAVE, and turnaround time is often outside an Owner’s control under Department, vendor, or third-party workflows. HUD’s proposed Section 214 framework similarly anticipates secondary verification and time extensions, confirming that non-instant results are a normal feature of verification administration.

Recent Texas experience with SAVE underscores the need for uniform procedures. The Texas Tribune reviewed how Texas used SAVE in the voting context, where the only question was whether a voter was a U.S. citizen. Even with this simple, binary check, SAVE sometimes incorrectly flagged eligible voters. In 97 of 177 Texas counties that investigated further—by cross-checking DPS records or sending notices—over 5% of those flagged as noncitizens were actually U.S. citizens. In some small counties, most people flagged turned out to be eligible. This is important because PRWORA verification is even more complex than a basic citizenship check. It requires confirming whether someone is a U.S. citizen, a U.S. national, or a Qualified Alien, which may involve multiple types of documentation, various visa or status categories, and a greater chance of pending or disputed results.

Without uniform statewide rules for notices, escalation, timelines, and file documentation, Owners will develop inconsistent site-level practices, applicants will be treated differently across properties, and TDHCA monitoring will become subjective, increasing disputes, vacancy friction, and avoidable compliance findings.

Recommendation:

Add new §10.628(f)(2)(F) through (K), as reflected in the markup, to require written notice when legal status is not confirmed, establish uniform procedures for delayed, manual, or inconclusive results, define applicant processing while verification is pending, provide extension criteria and documentation, establish a dispute and cure process with roles and timeframes, and include a compliance safe harbor so an Owner is not cited solely because results are delayed when the Owner timely initiated verification, provided required notices, followed TDHCA procedures, and maintained required documentation.

III. Comments on Preamble & Required Rule Analyses

Attachment 1 (proposed amendments to §10.612) and Attachment 2 (proposed new §10.628) contain substantially similar required-analysis language. To streamline review, the comments below apply to both attachments except where noted.

Government Growth Impact Statement

TDHCA should reconcile staffing assumptions: Attachment 1 states no staffing change, while Attachment 2 anticipates 1–2 new positions. The analyses should state whether TDHCA will absorb the workload or add staffing (temporary or ongoing). If federal administrative funds are cited, identify the source, duration, and covered costs. TDHCA should also account for major non-personnel drivers such as training, standardized forms/notices, secure submission methods, vendor support, and monitoring tools.



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Adverse Economic Impact on Small Businesses & Rural Communities; Regulatory Flexibility

TDHCA's "no economic effect" determination should be reconsidered. The proposed requirements impose fixed per-lease and per-renewal compliance steps that do not scale down for small operators or rural properties with limited onsite capacity, increasing the proportional burden and the risk of technical findings. Where verification issues escalate to nonrenewal and a household does not vacate, owners can also incur foreseeable enforcement costs. Stakeholders note that enforcing removals can be costly. For example, court and attorney fees can range from \$1,350 to \$3,500 per case, while filing and staff time can add another \$671 per action. These figures do not include the significant costs of turning over a unit.

Effects on the State's Economy; Local Employment Impact Statement

TDHCA's statements concluding no effect on the state's economy and no local employment impact should be amended. The proposed requirements create measurable operational costs that can affect property performance at scale. Even modest increases in vacancies or turnover across the affected portfolio can reduce rental revenue and increase operating costs, raising the risk of financial distress at impacted developments. Those impacts can flow through to local economies through reduced local spending, tighter rental supply, and potential effects on local property tax collections.

TDHCA should also acknowledge foreseeable local employment impacts. Document retrieval, notices, follow-up, and dispute resolution can require time off work or missed wages, particularly for hourly workers and households with limited transportation or limited access to document-issuing agencies. More significantly, when verification delays or disputes prevent a household from leasing a unit or contribute to housing loss, households may be forced to relocate farther from work or leave the city entirely, disrupting commute time, childcare arrangements, and schedule reliability. That increases missed shifts and turnover risk for local employers and should be reflected in the local employment impact discussion.

Public Benefit/Cost

This rule only applies to HOME, HOME-ARP Rental, and NHTF developments in TDHCA's monitored portfolio, while comparable units administered by local jurisdictions using the same federal programs may not be subject to the same state-level procedures. That unevenness can encourage program shopping, concentrating administrative burden and compliance risk in TDHCA's portfolio and increasing lease-up and vacancy friction at impacted properties. In addition, the note should acknowledge the risk of reduced owner participation. If TDHCA-administered resources carry additional tenant-facing requirements beyond what similarly situated programs require elsewhere, some owners may be less willing to pursue TDHCA HOME, HOME-ARP Rental, or NHTF financing, which would directly reduce production and preservation capacity.

Lastly, TDHCA should acknowledge impacts on mixed-status households and the resulting harm to eligible members. HUD's Regulatory Impact Analysis for its proposed Section 214 rule reports that within mixed families, 70 percent of members are eligible and 30 percent are ineligible, and that among eligible members, 65 percent are children. Even when the policy objective is compliance, verification failures, delays, or nonresponses can reduce assistance for otherwise eligible members. Because most eligible members in mixed-status households are children, these disruptions and reductions can fall disproportionately on children. The public benefit/cost note should reflect this as a public cost.

Fiscal Note

The fiscal note should address both Department implementation costs and regulated-entity compliance costs. Department costs include training, standardized forms and notices, secure submission methods, escalation support, and monitoring protocols. Regulated-entity costs include routine verification plus follow-up workload for delayed or disputed cases and documentation requirements, with significant sensitivity to scope if practices spill beyond the assisted-unit universe. TDHCA should also acknowledge foreseeable downstream costs when disputes escalate, including vacancy loss and legal and court-related costs.

10.612 Tenant File Requirements

(a) At the time of program designation as a low income household (or Qualified Population for HOME-ARP Rental), typically at initial occupancy, Owners must create and maintain a file that at a minimum contains:

- (1) A Department approved Income Certification form signed by all adults. At the time of program designation as a low income household or Qualified Population, Owners must certify and document household income. In general, all low-income households and Qualified Populations for HOME-ARP Rental must be certified prior to move in. The Department requires the use of the TDHCA Income Certification form, unless the Development also participates in the USDA - Rural Development or a Project Based HUD Program, in which case, the other program's Income Certification form will be accepted;
- (2) Documentation to support the Income Certification form including, but not limited to, applications (one per adult or married couple), first hand or third party verification of income and assets, and documentation of student status (if applicable). The application must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Army, Navy, Marines, Coast Guard, Air Force, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at <https://veterans.portal.texas.gov/>";
- (3) The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form. Owners should scrutinize these documents to identify and address any obvious attempts at forgery, alteration, or generation of falsified documents; ~~and~~
- (4) A lease with all necessary addendums to ensure that compliance with applicable federal regulations and §10.613 of this subchapter (relating to Lease Requirements);
- (5) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 (relating to 10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) documentation to support that legal status of all persons signing the lease- has been verified; and
- (6) For HOME, HOME-ARP Rental, and NHTF Developments, in accordance with §10.628 (relating to 10.628 Verification of Occupant Legal Status for HOME, HOME-ARP Rental, and NHTF Developments) an attestation signed by all parties signing the lease that: ~~they are not harboring an illegal immigrant in violation of federal law.~~
 - (A) The information and documentation provided by the household for purposes of eligibility and verification under §10.628 is true and complete to the best of their knowledge;
 - (B) The household understands that they may be subject to prosecution for providing false or fraudulent information under applicable law;
 - (C) The household will notify the Owner of any change to the persons signing the lease, including the addition of a lease signer, as required by §10.613 (relating to Lease Requirements) and Department guidance.

(b) Annually thereafter on the anniversary date of the household's move in or initial designation:

- (1) Throughout the Affordability Period, all Owners of Housing Tax Credit, TCAP, and Exchange Developments must collect and maintain current data on each household that includes the number of household members, age, ethnicity, race, disability status, student status, and rental assistance (if any). This

Commented [WP1]: We recommend removing the "not harboring an illegal immigrant" language because it imports an undefined criminal-law concept into the lease that is not objective or auditable, will be applied inconsistently across properties, and increases resident confusion and fair housing/liability risk—without improving §10.628 verification, which is already addressed through verification of lease signers and tenant-file documentation.

Commented [WP2]: If TDHCA requires an attestation, it should use standardized, rule-level language that is limited to lease signers and clearly tied to §10.628 verification so properties administer it uniformly statewide.

Commented [WP3]: Reinforces that lease signers are responsible for the accuracy of submitted verification information and provides a clear basis to address knowing misrepresentation without introducing ambiguous criminal-law concepts.

Commented [WP4]: Requiring notice when lease signers change allows verification to occur only when a new signatory is added, avoiding unnecessary repeat verifications and aligning file updates with §10.613 and guidance.

10.628 Verification of Occupant Legal Status for HOME, HOME ARP Rental, and NHTF Developments (ALL NEW)

(a) Purpose. The purpose of this section is to provide uniform Department guidance on the applicability and implementation of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which provides that an alien who is not a Qualified Alien is not eligible for any federal or state public benefit.

(b) Applicability. This rule applies to existing and future National Housing Trust Fund, HOME-ARP Rental and HOME Developments for their state and federal affordability periods. Only prospective tenants intended to be on the lease for a Unit that is designated as HOME, HOME-ARP Rental, or NHTF-assisted must be verified as required by this section. The Owner must maintain records sufficient to document set-aside satisfaction and unit designation, including the executed Tenant Income Certification (TIC) and any Department-required designation or re-designation documentation. For Developments with floating HOME, HOME-ARP Rental and NHTF Units, all prospective tenants intended to be on any Unit's lease must be verified as required by this section. For Developments with fixed HOME, HOME-ARP Rental and NHTF Units only prospective tenants intended to be on the lease for the fixed Units must be verified as required by this section. Populations that are documented by the Development as covered by the Violence Against Women Act (VAWA) or the Family Violence Prevention and Services Act (FVPSA) are excepted from having verification under this rule performed, unless required to do so under federal guidance.

(c) Definitions. The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Title that govern the program under which program eligibility is seeking to be determined or assigned by federal or state law.

(1) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) or (c).

(2) State--The State of Texas or the Department, as indicated by context.

(3) Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of program applicants.

(d) Owners must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using the methods provided for in subsection (f) of this section for all residents that will be signing the lease.

(e) Implementation Timing. All HOME, HOME-ARP Rental, and NHTF Developments must confirm legal status at initial lease up of a Unit and at the time of the first Unit recertification or lease renewal that occurs after the effective date of this rule. Verification does not need to be confirmed thereafter for a household if no changes to the household members having signed the lease have changed; any new signatories to the lease at the time of subsequent Unit recertification or lease renewal must be confirmed for legal status. To the extent that the household no longer qualifies to reside in the Unit notification requirements as provided for in §10.613, must be met.

(1) For a Unit that is designated as HOME, HOME-ARP Rental, or NHTF-assisted, the Owner must confirm legal status for each person signing the lease at initial lease-up of the Unit.

(2) For a Unit designated as HOME, HOME-ARP Rental, or NHTF-assisted that is occupied on the effective date of this rule, the Owner must confirm legal status for each person signing the lease at the first Unit recertification or lease renewal executed after the effective date.

(3) If, after the effective date, a Unit becomes designated as HOME, HOME-ARP Rental, or NHTF-assisted, the Owner must confirm legal status for each person signing the lease upon full execution of the first lease document that implements the assisted designation, including a new lease, lease renewal, unit transfer agreement, or lease amendment reflecting the designation, in accordance with Department guidance.

Commented [WP5]: This language is necessary to prevent the rule from being applied as a property-wide screening requirement in mixed-finance developments. HOME/HOME-ARP/NHTF compliance is unit-based: the verification obligation should attach only when a household is being leased into a designated assisted unit (including floating units as they move), not to every household in the development simply because a small subset of units is assisted.

Commented [WP6]: Specify the minimum "audit trail": documentation showing (1) which units count toward the set-aside, (2) the effective date of any unit designation, and (3) the household occupying the assisted unit at that time (e.g., executed TIC + designation record). This preserves monitorability without expanding verification to non-assisted units.

Commented [WP7]: I reformatted the "Implementation Timing" provision from a single, dense paragraph into seven numbered subparagraphs for readability and consistent administration. The intent is not to change the substance, but to separate distinct triggers and requirements into discrete items so owners can implement the rule uniformly and TDHCA can monitor compliance against clear, documentable events.

(4) For purposes of this subsection, a lease renewal occurs on the date it is fully executed by the required parties (the date of the last required signature). Only renewals executed on or after the effective date of this rule trigger verification; the lease term start date or occupancy date does not.

Commented [WP8]: Defining renewal by the date of full execution (last required signature) resolves common timing edge cases and prevents retroactive application based on lease-term start dates or move-in/occupancy timing.

(5) After confirmation under paragraph (1), (2), or (3) of this subsection, verification does not need to be reconfirmed for a household at subsequent Unit recertification or lease renewal if there is no change in the persons signing the lease. Any person who becomes a new lease signatory must be confirmed for legal status in accordance with Department guidance.

Commented [WP9]: Once the persons signing the lease have been verified, repeated verification at every subsequent recertification or renewal adds administrative burden without improving compliance outcomes. The meaningful change in risk occurs when a new person becomes legally responsible under the lease; limiting reconfirmation to new lease signatories supports consistent, nondiscretionary administration and reduces operational delays and inconsistent screening practices.

(6) To the extent that the household no longer qualifies to reside in the Unit, notification requirements as provided for in §10.613 must be met.

(7) The Department may issue guidance describing transition procedures for Developments, households, and tenant files in the event of material changes in applicable federal requirements, federal guidance, or controlling court orders affecting implementation of this section.

Commented [WP10]: Because applicable federal requirements and guidance may evolve and litigation outcomes may affect implementation, a transition-procedures clause supports predictable, effective-dated administration and reduces the risk of destabilizing pending files or inconsistent enforcement during midstream changes.

(e)(f) Verification Process Under PRWORA.

(1) Owners must first attempt to verify the legal status of each person signing the lease using the acceptable documentation and procedures described in Department guidance under subparagraph (A). If the Owner cannot establish legal status through subparagraph (A), and verification is not satisfied under subparagraph (B) (Section 214 verification), the Owner must complete verification under paragraph (2) of this subsection. ~~Owners must verify legal status through the use of several established documents as described more fully in guidance provided by the Department. If unable to verify legal status of each person signing the lease with those documents the Owner must utilize the SAVE system as described in this subsection. Verification of a Household member under Section 214 of the Housing and Community Development Act of 1980, as amended, will satisfy verification for purposes of this section.~~

Commented [WP11]: I reorganized this section so the rule communicates a clear order of operations and prevents inconsistent implementation. The current paragraph blends multiple pathways (document review, Section 214, and SAVE) in a way that can be read as overlapping or duplicative, which makes it harder for staff to apply uniformly and harder for TDHCA to monitor. Structuring it so subsection (1) covers the non-SAVE pathways and subsection (2) cleanly governs SAVE (and its options) improves clarity, reduces unnecessary repeat screening, and supports consistent statewide administration.

(A) The Owner must verify the legal status of each person signing the lease by reviewing the acceptable documentation and following the documentation checklist or flowchart described in the Department guidance.

Commented [WP12]: This clause establishes the primary, default verification pathway most owners will use. It confirms that verification begins with reviewing acceptable citizenship/identity documentation using a Department checklist/flowchart, so owners have a clear first step.

(4)(B) Section 214 Verification. If a household member has been verified in accordance with Section 214 of the Housing and Community Development Act of 1980, as amended, that verification satisfies the requirements of this section for that household member. The owner is not required to obtain duplicative verification for that household member under this section unless required by federal law.

Commented [WP13]: This clarification is crucial to prevent duplicative verification on layered properties already using Section 214. Without it, owners could be forced to run two parallel systems for the same household member, increasing delays, errors, and inconsistent outcomes. The "Section 214 satisfies" rule is objective, administrable, and avoids unnecessary burden unless federal law requires otherwise.

~~(2) If unable to verify legal status of each person signing the lease with those documents, If the Owner is unable to verify legal status for any persons signing the lease through the methods described in paragraph (1) of this subsection, including review of the documents described in Department guidance, and verification is not otherwise satisfied under paragraph(1)(B), the Owner must complete verification using one of the methods described in subparagraph (A)-(C). Owners authorized to utilize the SAVE system are required to complete verification through the SAVE system ensure compliance with the verification requirement as provided for in subparagraph (A). If an Owner is not authorized to utilize the SAVE system, Owners must select an option under subparagraph (B) or (C) of this paragraph. Records must be maintained as required by subparagraph (D) of this paragraph.~~

(A) The Owner electing to perform the verifications through the SAVE system, if authorization is permitted by USCIS; OR

(B) Owner requesting from the household and transmitting to the Department, or a party contracted by the Department, sufficient information or documentation so that the Department or its vendor can perform such verification and provide a determination to the Owner; OR

(C) -Owner electing to procure an eligible qualified organization or service to perform such verifications on its behalf, subject to Department approval

~~(C) :~~

(D) Transmittal, security and record retention. Records required under this subparagraph must be maintained in a manner that protects confidentiality and allows the Department to confirm compliance. In the administration of subparagraph (B) of this paragraph, the Owner must provide and maintain a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its vendor, and ensures the secure safekeeping of such paper and/or electronic files, and receipt of subsequent response back from the Department or its contracted party. In the administration of subparagraphs (B) or (C) of this paragraph, the Owner or its procured provider must maintain sufficient evidence and documentation that verification has taken place so that such verification can be confirmed by the Department.

i. In the administration of paragraph (2)(A) of this subsection, the Owner must maintain: (1) the SAVE case number for each person verified; (2) the initial SAVE response; and (3) where applicable, documentation of any request for additional verification and the subsequent SAVE response(s) or final result.

ii. In the administration of paragraph (2)(B) of this subsection, the Owner must transmit required information to the Department or its vendor using a secure electronic transmittal method and must maintain: (1) proof of submission, including the date of submission and a confirmation number; and (2) the subsequent response or determination returned by the Department, its vendor, or its contracted party.

~~(D)~~ iii. In the administration of paragraph (2)(C) of this subsection, the Owner or its procured provider must maintain: (1) documentation identifying the verifier used and evidence of Department approval; (2) documentation of the verification request submitted for each person signing the lease required to be verified under this section; and (3) the verification result or determination provided to the Owner.

(E) Notification of Election of method under subsection (f)(2)(B) or (C) of this section by Owners must be provided to the Department as specified in this subparagraph.

(i) For existing Developments no later than 60 days after the effective date of this rule, an Owner shall submit their election under subsection (f)(3)(B) or (C) of this section in writing to the Compliance division.

(ii) For newly constructed/reconstructed Developments, an Owner must make their election under

Commented [WP14]: I broke this provision into subparts because the existing paragraph bundles three different verification pathways and their documentation duties into one sentence, which makes it easy to miss what applies when. Separating (i)–(iii) aligns the record-retention and secure transmittal requirements to the specific method used under (2)(A), (2)(B), or (2)(C), so owners know exactly what to keep and TDHCA can monitor against a clear, file-based checklist rather than inconsistent “email trail” practices.

Commented [WP15]: This requirement is necessary because SAVE results can be instantaneous or can move into manual/additional verification. Requiring retention of the SAVE case identifier, initial response, and any subsequent responses creates an auditable trail showing that verification was initiated and completed (or is pending) without forcing owners to invent recordkeeping practices.

Commented [WP16]: When the Department or its vendor performs verification, owners do not control processing time. Requiring proof of submission and the returned determination prevents owners from being cited for delays outside their control and gives monitors a uniform, file-based standard instead of subjective “email trail” disputes.

Commented [WP17]: Minimum documentation is needed to prove verification was completed for each required lease signer. Requiring the verifier, the request, and the result prevents non-verifiable compliance and supports consistent statewide monitoring.

subsection (f)(3)(B) or (C) of this section in its Application, or if there is no Application prior to the issuance of certificates of occupancy.

1) For an incoming Owner, an election must be made as part of the Ownership Transfer Notification, as part of 10 TAC §10.406.

2) Once an election is made under this subsection it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Owner notifies the Department otherwise in writing at least one month prior to the implementation of the change at the Development.

(F) Initial Verification response not confirming legal status; required written notice. If verification under subparagraph (A), (B), or (C) of this paragraph does not confirm the legal status of a person signing the lease, the Owner must provide written notice to the applicant: (i) states the results received and that additional verification or review is required; (ii) identifies any additional documentation or information required and any applicable deadlines; and (iii) notifies the person that they may seek correction of records with any agency that issued or maintains records relevant to verification at any point in the verification process.

Commented [WP18]: This notice requirement establishes a uniform minimum due-process step when legal status is not confirmed, including what result was received, what additional steps are required, and the applicant's ability to correct relevant records.

(G) Additional verification procedures, delayed, manual or inclusive Cases. The Department shall describe in guidance uniform procedures for delayed, manual, or inconclusive verification results under subparagraph (A), (B), or (C) of this paragraph, including required documentation and resubmission/escalation steps.

Commented [WP19]: Delayed/manual/inconclusive outcomes require a standardized escalation and documentation pathway so owners can prove the case was properly advanced and monitors can review against a consistent checklist.

(H) Applicant processing while verification is pending. The Department shall describe in guidance procedures for applicant processing while verification is pending under subparagraph (A), (B), or (C) of this paragraph, including whether a Unit may be held, whether the Owner may proceed to the next applicant, and how waitlist order and applicant disposition must be documented and maintained.

Commented [WP20]: Pending verification directly affects leasing decisions; guidance is needed to prevent inconsistent unit-hold and waitlist practices and to require uniform documentation of applicant disposition.

(I) Extensions of time. The Department shall describe in guidance procedures for extensions of time for submission of documentation or information needed to complete verification, including: (i) whether and when an extension may be granted; (ii) any maximum extension period; and (iii) documentation requirements for any extension granted.

Commented [WP21]: An extensions framework prevents arbitrary deadlines by standardizing when extensions are available, how long they may last, and what documentation supports them.

(J) Disputes of verification results. The Department shall describe in guidance a uniform process for disputes of verification results under subparagraph (A), (B), or (C) of this paragraph, including: (i) required notices; (ii) documentation that may be submitted to contest or cure a result; (iii) roles and responsibilities of the Owner, the Department or its vendor, and any third-party verifier; and (iv) timeframes for dispute resolution and interim handling while a dispute is pending.

Commented [WP22]: A uniform dispute/cure process is needed to resolve contested or potentially erroneous results consistently across methods, with defined roles, allowable submissions, timelines, and interim handling.

(K) Compliance while verification is pending. For purposes of compliance monitoring, an Owner may not be determined noncompliant solely because verification results have not yet been issued or finalized under subparagraph (A), (B), or (C) of this paragraph, provided the Owner: (i) timely initiated verification using the elected method; (ii) provided notices required under subparagraph (F) of this paragraph; (iii) complied with Department procedures described in guidance under subparagraphs (G)–(J) of this paragraph; and (iv) maintained documentation required under subparagraph (D) of this paragraph.

Commented [WP23]: This provision is necessary to prevent owners from being cited for delays outside their control when verification is pending, delayed, or under dispute. It is not a waiver of compliance: it conditions protection on timely initiation, required notices, following guidance, and maintaining documentation—creating a clear, enforceable standard for “proof of compliance while pending.”

(g) The Department may further describe an Owner's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract or in further guidance. Nothing in this rule shall be construed to be a waiver, ratification, or acceptance of noncompliant administration of a program prior to the rule becoming effective.

(h)

Regardless of method of verification, the results of the verification performed or received by the Owner must be utilized by the Owner in determining household eligibility.