

Attachment 1: Preamble, including required analysis, for adoption of amendments to §6.204 Use of Funds, which applies to the Community Services Block Grant Program

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §6.204 Use of Funds, which applies to the Community Services Block Grant Program (CSBG). The purpose of the amendment is to specify how households receiving benefits through CSBG will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness program's subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this rule provide that necessary specificity for the CSBG Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligibly reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such

entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA,

even before “new guidelines” are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov’t Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

Comment on the Applicability of the Rule to Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence:

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicate that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims’ access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees “ensure that no person is denied services because of actual or perceived immigration status.”

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients – because they do not have direct access to the SAVE system used for verification – did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities – including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit – but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG

or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide – or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

§6.204 Use of Funds and Requirements for Establishing Household Eligibility

(a) CSBG funds are contractually obligated to Eligible Entities, and accessed through the Department's web-based Contract System. Prior to executing a Contract for CSBG funds, the Department will verify that neither the entity, nor any member of the Eligible Entity's Board is federally debarred or excluded. Unless modified by Contract, the annual allocation has a beginning date of January 1 and an end date of December 31, regardless of the Eligible Entity's fiscal year. Eligible Entities may use the funds for administrative support and/or for direct services such as: education, employment, housing, health care, nutrition, transportation, linkages with other service providers, youth programs, emergency services, i.e., utilities, rent, food, Shelter, clothing, etc.

(b) Eligible Entity shall determine Household income eligibility in compliance with §6.4 of this chapter (relating to Income Determination). The Household income eligibility level must be at or below 125% of the federal poverty level in effect at the time the customer makes an application for services.

(c) U.S. Citizen, U.S. National or Qualified Alien. Only U.S. Citizens, U.S. Nationals and Qualified Aliens are eligible to receive CSBG benefits. In accordance with §1.410(f) of this Part (relating to

Determination of Alien Status for Program Beneficiaries), Eligible Entities must document U.S. Citizen, U.S. National, and Qualified Alien status for each household member using the Department approved form. Populations that are documented by the Administrator 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. Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

Qualified Alien status must also be verified and documented using SAVE. Household eligibility shall be determined as follows:

- (1) Count income for all Household members eighteen years of age and older, including Unqualified Aliens; and
- (2) Calculate Household size for determining eligibility or benefits to exclude all Unqualified Aliens.

Attachment 2: Preamble, including required analysis, for adopting amendments to §7.28 Program Participant Eligibility and Program Participant Files, which applies to the Homeless Housing and Services Program

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §7.28 Program Participant Eligibility and Program Participant Files, which applies to the Homeless Housing and Services Program (HHSP). The purpose of the amendment is to specify how households receiving benefits through HHSP will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the HHSP Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligible reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

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Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims’ access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services.

FVPSA requires that States and subgrantees “ensure that no person is denied services because of actual or perceived immigration status.”

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients – because they do not have direct access to the SAVE system used for verification – did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities – including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit – but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide – or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

§7.28 Program Participant Eligibility and Program Participant Files

(a) A Program Participant must satisfy the eligibility requirements by meeting the appropriate definition of Homeless or At-risk of Homelessness in this Chapter, relating to Homelessness Programs, including but not limited to applicable income requirements.

(b) A Program Participant who is Homeless qualifies for emergency shelter, Transitional Living Activities, case management, essential services, and homeless assistance.

(c) A Program Participant who is At-risk of Homelessness qualifies for case management, essential services, and homeless prevention.

(d) The Subrecipient shall establish income limits that do not exceed the moderate income level pursuant to Tex. Gov't Code §2306.152 in its written policies and procedures, and may adopt the income limit calculation method and procedures in HUD Handbook 4350 to satisfy this requirement.

(e) Recertification. Recertification is required for Program Participants receiving homelessness prevention and homelessness assistance within 12 months of the assistance start date. Subrecipient's written policies may require more frequent recertification. At a minimum, recertification includes that Program Participants receiving homelessness prevention or homelessness assistance:

- (1) meet the income eligibility requirements as established by the Subrecipient, if such limits are implemented in the Subrecipient's policies and procedures and required to be reviewed at Recertification; and
- (2) lack sufficient resources and support networks necessary to retain housing without assistance.

(f) Break in service. The Subrecipient must document eligibility before providing services after a break in service. A break in service occurs when a previously assisted household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry into HHSP, the Household is required to complete a new intake application and provide updated source documentation, if applicable. The Subrecipient would not need to document further eligibility for HHSP if the Program Participant is currently receiving assistance through ESG.

(g) Program participant files. Subrecipient or their Subgrantees shall maintain Program Participant files, for non-emergency activities providing direct subsidy to or on behalf of a Program Participant that contain the following:

- (1) an Intake Application, including the signature or legally identifying mark of all adult Household members certifying the validity of information provided, an area to identify the staff person completing the intake application, and the language as required by Tex. Gov't Code §434.212;
- (2) certification from the Applicant that they meet the definition of Homeless or At-risk of Homelessness. The certification must include the Program Participant's signature or legally identifying mark;
- (3) documentation of income eligibility, if applicable, which may include a DIS if documentation is unobtainable;
- (4) documentation of annual recertification, as applicable, including income eligibility determination and verification that the Program Participant lacks sufficient resources and supports networks necessary to retain housing without assistance;
- (5) documentation of determination of ineligibility for assistance when assistance is denied. Documentation must include the reason for the determination of ineligibility;
- (6) copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by Program Participants;
- (7) documentation of the monthly allowance for utilities used to determine compliance with the rent restriction;
- (8) documentation that the Dwelling Unit for Program Participants receiving rental assistance complies with the Housing Standards in this Chapter, relating to Homelessness Programs; and
- (9) documentation of U.S. Citizen, U.S. National, or Qualified Alien status for each household member receiving direct assistance, including:
 - (A) verification of eligible immigration or citizenship status consistent with §1.410 of this title;

(B) any determinations of ineligibility or mixed Household status; and

(C) records of proration calculations applied under subsection (h)(2) of this section, if applicable.

(h) Implementation of HHSP activities involving direct assistance to ~~P~~program ~~P~~participants is subject to §1.410 of this title, relating to Determination of Alien Status for Program Beneficiaries.

(1) Each Household member receiving direct assistance under Homeless Prevention or Homeless Assistance must be verified for eligibility in accordance with §1.410 of this title (relating to Determination of Alien Status for Program Beneficiaries) prior to receiving assistance.

(2) Direct assistance may be prorated utilizing a fraction based on Household eligibility, calculated by multiplying the full benefit amount by a fraction in which the numerator is the number of eligible Household members, and the denominator is the total number of Household members.

(3) Activities that do not provide direct housing or financial assistance, such as Emergency Shelter, case management, and Street Outreach, and in-kind disaster relief are not subject to paragraphs (1) and (2) of this subsection.

(4) Populations that are documented by the Administrator 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.

(5) Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

Attachment 3: Preamble, including required analysis, for amendments to §7.44 Program Participant Eligibility and Program Participant Files, which applies to the Emergency Solutions Grant Program

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §7.44 Program Participant Eligibility and Program Participant Files, which applies to the Emergency Solutions Grant Program (ESG). The purpose of the amendment is to specify how households receiving benefits through ESG will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the ESG Program.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligibly reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such

entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA,

even before “new guidelines” are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov’t Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

Comment on the Applicability of the Rule to Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence:

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicate that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims’ access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees “ensure that no person is denied services because of actual or perceived immigration status.”

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients – because they do not have direct access to the SAVE system used for verification – did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities – including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit – but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG

or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide – or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

§7.44 Program Participant Eligibility and Program Participant Files

(a) Program participants must meet the applicable definitions of Homeless or At-risk of Homelessness. Proof of the eligibility or ineligibility for Program Participants must be maintained in accordance with 24 CFR §576.500, Recordkeeping and reporting requirements. The Applicant must retain income documentation for Program Participants receiving homelessness prevention and Program Participants receiving rapid re-housing that require annual Recertification. Program Participant income eligibility must be calculated and documented in accordance with the Requirements of HUD Handbook 4350, except that the Department's DIS form may be utilized if income cannot be documented in accordance with 24 CFR §576.500(e)(4). A DIS must be completed and signed by Program Participants whom are subject to income eligibility determination.

(b) The Subrecipient must document eligibility before providing services after a break-in-service. A break-in-service occurs when a previously assisted Household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry, the Household is required to complete a new intake application and provide updated source documentation, if applicable.

(c) The Subrecipient must utilize the rental assistance agreement promulgated by the Department if providing rental assistance. The rental assistance agreement does not take the place of the lease agreement between the landlord/property manager and the tenant.

(d) The Subrecipient must retain a copy of the signed Disclosure Information on Lead Based Paint and/or Lead-Based Hazards for housing built before 1978 in the Program Participant's file in accordance with 24 CFR §576.403(a).

(e) Implementation of ESG activities involving direct assistance to Program Participants is subject to §1.410 of this Part, (relating to Determination of Alien Status for Program Beneficiaries).

(1) Each Household member receiving direct assistance (including Homelessness Prevention or Rapid Re-Housing upon annual recertification) must be verified for eligibility in accordance with §1.410 of this Part prior to receiving assistance.

(2) Direct assistance may be prorated utilizing a fraction based on Household eligibility, calculated by multiplying the full benefit amount by a fraction in which the numerator is the number of eligible Household members, and the denominator is the total number of Household members.

(3) Activities that do not provide direct housing or financial assistance, such as Emergency Shelter, case management, and Street Outreach, and in-kind disaster assistance are not subject to paragraphs (1) and (2) of this subsection.

(4) Populations that are documented by the Administrator 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.

(5) Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

(f) The Subrecipient must document the U.S. Citizen, U.S. National, or Qualified Alien status for each Household member receiving non-PWORA exempt direct assistance including:

(1) verification of eligible immigration or citizenship status consistent with §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries);

(2) any determinations of ineligibility or mixed Household status; and

(3) records of proration calculations applied under paragraph (e)(2) of this section, if applicable.

Attachment 4: Preamble, including required analysis, for amendments to §20.4 Eligible Single Family Activities, which applies to the Single Family Programs Umbrella Rule

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §20.4 Eligible Single Family Activities, which applies to the Single Family Programs Umbrella Rule. The purpose of the amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the Single Family programs.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligibly reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such

entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA,

even before “new guidelines” are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov’t Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

Comment on the Applicability of the Rule to Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence:

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims’ access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services. FVPSA requires that States and subgrantees “ensure that no person is denied services because of actual or perceived immigration status.”

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients – because they do not have direct access to the SAVE system used for verification – did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities – including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit – but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG

or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide – or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

§20.4 Eligible Single Family Activities

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (7) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

- (1) Rehabilitation or new construction of Single Family Housing Units;
- (2) Reconstruction of an existing Single Family Housing Unit on the same site;
- (3) Replacement of existing owner-occupied housing with a new MHU;
- (4) Acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;
- (5) Refinance of an existing Mortgage or Contract for Deed mortgage;
- (6) Tenant-based rental assistance; and
- (7) Any other single family Activity as determined by the Department.

(c) Implementation of Single Family Activities are subject to §1.410 of this Part, (relating to Determination of Alien Status for Program Beneficiaries).

(1) For Tenant-based rental assistance, each Household member must be evaluated prior to submission of the activity to the Department for review in accordance with §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries). Assistance for mixed status Households must be prorated utilizing the method for proration of assistance described in 24 CFR §5.520(c)(2) related to prorated assistance for a Section 8 Housing Choice Voucher tenancy.

(2) For assistance provided as an area benefit or limited clientele activity under the Colonia Self-Help Centers Program related to CDBG, ~~or as an area benefit activity for NSP as described in 24 CFR §570.483,~~ area benefit activities and limited clientele activities are exempt from the verification requirements in §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries) as individual eligibility is not required to be established for these Activity types.

(3) For any other single family housing Activity, any Household member who has or will have an ownership interest in the assisted housing upon completion of the Activity must be verified to be eligible in accordance with §1.410 of this Part (relating to Determination of Alien Status for Program Beneficiaries), prior to submission of the Activity to the Department for review.

(4) Populations that are documented by the Administrator 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.

(5) Administrators must include in their operational processes a means by which a household may appeal a determination of their eligibility under this subsection.

Attachment 5: Preamble, including required analysis, for amendments to §20.6 Administrator Applicant Eligibility, which applies to the Single Family Programs Umbrella Rule

The Texas Department of Housing and Community Affairs (the Department) adopts amendments to §20.6 Administrator Applicant Eligibility, which applies to the Single Family Programs Umbrella Rule. The purpose of the amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

While §1.410 provides for the requirement to perform a review for alien status for program participants, it does not specify how each distinct Department program will calculate benefits based on those determinations, because each program is different enough in its eligible activities that such applicability needs to be tailored to the specific programs. The changes in this action provide that necessary specificity for the Single Family programs.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to an existing activity: how benefits will be determined in a specific Department program as it relates to alien status and the implementation of 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.
2. The amendment may require additional work that may create new employee positions, but those costs are federal eligibly reimbursable expenses under the applicable program grants. The amendment does not generate a reduction in work that would eliminate any employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation, but clarifying an existing regulation.
6. The amendment does expand an existing regulation to provide additional requirements, however the expanded regulations are required to comply with federal law and to the extent applicable to state programs, brings state programs into consistency with federal law.
7. The amendment increases the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities other than to the extent that such entities receive federal funds to operate Department programs subject to the rule. There may be several hundred entities in the state at any given time receiving funds for such programs. The added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal funds the entity is receiving for the applicable programs. No entities will bear any unreimbursable expenses to comply.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There may be limited economic costs to individuals required to comply with the amended section; a household that does not currently have access to documents that confirm their legal status may have to take steps to obtain copies of birth certificates, or other applicable documents and pay associated fees for those items.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comment was received from six commenters: 1) Texas Appleseed, 2) El Paso Center for Children, 3) Texas Representative Mary E. Gonzalez, 4) Texas Housers, 5) Texas Council on Family Violence, and 6) Texas Homeless Network.

Comment Requesting for Rule to be Withdrawn

Multiple commenters requested that the rule be withdrawn.

Commenters (1), (3), (4) and (6) point out that the US Department of Housing and Urban Development (HUD) has indicated that further guidance will be released from both HUD and Department of Homeland

Security (DHS) and believes it is appropriate for TDHCA to delay the adoption of this rulemaking until such expected federal HUD and DHS guidance is released.

Commenters (3), (4) and (6) note that the rules will undermine access to critical housing and homelessness services under the guise of immigration compliance and that application of these policies to the affected programs is unnecessary, burdensome and harmful to Texans in need. Commenter (4) observes that such policies would also negatively impact public health.

Commenter (1) notes that HUD had not yet issued an economic impact analysis of its guidance, and that in recent guidance the US Department of Health and Human Service (USHHS) did consider its redefining of a federal public benefit to be an economically significant regulatory action. Commenter (1) notes that they believe the amount estimated by USHHS (\$100 million nationally) is likely unrealistic and the cost would be higher. They question how TDHCA determined that there would be no economic impacts in the preambles to the rule. In their comment they describe several areas of potential costs including the costs to the households to obtain the required documentation, and the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule.

Commenters (1), (3), (4) and (6) are also concerned that the delays that will exist by having to obtain specific documentation will mean that households may be denied assistance, particularly with homeless assistance programs that are designed to address urgent and time-sensitive needs and in emergency rental assistance where a delay can result in an eviction. Commenter (4) expands on the issue of delays estimating that such verifications could take an average of 17 federal workdays.

Commenter (1) also notes that even when PRWORA was initially passed in 1996, it took several years to pass applicable rules and set up verification systems; state and local governments needed time to roll this out. They note that state and local governments should not be expected to produce verification systems that comply with regulations that do not yet exist. Commenters (3) and (4) note the administrative burden being placed on local governments, nonprofits and program operators that lack infrastructure and staffing to implement the processes.

Commenter (4) notes that according to the National Housing Law Project a benefit granting agency that improperly applies PRWORA's verification requirements could be subject to discrimination claims. They note that to their knowledge Texas is so far the only state to update rules ahead of additional guidance needed for implementation.

All of these reasons above support why commenters are requesting that the adoption of this rule be deferred until further federal guidance has been issued.

Staff Response: Staff does not recommend withdrawing or deferring the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. While we do expect federal agencies may release further detail, we have already been directed through 2025 federal funding agreements and guidance to ensure the applicability of PRWORA. Should additional federal guidance be released that provides any greater specificity on how PRWORA should be applied to the programs, TDHCA will certainly become compliant with that guidance. The TDHCA rule changes are specific enough to reflect our adherence to the requirements of the federal funding agreements and to properly put program participants on notice, but still provide sufficient leeway for further guidance to be issued to

our program participants should federal guidance be forthcoming. Further, per the HUD notice of November 26, 2025, states are not relieved from the requirements to ensure that all relevant programs are in compliance with PWRORA. HUD places the burden on TDHCA to ensure compliance with PWRORA, even before “new guidelines” are issued by HUD. No change is recommended to the rule in response to this comment.

As it relates to the economic impact, TDHCA has revised this preamble to provide greater specificity on this issue. It should be noted that Tex. Gov’t Code §2001.0045(b) does not apply to the amendment because it is subject to the exception under §2001.0045(c)(4) which excepts amendments that are necessary to receive a source of federal funds or to comply with federal law. Further, as it relates to the costs to the organizations in time and resources to check for legal status documentation and otherwise implement the rule, the added work associated with checking for the required documents is expected to be minimal, as household documents are being gathered during an eligibility review already. However, to the extent that there are additional costs, all of those costs are eligible reimbursable administrative expenses from the federal or state funds the entity is receiving for the applicable programs. No entities will bear any non-reimbursable expenses to comply.

Comment on the Applicability of the Rule to Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence:

Commenters (4), (5) and (6) commented that the proposed immigration and/or citizenship status verification requirements should not apply to survivors of domestic violence, sexual assault, stalking, and/or dating violence, as such requirements would conflict with the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). They request that in line with recent changes made to 10 TAC §1.410 in response to public comment, the final version of these proposed rules must explicitly exempt verification requirements for populations covered by VAWA or FVPSA to protect survivors of family violence in accordance with federal law.

Commenter (5) notes that both Federal statutes prohibit denial of assistance based on immigration and/or citizenship status and impose strong confidentiality protections to ensure survivors can safely access critical services. These commenters concluded that the rule needs to provide an explicit exemption for VAWA and FVPSA covered populations within TDHCA-funded programs. Without explicit clarification, subrecipients may interpret the rule as requiring immigration status verification for survivors of violence, which violates Federal laws.

Commenters (5) and (6) also indicates that the Family Violence Prevention and Services Act (FVPSA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA) all require those in receipt of funds (ex. family violence centers) to protect personally identifiable information obtained while seeking services. Each of these federal laws prohibit grantees from disclosing a survivor's personal identifying information, unless an exception applies, which the information laid out in this proposed rule is not. Specifically, VAWA/FVPSA make clear that identifying information about victims cannot be shared without a properly issued release from the survivor or a court order. Commenter (5) notes that conditioning victims’ access to services on documentation would also have a chilling effect on service provision, deter survivors from seeking help, and conflict with programmatic obligations of confidentiality and safety planning. Commenter states that federal law pertaining to victim-services statutes contain explicit non-discrimination protections that prohibit conditioning access to services.

FVPSA requires that States and subgrantees “ensure that no person is denied services because of actual or perceived immigration status.”

Commenters (5) and (6) also notes that the confidentiality provisions of VAWA and FVPSA prohibit covered programs from releasing personally identifying information without a signed and time limited release, court order, or statute requiring it and are prohibited from conditioning services on the signing of a release. Guidance from the Office on Violence Against Women (OVW) on VAWA instructs programs that these provisions apply to all operations of an entity that receives funding through OVW, even if that funding covers only a small part of their operations. The proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, which could be seen as violating the confidentiality provisions under VAWA for any covered program; and under Texas law, Chapter 93 of the Texas Family Code establishes privilege between an advocate and a crime victim, which similarly prohibits disclosure of personal information with very limited exceptions, and applies to public and private nonprofits that provide family violence services. Commenter relays that the proposed TDHCA rule would require covered programs to provide personally identifying information to TDHCA or a vendor for purposes of eligibility verification, in violation of state law and these programs could be at risk of losing state funding.

Staff Response: Consistent with the changes made in 10 TAC §1.410 TDHCA will specify in the amended rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Exception for Nonprofits

Commenter (5) requests that exemptions for nonprofit providers should be made because survivors routinely seek supportive nonprofit services and their information should be protected.

Staff Response: The exemption for VAWA or FVPSA covered populations will be applicable to partially address this issue. Previously, interpretations regarding the verification process for PRWORA may have indicated that private nonprofit subrecipients – because they do not have direct access to the SAVE system used for verification – did not have to confirm qualified alien status at all even for federal programs covered by PRWORA. However, while PRWORA does not mandate a private nonprofit entity conduct verification, there is nothing in the statute that prohibits such an entity from conducting verification. Therefore, the rule does require that all recipients of the subject programs will be required to comply with PRWORA, and all Administrators must participate in verification within the contours of the statute.

Administrators that are nonprofit entities – including those already subject to, but not performing verifications, such as AYBR and Bootstrap - will have three options: 1) To have the Department provide the verification, directly or through a third-party contractor, which would require the Administrator to gather and transmit – but not verify - the appropriate client level information and documentation; 2) To have the Administrator voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in providing services to the clients (this option is reliant on the Department being able to revise its contract with the Department of Homeland Security); or 3) To allow the Administrator to procure a separate party to perform such verification services on their behalf. No changes are recommended to the rule in response to this comment. No change is recommended to the rule in response to this comment.

Request for Operational Guidance

Commenter (2) requested that TDHCA provide detailed implementation guidance prior to enforcement, clearly describing what constitutes emergency situations, that requirements be aligned with federal ESG or HUD guidance. Commenter (2) requests additional clarification be made in the rule regarding the practical implementation and administrative requirements particularly for vulnerable households.

Commenter (2) asks that the amendment address Intake and eligibility workflows, including Coordinated Entry processes; Program participant file requirements and documentation standards; timeliness of assistance delivery; staff training and administrative capacity; data collection, privacy, and record retention obligations; what types of documents are acceptable; what documentation requirement will be applicable to victims of domestic trafficking or are former foster children who were never provided with copies of their birth certificates or other forms of identification; how mixed-status households should be handle; whether self-attestation will be allowed in limited or emergency circumstances; and how eligibility determinations should be documented for monitoring purposes.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide guidance as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. Federal guidance provides for what constitutes an emergency situation, but TDHCA will provide in materials, web posts, and training more granular guidance on this as well. TDHCA will also provide on its website and to subrecipients what types of documents are acceptable, what forms should be used for documenting the process has been followed, and how mixed-status households should be handled. Other than the exceptions that will be allowable for emergency assistance (federally excepted), and for populations excepted in the rule that are protected under VAWA or FVPSA, self-attestations will not be allowed. As for some of the other requested guidance, TDHCA will not guide – or limit - how any particular subrecipient decides to adjust their operations or processes to implement these requirements. For instance it is up to each subrecipient to decide how it will integrate this policy into intake and eligibility workflows and the coordinated entry process. No change is recommended to the rule in response to this comment.

Request for Phased Implementation

Commenter (2) requests that a phased implementation period be provided after final adoption. They also requested additional funding to absorb the labor costs for additional administrative burden.

Staff Response: TDHCA is unable to phase the implementation of this rule. Upon its adoption, subrecipients will be required to implement and adhere to this rule. Current subrecipients may use their administrative funds under the awards they receive to cover the costs of implementing this rule, which are fully eligible costs. No change is recommended to the rule in response to this comment.

Concern for Barriers to Access

Commenter (2) noted that they are concerned that the proposed changes could create barriers for individuals who are otherwise eligible for services but face challenges obtaining documentation due to homelessness, disability, trauma, or language barriers. They encourage TDHCA to include safeguards that ensure: Non-discriminatory intake practices and clear communication to participants about eligibility requirements.

Staff Response: All subrecipients have the ability to institute non-discriminatory intake practices, and provide clear communication to participants about eligibility requirements. No change is recommended to the rule in response to this comment.

Appeals

Commenter (4) notes that the rule says appeals will be addressed through each program's rules, but they did not see that the rules address the need for an appeals process specific to legal status verification.

Staff Response: Staff will add to the rule a requirement that each subrecipient must offer an opportunity for a household to appeal a legal status determination consistent with the appeals policy they utilize for other household eligibility appeals processes.

Training and Technical Assistance

Commenter (2) requested that TDHCA offer technical assistance and written FAQs for subrecipients, and that TDHCA clearly outline monitoring expectations related to §1.410 compliance.

Staff Response: TDHCA is committed to making the implementation of this rule as clear as possible and will provide training and technical assistance, including monitoring expectations, as the rule is implemented, and thereafter, to facilitate subrecipients ability to adhere to the rule. No change is recommended to the rule in response to this comment.

Conditional Assistance

Commenter (2) requests that in light of delays that are experienced in seeking documentation from households, TDHCA allow conditional or temporary assistance while documentation is obtained.

Staff Response: Benefits under these rules are not permitted to be provided to persons without PRWORA eligibility, including temporary or conditional assistance. No change is recommended to the rule in response to this comment.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amendment affects no other code, article, or statute. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

§20.6 Administrator Applicant Eligibility

(a) Eligible Applicants seeking to administer a single family Program are limited to entities described in the Program Rule and/or NOFA; and

(1) Shall be in good standing with the Department, Texas Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(2) Shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in Chapters 1 and 2 of this title (relating to Administration and Enforcement).

(3) Must provide Resolutions in accordance with the applicable Program Rule.

(b) The actions described in the following paragraphs (1) - (3) of this subsection may cause an Applicant and any Applications they have submitted to administer a Single Family Program to be ineligible:

(1) Applicant did not satisfy all eligibility and/or threshold requirements described in the applicable Program Rule and NOFA;

(2) Applicant is debarred by HUD or the Department; or

(3) Applicant is currently noncompliant or has a history of noncompliance with any Department Program. Each Applicant will be reviewed by the Executive Award and Review Advisory Committee (EARAC) for its compliance history by the Department, as provided in §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC)) of this title. An Application submitted by an Applicant found to be in noncompliance or otherwise violating the rules of the Department may be recommended with conditions or not recommended for funding by EARAC.

(c) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(d) The Department may decline to fund any Application to administer a Single Family Program if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual components of any Application.

(e) If an Applicant/Administrator is originating or servicing a Mortgage Loan, the Applicant/Administrator must possess all licenses required under state or federal law for taking the Application of and/or servicing a residential mortgage loan and must be in good standing with respect thereto, unless Applicant/Administrator is specifically exempted from such licensure pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(f) Applicant is required to select a verification process under §1.410 of this Part, (relating to Determination of Alien Status for Program Beneficiaries). The Applicant may elect to change the selected method of verification during administration of the Activity subject to Department review and approval of the updated method.