Attachment 1: Preamble, including required analysis, for repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries. The purpose of the repeal is to eliminate the outdated rule and replace it simultaneously with a new rule that more closely aligns with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump; A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in 2025 grant agreements from the Unites States Department of Housing and Urban Development (HUD), and with Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Department programs, which provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for repeal because there are no costs associated with the repeal.

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 repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: the implementation of Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).
2. The repeal does not require a change in work that creates new employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal is not considered to expand an existing regulation.
7. The repeal does not increase the number of individuals subject to the rule's applicability.
8. The repeal 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 repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal 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 repeal as to its possible effects on local economies and has determined that for the first five years the repeal 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 repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.
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 repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. 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 November 21 to December 21, 2025, to receive input on the proposed action. No comment was received on the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repeal affects no other code, article, or statute.

§1.410. Determination of Alien Status for Program Beneficiaries

Attachment 2: Preamble, including required analysis, for new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries. The purpose of the rule is to eliminate the outdated rule and replace it simultaneously with a new rule that more closely aligns with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in 2025 grant agreements from the Unites States Department of Housing and Urban Development (HUD), and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) on Department programs, which provides that an alien who is not a qualified alien is not eligible for any federal public benefit.

Tex. Gov't Code §2001.0045(b) does apply to the rule because there are some costs associated with this action. However, in order to ensure compliance with Executive Order 14218, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal HUD grant agreements, and PRWORA this rule is being revised. Sufficient existing state and/or federal administrative funds associated with the applicable programs are available to offset costs. No additional funds will be needed to implement this rule.

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 new section would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the verification of program participant eligibility as it relates to the implementation of Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, A.G. Order No. 6335-2025 by the U.S. Attorney General (Revised Specification Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), the federal direction provided in the Department's 2025 grant agreements from HUD, and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).
2. The rule may require a change in work that could require the creation of approximately 2 new employee positions to perform the client verifications.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation.
6. The new section does expand on an existing regulation.
7. The new section will increase the number of individuals subject to the rule's applicability as well as increase the number of Department subrecipients subject to the rule in an effort to ensure that public benefits are being used only for qualified households.
8. The new section 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 new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.
c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section 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 new section as to its possible effects on local economies and has determined that for the first five years the new section 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 new section is in effect, the public benefit anticipated as a result of the new section would be a rule that is in alignment with Executive Order 14218 (Ending Taxpayer Subsidization of Open Borders) issued on February 19, 2025 by President Trump, in compliance with direction provided by HUD for the HOME and NHTF programs, and in the implementation and applicability of Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and therefore ensures that public benefits are not received by unqualified aliens. There will not be economic costs to individuals required to comply with the new section.
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 new section is in effect, enforcing or administering the sections may have some costs to the state to implement the verification process and to the Department's subrecipients in administering the rule changes. However, sufficient state or federal administrative funds associated with the applicable programs are already available to offset costs. No additional funds will be required.
SUMMARY OF PUBLIC COMMENT. 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 November 21 to December 21, 2025, to receive input on the proposed action. Public comment was received from six commenters as follows: (1) Bay Area Turning Point, (2) Texas Housers, (3) Proyecto Azteca, (4) Safe Alliance, (5) Tahirih Justice Center, and (6) Texas Council on Family Violence. Comments are summarized and responded to below.

Comment on the Applicability of the Rule to Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence:
Commenters (1), (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 note 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.

Commenter (5) notes that nondiscrimination provisions in VAWA provide that programs may not discriminate on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, or disability; and the Office for Victims of Crime VOCA has generally held that this provision means that programs should not deny services solely because of immigration status and covered services are not subject to PRWORA.

Commenter (6) provided statistics and detailed information on the impact of domestic violence and notes that reductions in available housing, which would undoubtedly occur because of this rule change, would exacerbate this instability and danger

Staff Response: TDHCA generally concurs with the comments and is specifying in the rule that the rule will not apply to VAWA or FVPSA covered populations unless federal guidance requires it.

Comments on Requiring Provision of Personal Information for Survivors of Domestic Violence, Sexual Assault, Stalking, and/or Dating Violence

Commenter (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 (6) 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."

Commenter (4) also notes that requiring survivors to provide names, dates of birth, or other personally identifying information for entry into an external verification system violates the safety and confidentiality requirements of VAWA and FVPSA. The commenter relayed that best practices shared by experts on VAWA and FVPSA recommend limiting the sharing of survivors' personal information to avoid security breaches that would compromise safety of survivors of domestic or sexual violence. The commenter stated the concern that implementing this rule without explicit exemptions for survivors of domestic violence, sexual assault, stalking, and/or dating violence creates additional and potentially lethal barriers for survivors to access shelter, homelessness prevention, and rapid rehousing services, undermining ESG's goal of low-barrier access to housing stability. Commenter (1) echoed this question of whether services would be denied for survivors lacking documentation.

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.

Commenter (5) also comments on documentation specifically as it relates to survivors of domestic violence, sexual assault, human trafficking, and other forms of violence. They note that there is a strong connection between domestic violence and homelessness and that TDHCA's Emergency Solutions Grant programs and other homelessness prevention programs play a critical role in survivor safety and healing. Commenter is concerned that cutting off survivors due to lack of documentation from programs that provide support for utilities and homeless intervention will keep survivors reliant on abusers and vulnerable to further violence. Per the commenter, the proposed rule will not only impact immigrant survivors, but also any survivor who is unable to provide proof of status. s
Staff Response: TDHCA generally concurs with the comments and is specifying in the rule that the rule will not apply to VAWA or FVPSA covered populations, unless federal guidance requires it.

Comment Requesting for Rule to be Withdrawn
Multiple commenters requested that the rule be withdrawn.

Commenter (2) points out that HUD has indicated that further guidance will be released from both HUD and 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. They note that to their knowledge, Texas appears to be the only state that is not waiting until further federal guidance is available. They note that the proposed rule changes will have a significant impact on low-income Texans who receive assistance through TDHCA programs and the providers that serve them. Commenter notes that this rule change represents a large expansion of the applicability of PRWORA verification requirements that will result in loss of assistance for vulnerable people in need of help. Commenter (2) noted that activities like emergency rental assistance, where delays could result in evictions and housing instability for low-income tenants, are a particular concern that could lead to eligible beneficiaries losing the benefit of the assistance. Because of this significant impact, Commenter cautions TDHCA to be very cautious to not implement rule changes without adequate federal guidance and regulation to shape the implementation of federal requirements. Texas Housers strongly recommends delaying rulemaking on the updated federal interpretation of PRWORA verification requirements until key federal guidance necessary for implementation is released.

Commenter (5) suggests that the current rule is sufficient and federally compliant as-is, and urges that the Department recommend withdrawing the notice at this time. They note that A.G. Order No. 6335 – 2025 withdrew the 2001 rule providing detailed guidance on the different kinds of programs that are exempt from PRWORA under 8 U.S.C. § 1611(b)(1)D, which covers services that are provided in-kind by public or nonprofit organizations, are available regardless of income, and are necessary for the protection of life and safety. Notably, per the commenter, this order did not change PRWORA's exemptions, nor did it require any action on the part of recipient states. Barring further guidance from

the federal government, many of TDHCA's programs - including the Emergency Solutions Grant Program, the Homeless Housing and Services Program, and the Low Income Home Energy Assistance Program (LIHEAP) - play a critical role in keeping Texan survivors of violence, children, and families safe from the dangers of homelessness and extreme weather, and are therefore are necessary for the protection of life and safety. Additionally, PRWORA also exempts programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development (HUD). This provision is not subject to specification by the Attorney General and therefore not impacted by A.G. Order No. 6335 – 2025.

Commenter (6) also believes that TDHCA should rescind this rule. Should that not occur, TCFV urges substantial revisions to uphold Texas' long-standing commitment to crime victims and ensure compliance with federal law. They note that the proposed rule is vague, inconsistent, and unclear leaving substantial room for misapplication and confusion that will foster implementation challenges for subrecipients and housing providers. These issues include, but are not limited to, unclear verification procedures and conflicting statements regarding legal authority. Specifically, the proposed rule runs counter to federal laws governing nondiscrimination and confidentiality for victim service providers.

Commenter (5) They believe that Community Development Block Grant Program, Emergency Solutions Grant Program, HOME Investment Partnerships Program, National Housing Trust Fund, and the Neighborhood Stabilization Program, all fall under the exceptions in PRWORA. They request that the rule exempt programs that provide emergency housing or other crisis services as well as community development programs administered by the Department of Housing and Urban Development. Lastly, they note that while Texas is not a party to the ongoing litigation against A.G. Order No. 6335 – 2025, the rule is currently stayed in plaintiff states, and it is possible that the order will be overturned or the DOJ will issue new regulations or instructions that would require Texas to make changes again.

Commenter (5) comments that the rule will have long-term consequences for Texas children as TDHCA's programs provide critical support for both emergency intervention as well as long-term affordable housing, which are both critical for low-income families with children. Commenter states that restricting immigrant parents from TDHCA programs will cause more Texas children to grow up in poverty. According to the commenter, over one million U.S. Citizen children in Texas have at least one undocumented family member; and for the majority of them, that is a parent. Per the commenter, the proposed rule would cut many families off from assistance and would have a profound impact childhood poverty rates across the state.

Commenter (2) also suggests it is difficult for service providers and advocates to understand the impact of these rule changes and provide thoughtful comment when the full scope of federal reinterpretation of PRWORA requirements is not yet clear.

Staff Response: The Department addresses the concern regarding those protected by VAWA and FVPSA by clarifying their exemption in the rule as noted above. Staff does not recommend withdrawing the rule, as the federal guidance to date has provided sufficient guidance for the Department to proceed with this rule. As it relates to Commenter (5) suggesting that the rule is not applicable to ESG, HOME and NHTF, the Department does not agree that those programs are exempted from guidance to date particularly in light of the 2025 Grant Agreement executed between HUD and the Department, which specifies their applicability.

Comment on Nonprofit Applicability

Commenter (5) and (6) note that the draft rule extends the requirement to verify immigration status to all subrecipients of funding in the affected programs, despite the fact that PRWORA explicitly exempts nonprofit entities that receive funds from the requirement to verify the immigration status of their program beneficiaries. Commenter (2) is concerned that subrecipients may not be fully aware that this proposed rule requires nonprofits that were formerly or otherwise exempt to elect a method of verification for beneficiaries. Commenter (3) also asks that the Department clarify the nonprofit exemption language and ensure it does not create conflicting compliance duties. The proposed rule references that certain nonprofit charitable organizations may not be required to verify status in some contexts, while also describing circumstances in which TDHCA must ensure verification to prevent confusion and uneven practices across the state.

Staff Response: 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.

Comment on Clear Guidance for Programs

Commenter (3) requests that the Department clarify the scope and applicability of the rule by program and "activity type," including where PRWORA does and does not apply. They suggest that in rule text (or incorporated guidance referenced in rule) a clear, program-by-program applicability matrix for TDHCA Single Family, Homeless, and Community Affairs programs, including which activity types require verification and which are explicitly exempt. This will reduce inconsistent implementation across Administrators.

Commenter (3) also notes concern for mixed status households and requests that because the application of this rule is central to homelessness prevention and single family stabilization outcomes, the rule (or companion guidance) should specify a standardized method for benefit calculation/proration and explicitly state that benefits for eligible household members (including U.S. citizen children) may not be categorically denied solely due to another household member's inability to verify status, unless the governing federal program specifically requires otherwise.

Staff Response: Staff notes that more detailed applicability of this rule is provided in a subsequent rulemaking that was released for public comment and will be out for comment until January 26, 2026. That rulemaking includes revisions to five sections of the Department's rules in 10 TAC to be amended to implement changes: 1) §6.204 Use of Funds for the Community Services Block Grant Program, 2) §7.28 Program Participant Eligibility and Program Participant Files for the Homeless Housing and Services Program, 3) §7.44 Program Participant Eligibility and Program Participant Files for the Emergency Solutions Grant Program, 4) §20.4 Eligible Single Family Activities in the Single Family Programs Umbrella Rule, and 5) §20.6 Administrator Applicant Eligibility in the Single Family Programs Umbrella Rule. Those rules add program-specific clarity to mixed status household calculations. Staff encourages the commenter to make comments on those more specific rules. Additionally, staff will, upon adoption of those five other rules, release a matrix reflecting rule applicability. However, as a result of this comment the Department has changed the effective date to April 1, 2026.

Comment on Terminology:
Commenter (3) requests that the rule define "legal status" and align terms consistently throughout the rule (and correct apparent drafting errors). The proposed rule uses "U.S. Citizen, U.S. National, or Qualified Alien status ('legal status')" and defines "Qualified Alien" by reference to 8 U.S.C. §1641(b) or (c). They request that the Department ensure definitions are consistent throughout and correct a noted typographical issues confirm that the rule's terminology matches the controlling federal definitions and any HUD program-specific language.
Staff Response: Staff has used the terms applicable in PRWORA and is using the term legal status to describe U.S. Citizen, U.S. National, or Qualified Alien status. No changes to the rule are recommend in response to this comment.

Comment on Security and Privacy of Documentation:
Commenter (3) requests that relating to verification mechanics, the Department provide minimum required standards for privacy, security, and record retention before requiring electronic transmission or SAVE use. The proposed rule contemplates verification through "established documents" first and then use of SAVE if unable to verify through those documents. It also contemplates that some Subrecipients may transmit documentation to TDHCA (or a contractor) for verification and requires "a sufficient method of electronic transmittal" and "secure safekeeping." They ask for greater specificity and that baseline security standards (examples given in comment) for any electronic transmittal/recordkeeping methods, especially when personal immigration documentation is collected or transmitted.
Staff Response: Staff concurs on the importance of having standards for privacy, security and record retention. It should be emphasized that all subrecipients subject to this rule will execute contracts with the Department addressing these topics and further will have executed an Information Security and Privacy Agreement as outlined in 10 TAC §1.24 that provides greater detail on securing sensitive information. No changes to the rule are recommended in response to this comment.

Comment on 'Acceptable Documents' Being Made Available:
Commenter (3) requested that reference to the "acceptable documents" will be published in a stable, version-controlled format with effective dates and a change log, because the rule currently references a website list that may be updated "from time to time."

Staff Response: The matrix of "acceptable documents" will be published on the Department's website and as requested will note effective dates when any updated versions are posted. No changes to the rule are recommended in response to this comment.

Comment Requesting Safe Harbor:
Commenter (3) requests that relating to implementation timeline and readiness, that a safe-harbor period be added during which Administrators acting in good faith under TDHCA training/guidance are not penalized for initial implementation errors.
Staff Response: Because of the federal applicability of these requirements in most cases, staff does not recommend the rule provide for a safe harbor. However, the Department and its program staff are committed to training and guidance and monitoring staff will seek to be training oriented in initial monitoring on this issue. No changes to the rule are recommended in response to this comment.

Comment Relating to Forms and Training:
Commenter (3) requested that TDHCA confirm that it will provide standardized forms, checklists, training, and helpdesk support before enforcement, especially for smaller nonprofits and rural Administrators.
Staff Response: TDHCA confirms that it will provide forms, checklists, training, and support for Administrators. No changes are recommended in response to this comment.

Comment relating to Appeal Process for Households:
Commenter (3) requests that due process be considered and that the rule or mandatory guidance should include, a clear notice process (what the applicant receives, in what language(s), and within what timeframe), a reasonable cure period to provide missing documentation, an appeal process, including how SAVE mismatches are handled and corrected, and guardrails to prevent discouraging eligible households from applying due to fear or confusion.
Staff Response: Each program's rules already require specific provisions for the handling of a client's denial of services, which will now include possible denial under this rule as well. Because those provisions may vary by program, based on federal requirements, the provisions for such due process will remain in the program specific rules, and not be added to this section. No changes are recommended in response to this comment.

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

§1.410 Determination of Alien Status for Program Beneficiaries

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

(b) Definitions. The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Title that govern the program under which program eligibility is seeking to be determined or assigned by federal or state law.
(1) Administrator--An entity that receives federal or state funds passed through the Department. The term includes, but is not limited, to a Subrecipient, State Recipient, Recipient, or a Developer of single-family housing for homeownership. The term also applies to a For Profit Entity having been procured by the Department to determine eligibility for federal or state funds and as otherwise reflected in the Contract.
(2) For Profit Entity--an Administrator that is neither a Public Organization nor a Nonprofit Charitable Organization.
(3) Nonprofit Charitable Organization--An entity that is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and is organized and operated for charitable purposes.
(4) Public Organization--An entity that is a Unit of Government or an organization established by a Unit of Government.
(5) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) or (c).
(6) State--The State of Texas or the Department, as indicated by context.
(7) Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of program applicants.

(c) Applicability for Federal Funds.
(1) The determination of whether a federal program, or activity type under a federal program, is a federal public benefit for purposes of PRWORA is made by the federal agency with administration of a program or activity. Block grants have been determined to be subject to PRWORA. The only circumstance in which the Department will not apply this section is in cases in which the PRWORA statute provides, or the administering federal agency has given clear direction, that an activity is explicitly not a federal public benefit and does not require verification.
(2) At the time of the publication of this rule, this rule applies to Contracts administered in the Single Family and Homeless Division and the Community Affairs Division for applicable federally funded Department programs including Low Income Home Energy Assistance Program, Department of Energy Weatherization Assistance Program, Community Services Block Grant Program, Community Development Block Grant Program, Emergency Solutions Grant Program, and to the extent used for single-family activities National Housing Trust Fund Program, ~~Neighborhood Stabilization Program,~~ the HOME Program and other programs as provided for in Administrator's Contracts or state guidance with an initial effective date on or after ~~February~~ April 1, 2026, or for the Community Development Block Grant Program and HOME 2025 or later year funds added to an existing Contract. For those programs

that operate reservation based funding methods this rule applies to Household Commitment Contracts with an initial effective date on or after ~~February~~ April 1, 2026.
(3) The requirements of this section are applicable to Subrecipients of federal funds passed through the Department as described in paragraph (1) of this subsection. However, certain exemptions under PRWORA may exist on a case specific, or activity specific basis as further provided by the applicable federal agency.

(d) Applicability for State Funds. The Department has determined that State funds that are provided to a Subrecipient to be distributed directly to individuals, are a state public benefit. At the time of the publication of this rule, applicable state funded Department programs include TCAP-RF (to the extent used for single-family activities), the Homeless Housing and Services Program, the Amy Young Barrier Removal Program, and the Bootstrap Program and other programs as provided for in Administrator's Contracts or state guidance with an initial effective date on or after ~~February~~ April 1, 2026. For those programs that operate reservation based funding methods this rule applies to Activity level commitment documents with an initial effective date on or after ~~February~~ April 1, 2026.

(e) Exemptions and Benefit Calculations under PRWORA.
(1) If no exemptions under PRWORA are applicable to the activity type, as provided for by the federal agency or by the statute, then the Subrecipient must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using the methods provided for in subsection (f) of this section and evaluate eligibility using the rules for the applicable program under this Title.
(2) Administrators should review Program Rules and Contracts for additional information, including how benefit calculations are adjusted for households in which not all members can be verified.
(3) 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.

(f) Verification Process Under PRWORA for Programs with Subrecipients.
(1) Administrators must~~may~~ first seek to verify legal status through the use of several established documents as described more fully in guidance provided by the Department and in the Administrator's Contract. Only if unable to verify legal status with those documents will the SAVE system be utilized as described in this subsection.
(2) Public Organizations. Administrators that are Public Organizations are required to perform the verifications through the SAVE system.
(3) An Administrator is required to ensure compliance with the verification requirement as provided for in subparagraphs (A), (B) or (C) of this paragraph. Records must be maintained as required by subparagraph (D) of this paragraph. Notification of election of method must be provided in accordance with subparagraph (E) of this paragraph.
(A) The Subrecipient requesting from the household and transmitting to the Department, or a party contracted by the Department, sufficient information or documentation so that the Department or its vendor can perform such verification and provide a determination to the Subrecipient; OR

(B) As eligible, the Administrator electing to perform the verifications through the SAVE system, as authorized through the Department's access to such system; OR
(C) The Subrecipient electing to procure an eligible qualified organization to perform such verifications on its behalf, subject to Department approval.
(D) In the administration of subparagraph (A) of this paragraph, the Administrator must provide and maintain a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its vendor, and ensures the secure safekeeping of such paper and/or electronic files, and receipt of subsequent response back from the Department or its contracted party. In the administration of subparagraphs (B) or (C) of this paragraph, the Subrecipient or its procured provider must maintain sufficient evidence and documentation that verification has taken place so that such verification can be confirmed by the Department.
(E) Notification of Election of method under subsection (f)(4)(A) through (C) of this section by Nonprofit Charitable Organizations and For Profit Entities must be provided to the Department as specified in this subparagraph.
(i) For existing Applicants, Administrators with a Contract that is subject to Automatic Renewal, and Awardees or Administrators with a Reservation Contract. No later than 60 days after the effective date of this rule, all entities shall submit their election under subsection (f)(4)(A) through (C) of this section in writing to the applicable program director or his/her designee.
(ii) A new Applicant must make its election under subsection (f)(4)(A) through (C) of this section in its application, or if there is no Application prior to Contract execution.
(iii) For Administrators with no Application or Automatic Renewal once an election is made under this subsection or was made under a prior version of this rule, it does not need to be resubmitted or reelected, but will continue from the election made in the prior year unless the Administrator notifies the Department otherwise in writing at least three months prior to the renewal of the Contract (as applicable).
(iv) If an Administrator does not notify the Department of the election in writing by the deadline or refuses to abide by its election the Administrator will not be eligible to perform as an Administrator in the program, which is considered good cause for nonrenewal or termination of a Contract.
(g) The Department may further describe an Administrator's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract with the Administrator or in further guidance. Nothing in this rule shall be construed to be a waiver, ratification, or acceptance of noncompliant administration of a program prior to the rule becoming effective.

(h) Regardless of method of verification, the results of the verification performed or received by the Administrator must be utilized by the Administrator in determining household eligibility, benefits, income, or other programmatic designations as required by applicable federal program guidance or as determined by other Program Rules under this Title.