

From: dan@lakewoodmanagement.com
To: [HTC Public Comment](#)
Subject: Suggested change to 2023 Housing Tax Credit Program Qualified Allocation Plan
Date: Monday, September 26, 2022 8:38:34 AM

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According to the proposed 2023 Housing Tax Credit Program Qualified Allocation Plan, to meet the definition of Supportive Housing the applicant must meet several criteria including 11.1 (d) (125) (E) (ii) (II) – “the Development is located less than ½ mile from regularly-scheduled public transportation, including evenings and weekends;”. This requirement limits Supportive Housing to larger urban areas with extensive transit systems and thus eliminates the opportunity to provide Supportive Housing in smaller cities and rural towns. Smaller cities and rural areas have issues with homelessness, disabilities and other needs that can be serviced by Supportive Housing so this restriction should be eliminated.

There are on-demand public transportation services that serve smaller cities and rural areas. According to the Texas Department of Transportation, there are 36 rural transportation districts providing services in Texas. They provide a list and map with the many services available in the State. [Texas transit agencies – find yours \(txdot.gov\)](#)

In smaller cities and rural areas, most of these agencies provide “curb to curb” on demand services at costs similar to urban public transportation or no cost to some. You call and make an appointment and they come get you and take you to your destination.

In order to expand the possibility of providing needed Supportive Housing in Texas we suggest that the language in this section of the Housing Tax Credit Program Qualified Allocation Plan be amended as follows: (II) the Development is located less than ½ mile from regularly-scheduled public transportation, including evenings and weekends or in an area served by an on-demand transit service.

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October 3, 2022

Multifamily Finance Division
Texas Department of Housing and Community Affairs
Attn: Colin Nickells, Competitive (9%) Housing Tax Credit Manager
221 East 11th Street
Austin, Texas 78701

Re: Public Comment, 2023 Official Draft Qualified Allocation Plan

Dear Mr. Nickells:

Thank you to the Texas Department of Housing and Community Affairs (“TDHCA”) for providing ample opportunities to discuss policy development during 2022 in preparation for the 2023 Qualified Allocation Plan (“QAP”). Thank you also for the early release of the initial staff draft of the 2023 QAP. This process was invaluable in allowing stakeholders to preview concepts proposed by TDHCA and to provide input regarding those concepts. Finally, thank you for the opportunity to provide public comment related the TDHCA 2023 Official Draft QAP. Please accept the following comments on behalf of Purple Martin Real Estate (“PMRE”):

§11.1(d)(38)(B) Requirement for Agreement with Local Jurisdiction for Sites Divided by Public Road

The requirement that an owner secure an agreement with a local jurisdiction for a 30-45 year LURA term to provide an accessible route for developments separated only by a public right of way is excessively difficult. In order to ensure otherwise compliant developments are not disqualified for the lack of the 30-45 year agreement with the city, PMRE suggests the removal of this requirement and that instead to condition the award on the provision of an accessible route, and ensure that one is present as a part of compliance monitoring.

§11.1(d)(140) Unit Type

PMRE recommends a reversion to the 2022 language, which includes the deletion of the word “features.” The addition of the word “features” is too vague and will introduce ambiguity in interpretation. Additionally, differences in full bathrooms is a sufficient differentiator for unit types.

§11.2 Program Calendar, MFDL Request for Preliminary Determination

Can the deadline for Multifamily Direct Loan Request for Preliminary Determination be added to the Program Calendar? Also, February 11 is a Saturday. Can this deadline be revised to either February 10 or February 13? This update would also need to be made in §11.8(d).

§11.4(a) Credit Amount, Value Assigned to Supplemental Credits

PMRE requests that the amount assigned to Supplemental Credits be defined in the final QAP, rather than determined by staff outside of the QAP.

§11.5(3)(D)(ii) At-Risk Demolition and Relocation of Redevelopment Units

PMRE suggests that in cases of replacement housing, the QAP be revised so that the development must propose “at least” the same number of restricted units. This would maximize the number of affordable units built. Suggested revision to Section 11.5(3)(D)(ii):

(ii) the Applicant seeking tax credits must propose at least the same number of restricted Units (the Applicant may, however, add market rate Units); and

§11.6(3)(C)(iv) HUD Choice Neighborhood Awards

PMRE is supportive of the concept of awarding the highest scoring development that receives funding through HUD Choice Neighborhood Planning or Implementation grants. HUD Choice Neighborhood Implementation (“CNI”) awards provide valuable and significant federal funds that can be leveraged with housing tax credits to produce affordable housing units in areas of great need. All CNI awards require the provision of a certain number of units, which is at least a two for one replacement of existing housing, and because of this requires multiple phases of development. Further, CNI often requires that these developments are supported by tax credits, and in some cases specifically requires the use of 9% housing tax credits. The proposed draft QAP language allows for this multi-phase development that is required by HUD to be competitive under the 9% tax credit program, allowing the maximum leverage between HUD CNI and housing tax credits.

§11.7 Tie Breaker Factors

PMRE supports the proposed language for the first tie breaker to use a 20% baseline percentage, which is then adjusted for regions 11 and 13.

Additionally, PMRE requests the first tiebreaker be separated into two independent tie breaker criteria, which ultimately results into three distinct tie breakers: (1) poverty rate, (2) rent burden, and (3) distance to the nearest HTC development. This separation will provide a clearer path to determine tiebreakers for both staff and the development community.

§11.9(b)(2)(A) Sponsor Characteristics, HUB

PMRE requests a reversion to 2022 language for the HUB portion of the Sponsor Characteristics scoring item, specifically the deletion of the words “or officer” and “regardless of Control.” These additions could be problematic for some existing, experienced HUBs. PMRE’s position is that the 2022 QAP language related to HUBs was sufficient to meet TDHCA’s Section 42 obligations, and that further narrowing of the Sponsor Characteristics section of the QAP does not provide any meaningful benefit.

§11.9(c)(4) Residents with Special Housing Needs

In the introductory paragraph, it seems that the “or” should be changed to “and” in the phrase “any combination of (A), (B), or (C)...”.

§11.9(c)(6) Underserved Area

PMRE appreciates the addition of clarifying language regarding the way that the age of existing developments is evaluated.

Regarding subparagraph (F)(ii) and (F)(iv), the meaning of these sentences is unclear. Can staff revisit this language to make it less confusing?

§11.9(c)(7)(C) Access to Jobs

PMRE suggests the deletion of the requirement that the development site is located on an accessible route for pedestrians. The review and implementation of this requirement has in the past resulted in extensive RFADs between applicants challenging minute details of the quality of a pedestrian route to the transportation stop. Additionally, the descriptor related to a route to employment and services is not necessary to convey the requirements to qualify for points. PMRE suggests the following language revisions to prevent excessive RFADs:

- (A) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for points under this subparagraph if the Development Site is located ~~on a route, with an accessible path for pedestrians, that is~~ within a one half-mile radius from the entrance of a public transportation stop or station with a route schedule that provides regularly scheduled service ~~to employment and basic services~~. (2 points)

§11.9(e)(2) Cost of Development per Square Foot

PMRE is appreciative for TDHCA's work in evaluating current construction costs and providing a meaningful adjustment to this scoring category to more accurately tie to true costs of construction. This adjustment will go a long way toward improving the financial feasibility of future developments.

§11.9(e)(9) Readiness to Proceed

PMRE requests the complete deletion of this scoring item. Advancing the closing deadline for all developments in the state is in contrast with the realities of designing, permitting, and constructing affordable housing in the current environment. Also, advancing the placement in service deadline similarly does not reflect the realities of the current construction environment, including supply chain disruptions. This can be seen in the number of Force Majeure approvals within the last year. If TDHCA must include this concept, PMRE suggests a revision to the closing deadline. Proposed language follows (again, only if there is truly no option to delete this problematic scoring item entirely):

- (9) Readiness to Proceed. Application will be eligible for one (1) point for closing all financing on or before the last business day of the month that is 9 months after the effective date of the Commitment. If the Applicant is unable to achieve this commitment, all Applications submitted by that Applicant, Affiliate, or Related Party will have one (1) point reduced from their score in the subsequent Application round following the applicable deadline. Any point penalty will not apply in cases of force majeure. In order to receive points the application must include a certification from the Applicant that they will close all financing on or before the last business day of the month that is 9 months after the effective date of the Commitment.

§11.101(a)(3) Neighborhood Risk Factors

PMRE is supportive of proposed changes eliminating blight as a Neighborhood Risk Factor, and the exemption for rehabilitation developments related to poverty and crime.

Related to schools (§11.101(a)(3)(B)(iii)), PMRE requests reinstatement of the language providing an exemption for developments encumbered by a TDHCA LURA. It is important to remove barriers to preserving existing TDHCA-funded affordable housing, such as potential disqualification based on a point-in-time evaluation of schools.

Also related to schools, PMRE suggests the return to an evaluation of school performance over two rating years in order make sure the issues with the school truly rise to a level requiring mitigation. Suggested language:

- (iii) The Development Site is located within the attendance zone of an elementary school, a middle school or a high school that has a TEA Accountability Rating of “Not Rated: Senate Bill 1365” ~~for 2022, the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or~~ and a TEA Accountability Rating of F for the most recent preceding year available prior to Application. ~~and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.~~

Finally, providing an onsite after school learning center should not be a baseline requirement for mitigation in all cases, particularly in light of the disruptions to education during the pandemic. It is likely that TEA ratings will be negatively affected over the next few years due to the pandemic, and the QAP should not place the burden of correcting the effects of these disruptions on owners and developers. PMRE suggests the following language revision to §11.101(a)(3)(D)(iii):

- (iii) Evidence of mitigation for each of the schools in the attendance zone that has a TEA Accountability Rating of “Not Rated: Senate Bill 1365” ~~for 2022 and a TEA Accountability Rating of F for the most recent preceding year available prior to Application~~ must may include satisfying meet the requirements of subclauses (I) and (II)...

§11.101(b)(1)(A)(vii) Ineligible Developments, Efficiencies and One-Bedroom Units

PMRE has concerns with the addition of an ineligibility item that dictates the unit mix for developments. Unit mix is most appropriately determined based on the needs of each individual market. PMRE requests a deletion of this language. If not deleted in its entirety, PMRE suggests the percentage be increased to 60%.

§11.101(b)(1)(C) Ineligible Developments, Schools

PMRE supports the suspension of this item. Additionally, new language in §11.101(b)(5)(C)(i) requiring the provision of a Pre-K should be deleted, as it ties to the suspended ineligibility item.

§11.101(b)(5)(C)(i) Requirement for Pre-K for Otherwise Ineligible Developments

As stated above, the new language §11.101(b)(5)(C)(i) requiring the provision of a Pre-K should be deleted, as it ties to the suspended ineligibility item. Additionally, it is inappropriate to require such a one-size-fits-all form of mitigation in the case of ineligibility. For example, if the middle school is struggling, providing Pre-K would not be the most fitting form of mitigation. Rather, owners should be able to propose the mitigation appropriate to the circumstances in the area. Finally, if a particular form of mitigation is required, the appropriate place for that language is in the ineligibility section of the QAP, not the description of common amenities.

§11.302(e)(1)(C) Eligible Basis on Acquisition of Buildings

PMRE suggests a revision to the calculation of building eligible basis in cases where the contract acquisition cost is less than the appraised value. The relative building and land values used for the purpose of determining acquisition basis should be prorated rather than deducting land value from the lower acquisition cost. Any savings the applicant can achieve as compared to appraised value should be applied

to both land and building values, and not assumed to reduce only the building value. Suggested language is as follows:

- (B) Eligible Basis on Acquisition of Buildings. Building acquisition cost included in Eligible Basis is limited to the appraised value of the buildings, exclusive of land value, as determined by an the appraisal that meets the requirements of §11.304 of this chapter (relating to Appraisal Rules and Guidelines). If the acquisition cost in the Site Control documents is less than the appraised value, Underwriter will utilize the percentages of land and building value from the appraisal and apply these percentages to the acquisition cost in the site control to establish land and building values used by the Underwriter. ~~adjust the building acquisition cost accordingly.~~

Subchapter F Supplemental Credits

PMRE is grateful for the inclusion of Supplemental Credits in the Official Draft QAP. This important tool will go a long way toward ensuring the financial feasibility of 9% transactions awarded during the 2021 funding cycle. PMRE suggests the following revisions to clarify certain aspects of Subchapter F, and to expedite requests and awards of Supplemental Credits.

§11.1002 Program Calendar

PMRE requests an expedited program calendar to allow owners greater certainty as early as possible. Suggestions:

- Deadline for Notice of Intent – 12/1/22. New applicants for 2023 tax credits need to know which 2021 applications will seek Supplemental Credits to evaluate de-concentration tests such as the Two-Mile Same-Year test prior to pre-application.
- Deadline for Requests for Supplemental Allocations – 12/9/22
- Board Approval of Supplemental Allocations – February Board meeting

§11.1003(b) Maximum Supplemental Request Limit

PMRE appreciates TDHCA indicating an upward limit of 15% for credit increases. PMRE requests that the final QAP formalize that applicants may request up to a 15% increase, and that the final QAP delete the current draft language referring to a TDHCA announcement of the Supplemental Credit limit outside of the QAP. Owners are actively working on these 2021 transactions and need certainty related to the availability of Supplemental Credits as soon as possible to firm up the financing structure of transactions.

The allocation of said credits should be handled as an ‘across the board’ increase of 15% of the original credit allocation to those 2021 allocations rather than continuing with the application methodology described in the 2023 Draft QAP. Any credits that cannot be justified are able to be recaptured at Cost Certification, following underwriting analysis. These changes will minimize the workload on TDHCA staff and ensure that 2021 awardees will have access to all necessary tools to close funding gaps.

Please contact me at (512) 658-6386 or Audrey@purplemartinre.com with any questions.

Sincerely,



Audrey Martin
Principal, Purple Martin Real Estate, LLC

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October 6, 2022

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
Attn: Mr. Matthew Griego
matthew.griego@tdhca.state.tx.us

Re: Comments to the 2023 Draft Qualified Allocation Plan and Multifamily Rules (collectively the "2023 QAP") Approved by the Governing Board of the Texas Department of Housing and Community Affairs ("TDHCA") For Public Comment At Its September 1, 2022 Board Meeting

Ladies and Gentlemen,

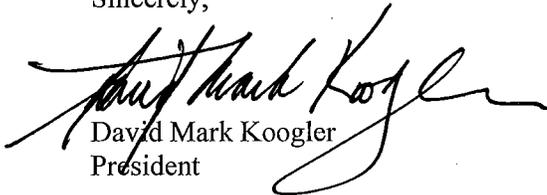
We appreciate the opportunity to provide public comments to the proposed 2023 QAP.

We support and agree with the comments made by the Texas Affiliation of Affordable Housing Providers ("TAAHP") on August 3rd, 2022 (copy attached to this letter as Exhibit A). In addition, we request that you consider the following comment:

§11.9(c)(7)(C) Access to Jobs - We request that the Access to Jobs scoring criteria be removed from the QAP in its entirety. The public transit offerings dramatically vary throughout the state. Many of the urban areas that are not in metropolitan cities have limited to no access to public transportation. For example, Region 6 has extremely limited access to public transportation unless you are within the City of Houston limits. If the proposed project is located within Harris County or Montgomery County but not within the City of Houston it is very unlikely that the project will have access to public transportation. We expect that the inclusion of this point category will drive applicants to the larger metropolitan areas where access to public transportation is far more common and thus will create an unwanted high geographical density of applications.

We again thank you for the opportunity to provide public comment to the 2023 QAP and hope that you will consider and make the changes that we discussed. If you have any questions or would like to discuss any of these items further, please call or email us.

Sincerely,


David Mark Koogler
President



TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS | 2401 E. 6th Street, Ste. 3037, PMB 153 | Austin, TX 78702
tel 512.476.9901 | taahp.org

Exhibit A

August 3, 2022

Mr. Cody Campbell, Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
cody.campbell@tdhca.state.tx.us

Re: Texas Affiliation of Affordable Housing Providers comments to the 2023 Informal Draft Qualified Allocation Plan and Multifamily Rules

Dear Mr. Campbell:

The Texas Affiliation of Affordable Housing Providers (TAAHP) appreciates the opportunity to submit public comments regarding the draft 2023 Qualified Allocation Plan (QAP) and Multifamily Rules. Our membership represents a variety of disciplines that work diligently to provide affordable housing to low- and moderate-income families in the State of Texas. It is TAAHP's policy to submit only those recommendations that represent consensus among our membership.

We would like to commend staff for preparing and issuing an unofficial preliminary draft so early in the QAP development process. This informal draft has allowed the industry to review new concepts with TDHCA staff and have a robust discussion on issues and scoring items that could impact the upcoming cycle. We would like to encourage TDHCA staff to continue this trend as it beneficial for all of us as we craft the QAP together.

On behalf of TAAHP, we respectfully offer the following recommendations for staff consideration and implementation in the formal draft of the 2023 QAP.

§11.2 Program Calendar for Housing Tax Credits and §11.8(b) Pre-Application Requirements (Competitive HTC Only) – TAAHP requests the removal of the Third-Party Request for Administrative Deficiency (“RFAD”) concept specific to Pre-Applications. This concept was borne out of discussion at the roundtable series in connection with the requirement for additional documentation on specific point scoring items. The goal was to give competing developers an opportunity to examine whether peers were truly able to meet the requirements for Underserved Area and Proximity to Jobs. The language proposed in §11.8 accomplishes that goal, without the need for an additional RFAD when the current rule allows for an RFAD to be submitted any time prior to the May deadline.

§11.6(3)(C)(iv) Supportive Housing Awards – TAAHP requests that the proposed language be struck in its entirety and that the allocation of competitive tax credits to Supportive Housing developments continue to be handled as it was in the 2022

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QAP with Supportive Housing having a three-point scoring advantage over other target population applications.

The universe for technically qualified Supportive Housing developers is relatively finite. Encouraging developers at large to try and pursue Supportive Housing developments because of an automatic award could ultimately lead to inadequately qualified and undercapitalized non-profits taking on more robust activities than they are equipped/experienced to handle. Further, this a one-sized-fits-all approach to a demographically diverse state. The needs of small metro and rural Texas are different than those of large metro/urban Texas. Applying the needs large metro/urban Texas to the whole state is imprudent.

Alternatively, a simple solution that will likely achieve the same goal of the set-aside in expanding the number of experienced developers pursuing Supportive Housing in Texas would be to strike the word “Qualified” in the scoring boost for Supportive Housing in both Section 11.9(c)(1)(A)(i) and Section 11.9(c)(2)(A) and make it applicable to technically-experienced nonprofit organizations that meet the requirements of IRC §42(h)(5)(C) with at least 51% ownership in the General Partner of the Applicant (as alternatively allowed in Section 11.9(b)(2)(C). This change could potentially boost the supply of Supportive Housing in two ways:

- 1) Allow national nonprofit developers of supportive housing to be eligible for the three additional points for Supportive Housing and therefore increase odds of getting a Supportive Housing development awarded.
- 2) Allow locally based nonprofit developers of Supportive Housing to be eligible for the three additional points for Supportive Housing if they expand more than 90 miles from their board member addresses, thereby allowing them to spread their experience to other areas that might not have it.

§11.6(3)(C)(v) HUD Choice Neighborhood Awards – TAAHP proposes that any incentive related to developments utilizing HUD Choice Neighborhood Implementation (“CNI”) awards be in the form of points rather than an automatic award through the allocation process section of the QAP. This concept would ideally be similar to the additional points supportive housing developments can access under the 2022 and prior QAPs. Automatic awards will presumably result in much lower scoring applications receiving awards. Retaining a scoring incentive for all developments ensures that those utilizing CNI awards are still incentivized to meet TDHCA’s policy objectives, as outlined

in selection criteria, and continue to maximize points to the greatest extent possible. Therefore, if TDHCA seeks to prioritize CNI developments, and recognizing that there may be selection criteria that CNI developments cannot access due to their site location, TAAHP suggests that the use of limited and specific CNI incentive points can meet TDHCA’s CNI prioritization goals without sacrificing other selection criteria priorities.



Therefore, TAAHP proposes the language in section §11.6(3)(C)(v) be struck in its entirety and a new section in §11.9 be added with the following effect.

HUD Choice Neighborhood Awards. An Application in an Urban subregion may qualify to receive 3 points if the Development Site is located in a neighborhood which is a recipient of a HUD Choice Neighborhood Planning or Implementation grant in the preceding five years from the date of Application submission and funds from the HUD Choice Neighborhood awardee are reflected in the Application's Sources and Uses.

§11.7 Tie Breakers – Currently, tie-breaker language related to the three-year average poverty rate for all awarded Competitive HTC Applications provides much uncertainty in the process since the average isn't known until the updated site demographics report isn't final until October/November each year. This time frame is well beyond the time Applicants begin the site selection process.

In an effort to provide certainty for Applicants that are actively searching for sites prior to the issuance of the site demographics report, the membership respectfully requests two minor changes to the current tie-breaker methodology. First, the membership requests the "three-year average" calculation be removed and a flat 20% poverty rate threshold be used for all regions other than 11 and 13. For region 11 it would be a flat 35% and region 13 would be a flat 25%. These poverty rates are consistent with the Opportunity Index threshold criteria.

The membership further requests the first tiebreaker be separated out into two independent tie breaker criteria, which ultimately results into three distinct tie breakers: (1) poverty rate, (2) rent burden, and (3) distance to the nearest HTC development. The membership believes this separation will provide a clearer path to determine tiebreakers for both staff and the development community.

§11.8(b)(1)(J) Pre-Application Requirements (Competitive HTC Only), threshold items – TAAHP requests "Opportunity Index" be struck from the draft language therein and that supporting documentation for only "Underserved Area and/or Proximity to Jobs" remain. The documentation related to Underserved Area and Proximity to Jobs is concise and easy to include in a very condensed pre-application delivery window. Having to provide in depth documentation for numerous Opportunity Index categories is overly burdensome, especially on deals that ultimately will not be submitted for a full application. Underserved Area and Proximity to Jobs are the two primary areas where an RFAD would come into play and are the appropriate targets for additional documentation.



§11.9(b)(2)(A) Sponsor Characteristics, HUB – TAAHP requests a reversion to 2022 language for the HUB portion of the Sponsor Characteristics scoring item. Internal Revenue Code Section 42 (“Section 42”) requires that states allocate 9% credits using selection criteria, and this list includes the words “sponsor characteristics.” Section 42 includes no information about what “sponsor characteristics” means and does not require capacity building or any other specific feature of a sponsor to satisfy this requirement. Historically, TDHCA has determined that it meets the Section 42 sponsor characteristic requirement by providing an incentive to developments including Historically Underutilized Businesses (“HUBs”) and nonprofits. TAAHP’s position is that the 2022 QAP language related to HUBs was sufficient to meet TDHCA’s Section 42 obligations, and that further narrowing of the Sponsor Characteristics section of the QAP does not provide any meaningful benefit. Therefore, the additional restriction proposed in the draft 2023 QAP is unnecessary.

§11.9(c)(5) Assisting Individuals with Children – TAAHP believes TDHCA’s 2022 QAP and earlier versions already supports Individuals with Children in a variety of places and thus meets the requirements of IRS S.42. TAAHP believes this new scoring item is incompatible with Texas legislation and requests this new addition be removed in its entirety. Examples of where we see the QAP already supporting children include:

Common Amenity points supporting for children:

- Multifunctional learning and care centers pertaining to children;
- Children’s Playscape;
- Swimming Pool;
- Splash Pad / water feature play area;
- Sport Court or field
- Library
- Activity room with supplies (Arts and Crafts, board games)
- Bicycle parking

Resident Supportive Services

- Children’s supportive Services (i) and (ii)
- Food Pantry

Neighborhood Risk Factors

- Restricting developments to high performing schools or schools that have plans and policies in places for improvement or developments that commitment to provide enhanced educational services.

The Legislative Case against the scoring item: Assisting Individuals with Children:
Per Texas Legislative code 2306.6725(d)(2):

“For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award (2) to a proposed project for the general population a number of points



for a scoring criterion that is different than the number of points awarded for that criterion to a proposed project reserved for elderly persons if the proposed projects comply with the criterion to the same degree.” This proposed provision for Assisting Individuals with Children would violate 2306.6725(d)(2), especially due to Ineligibility of Elderly Development Criteria on large unit sizes.

Furthermore, Texas Legislative code 2306.6725(d)(2) was passed in the 84th Leg with HB3311 which specifically states the intent of “C.S.H.B. 3311 seeks to add parity to the application process to help ensure that seniors are provided access to affordable housing resources.”

<https://capitol.texas.gov/tlodocs/84R/analysis/pdf/HB03311H.pdf#navpanes=0>

Since elderly developments cannot exceed 70% of units as larger than 1-bedroom units and in nearly all cases, will need to exceed 30% of total units as 1br/0br to be an eligible development [QAP §11.101 (1) Ineligible Developments (B) Ineligibility of Elderly Developments (iii)]*, elderly applications will be unable to elect this scoring item. As a result, elderly applications would be deemed uncompetitive given the extreme competitive nature of the 9% program. This proposed criterion is in violation of statute unless the points are automatically awarded to elderly applications [and supportive housing applications]. As a reminder, elderly awards are capped in the largest 4 urban regions.

**QAP Ineligibility Elderly Developments include (iii) any New Construction, Reconstruction, or Adaptive Reuse Elderly Development (including Elderly in a Rural Area) proposing more than 70% two- Bedroom Units.*

If for some reason TDHCA believes there is a path forward with this language, at the very least, At-Risk should be excluded as applicants cannot change their unit mix and elderly properties need preservation just as much as general population properties, if not more so, as seniors typically have fewer appropriate housing options to age in place such as properties that do not require any stairs for unit entry and elderly typically have no opportunity for upward income mobility that younger working-age households have.

It should also be noted that 2-bedroom elderly units can be harder to market as many seniors are single/widowed and can only afford a one bedroom or studio unit. We also find the capture rate for these units to be much higher than in smaller bedroom sizes for elderly developments.

§11.9(c)(6) Assisting Households with Incomes Above HTC Limits – The LIHTC program was created to provide and create affordable housing for low-income households. TAAHP believes the resources for this program should and must continue to support those efforts. We ask that TDHCA allow market dynamics and economic feasibility to drive decisions related to market rate or non-LIHTC restricted units and this new scoring item be removed in its entirety.



§11.9(c)(9)(C) Proximity to Jobs Area – TAAHP requests the Access to Jobs scoring criteria be simplified to one-half mile from a bus/transit stop on a regularly scheduled bus/transit line. Since this is the first year the transportation component will be included in this scoring category, we would like it to be a simple process that can be expanded on in future cycles if deemed necessary and desirable. Applicants scoring two or three points could earn up to a maximum of two additional points by being located within one-half mile of a bus/transit stop with regularly scheduled service of any kind. Because of the dramatically different public transit offerings across the state, TAAHP would like to see the simplified scoring option in practice rather than the ‘robust transit service’ language as currently drafted. TAAHP proposes the following modification to the draft language.

- (C) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for **up to two (2)** points under this subparagraph if the Development Site is located ~~on a route, with sidewalks for pedestrians, that is~~ within ~~a specified distance~~ **one-half (1/2) mile or less** from the entrance of a public transportation stop or station, **with sidewalks for pedestrians,** ~~with a route schedule that provides regular~~ **regularly scheduled** service to employment and basic services. ~~Only one of the following may be selected:~~

~~(i) The Development Site is 1/2 mile or less from the stop or station and the scheduled service is beyond 8 a.m. to 5 p.m., plus weekend service (both Saturday and Sunday) (1 point); or~~

~~(ii) The Development Site is 1/2 mile or less from the stop or station and the scheduled service arrives every 30 minutes, on average, between 6 a.m. and 8 p.m., every day of the week (2 points).~~

§11.9(e)(9) Readiness to Proceed - TAAHP requests the complete deletion of this scoring item. Reducing the amount of time developments have to place in service is in complete contrast with the realities of constructing affordable housing in the current environment. At a time when developers are already struggling to meet the statutory placement in service deadline, reducing that time by six months is unreasonable.

If TDHCA must include this concept, TAAHP suggests a certain closing deadline rather than an accelerated placement in service deadline. Proposed language follows (again, only if there is truly no option to delete this problematic scoring item entirely):

- (9) Readiness to Proceed. An application will be eligible for up to three (3) points for meeting subparagraphs (A) and (B). If the applicant is unable to achieve this commitment, all Applications submitted by that Applicant, Affiliate, or Related Party will have one (1) point deducted from their score in the following round.



- (A) An Application must include a certification from the Applicant that they will complete a financial close and fully execute the construction contract on or before the last business day of the ninth (9th) month after the issuance date of the Commitment Notice.
- (B) Applications seeking points under this paragraph will receive an extension of the 9-month deadline equivalent to the period of time they were not indicated as a priority Application if they ultimately receive an award. The period of the extension begins on the date the Department publishes a list or log showing an Application without a priority designation and ends on the earlier of the date a log is posted that shows the Application with a priority designation or the date of the award.
- (C) If the Applicant requests and is granted Force Majeure, the penalty point will not be assessed.

§11.9(f)(2) Cost of Development Per Square Foot – TAAHP would like to express our appreciation for the adjustments made to this point scoring category. These changes will help alleviate the need for future requests of supplemental credits and put new applications on solid financial footing from the start. Ultimately, this will help speed the delivery of new affordable housing units which has lagged in recent years due to constrained levels of capital and ballooning costs.

§11.101(a)(3) Neighborhood Risk Factors – TAAHP recommends the following change to language outlined in the provision.

In subparagraph (A), strike the last sentence that reads “Preservation of affordable units alone does not present a compelling reason to support a conclusion of eligibility.”

For TAAHP, this is the *raison d’être* to TDHCA, along with the creation of affordable units and as such, it should be considered as a reason for a conclusion of eligibility.

As it relates to subparagraph (B), TAAHP believes that every school district, municipality, and local government is unique, and circumspect to factors that may otherwise preclude revitalization of the community through the preservation or revitalization of new or existing affordable housing for certain neighborhood risk factors, most especially schools, and certainly during the COVID pandemic. It is to be expected that school ratings will suffer for years because of remote learning, disrupted classrooms, and the national health crisis brought on by COVID-19. TAAHP requests that schools not be considered as a Neighborhood Risk Factor, or an ineligibility criteria until ratings have resumed in full for two years to establish a base and give school districts and communities a chance to improve upon said ratings. If the criteria must be included in the QAP, then please include the ability for schools that have a score of F and an Improvement Required rating in the previous year, to have the same list of mitigation options outlined in Neighborhood Risk Factors.



For subparagraph (D)(iii), TAAHP proposes the following language:

(iii) Evidence of mitigation for each of the schools in the attendance zone that has a TEA Accountability Rating of D or F for the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or a TEA Accountability Rating of F for the most recent year available prior to Application and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding must may include satisfying meet the requirements of subclauses (I) and (II)- (III) of this clause which will be a requirement of the LURA for the duration of the Compliance Affordability Period and cannot be used to count for purposes of meeting the threshold requirements under subparagraph (7)(B)(ii) of this paragraph.

(I) Documentation from a person authorized to speak on behalf of the school district with oversight of the school in question that indicates the specific plans in place and current progress towards meeting the goals and performance objectives identified in the Campus Improvement Plan and in restoring the school(s) to an acceptable rating status. The documentation should include actual data from progress already made under such plan(s) to date demonstrating favorable trends and should speak to the authorized persons assessment that the plan(s) and the data supports a reasonable conclusion that the school(s) will have an acceptable rating by the time the proposed Development places into service. The letter may, to the extent applicable, identify the efforts that have been undertaken to increase student performance, decrease mobility rate, benchmarks for re-evaluation, increased parental involvement, plans for school expansion, plans to implement early childhood education, and long- term trends that would point toward their achieving an A, B, or C Rating by the time the Development is placed in service. The letter from such education professional should also speak to why they believe the staff tasked with carrying out the plan will be successful at making progress towards acceptable student performance considering that prior Campus Improvement Plans were unable to do so. Such assessment could include whether the team involved has employed similar strategies at prior schools and were successful.

(II) The Applicant has committed that until such time the as school(s) achieves a rating of A, B, or C it will operate an after school learning center that offers a minimum of 12 hours of weekly, organized, on-site educational services provided to elementary, middle and high school children by a dedicated service coordinator or Third Party entity which includes at a minimum: homework assistance, tutoring, test preparation, assessment of skill deficiencies and provision of assistance in remediation of those deficiencies (e.g., if reading below grade level is identified for a student, tutoring in reading skills is provided), research and writing skills, providing a consistent weekly schedule, provides for the ability to tailor assistance to the age and education levels of those in attendance, and other evidence-based approaches and activities that are designed to augment classroom performance.



Up to 20% of the activities offered may also include other enrichment activities such as music, art, or technology.

§11.101(b)(1) Ineligible Developments – TAAHP recommends the following change to language outlined in the provision.

For subparagraph (C), TAAHP believes this entire section should be struck given the circumstances surrounding the lasting impacts of the COVID 19 pandemic and the resulting impacts on school ratings. Additionally, the requirement to provide Pre-K in the proposed language does nothing to support older elementary, middle, or high school students and seems an ineffective fix at a significant cost to TDHCA's goal of delivering more affordable housing units. TAAHP proposes schools with F and Improvement Required ratings be required to prove up the same mitigation factors as listed under Neighborhood Risk Factors [11.101(a)(3)(iii)].

For subparagraph (D), TAAHP requests this new provision be struck in its entirety and for the Applicants to continue to have the ability to provide mitigating evidence for Development Sites with Part 1 violent crime rates greater than 18 per 1,000 persons (annually).

§11.204(6) Experience Requirement – TAAHP proposes a revision to the experience requirement to remove the requirement that a person seeking an experience certificate had control over the development(s) being used for experience. Many industry professionals that are integral in the development of housing units do not strictly meet the definition of "Principal," and thus despite extensive, meaningful experience in development are prohibited from meeting TDHCA's experience requirement. TAAHP believes that these experienced professionals should have the ability to secure a TDHCA experience certificate. To accomplish this, TAAHP suggests the following language revisions:

- (A) A natural Person, with control of the Development who intends and has the ability to remain in control through placement in service, who is also a Principal of the Developer, Development Owner, or General Partner must establish that they have experience that has included the development and placement in service of 150 units or more. Applicants requesting Multifamily Direct Loan funds only may meet the alternative requirement at §13.5(h)(1) of this title (relating to Experience). ~~An agreement between a HUB-listed as a participant on a previous Application and the person in control of that same Application does not meet this requirement.~~ Acceptable documentation to meet this requirement shall include any of the items in clauses (i) - (ix) of this subparagraph:
- (B) The names on the forms and agreements in subparagraph (A)(i) - (ix) of this paragraph must reflect that the individual seeking to provide experience is a **Principal member** of the Development Owner, General Partner, or Developer as listed in the Application. For purposes of this requirement any individual attempting to use the experience of another individual or entity must



demonstrate they had the authority to act on their behalf that substantiates the minimum 150-unit requirement. **A certification from the member of the Development Owner, General Partner, or Developer stating that the individual attempting to use the experience had the authority to act on their behalf is sufficient to meet this requirement.**

§11.302(e)(1)(C) Eligible Basis on Acquisition of Buildings – TAAHP recommends the following change to the language outlined in this provision so that it is consistent with practical application by market participants.

“Building acquisition cost included in Eligible Basis is limited to the appraised value of the buildings, exclusive of land value, as determined by and the appraisal that meets the requirements of §11.304 of this chapter (relating to Appraisal Rules and Guidelines). If the acquisition cost in the Site Control documents is less than the appraised value, Underwriter will utilize the land value **percentage** from the appraisal and adjust the building acquisition cost accordingly.”

Specifically, tax credit investors/ syndicators use the land’s relative percentage of total value, not the stated land value, when adjusting for something other than appraised value for acquisition costs of a building. We ask that TDHCA be in line with how tax credit equity market participants account for this underwriting item.

Subchapter F. Supplemental Housing Tax Credits – The Affordable Housing industry continues to face significant challenges to developing and delivering new, affordable units to Texans. Rising construction cost and escalating interest rates have both negatively impacted 2021 allocations and have forced developers to put planned projects on hold until other sources of capital can be identified to fill gaps. TAAHP surveyed 2021 awardees in June and noted that over 90% of planned developments still and not closed their financing and commenced construction. Now is the time to make all tools in the toolbox available to see the industry through this crisis and expedite the delivery of affordable units. Because of these challenges, TAAHP requests that Subchapter F, and all related references, be reinstated in their entirety with the modifications noted below.

First, Supplemental Credits from the 2023 program year should be made available to Original Applications from program year 2021. The allocation of said credits should be handled as an ‘across the board’ increase of 15% of the original credit allocation to those 2021 allocations rather than continuing with the application methodology described in the 2022 QAP. This allocation should be made available as quickly as possible. That said, the concept of an “Intent to Request” should be incorporated into the language so that 2023 Applicants can fully understand the impact to the various subregions where they may be submitting new 2023 applications. These changes will minimize the workload on TDHCA staff and ensure that 2021 awardees will have access to all necessary tools to close funding gaps.



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tel 512.476.9901 | taahp.org

On behalf of our membership, we again thank you for the opportunity to provide public comment to the 2023 draft QAP and Uniform Multifamily Rules for your consideration and implementation.

If you have any questions or would like to discuss any of these items further, please do not hesitate to contact Nathan Kelley at (281) 833-1086 or via email at nkelley@blazerbuidling.com any time.

Sincerely,

Nathan Kelly
TAAHP QAP Co-Chair

Lora Myrick
TAAHP QAP Co-Chair

cc: Mr. Bobby Wilkinson, TDHCA
Mr. Homero Cabello, TDHCA
Ms. Brooke Boston, TDHCA
TDHCA Governing Board
TAAHP Membership



October 7, 2022

Mr. Cody Campbell, Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, TX 78701
cody.campbell@tdhca.state.tx.us

Re: Comment to the 2023 Qualified Allocation Plan and Multifamily Rules

Dear Mr. Campbell:

We believe Supplemental credits should be available to application who received force majeure treatment in 2022, regardless of the original year of allocation, and that the Board should be given the ability to act in support of 2022 developments should economic conditions continue to worsen.

11.101

(a) This subchapter applies only to 2023 Housing Tax Credits (HTC) requested to supplement Competitive HTC awards from the ~~2021~~ previous ceilings, hereinafter referred to as Supplemental Credits. Applications receiving 2023 credits as part of the regular 2023 Housing Credit Cycle are not subject to the policies in this subchapter. Applicants with 2018 and 2019 allocations that received Force Majeure treatment in 2021 are prohibited from requesting Supplemental allocations, ~~as are 2022 applicants.~~ Applicants that received Force Majeure treatment in 2022 will be considered for supplemental allocations on a case-by-case basis, as would 2022 Applications.

(f) Developments that have Placed in Service are not eligible to receive Supplemental Credits, as are Applications that previously received a Supplemental Credit Allocation. Applications awarded in 2021 that have already closed their financing, Applications requesting or being awarded Multifamily Development Loans, ~~and~~ Applications originally funded in 2021 that have been approved for force majeure consideration by the Department's Board, and other Applications approved by the Board under subsection (a) of this section are eligible to receive Supplemental Credits. However, for Developments that have contracted for Multifamily Loan funds, the increased expenses must have occurred after the execution date of the Multifamily Contract.

Thank you for your consideration.

Sincerely,

Jeremy Mears

Jeremy Mears
1000 Louisville Ave
Monroe, LA 71201
210.669.3081
jmears@mearsdevelopment.com



October 7, 2022

Mr. Cody Campbell, Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, TX 78701
cody.campbell@tdhca.state.tx.us

Re: Comment to the 2023 Qualified Allocation Plan and Multifamily Rules

Dear Mr. Campbell:

As a member of the TAAHP QAP Committee, I would like to echo the comments provided by TAAHP regarding the 2023 Qualified Allocation Plan. The TAAHP comments are well considered, and represent a consensus of the membership on the issues of Supplemental Credits, and Readiness to Proceed, among others.

I hereby offer the following recommendations on behalf of the Brownstone Group, Inc.

Subchapter F: Supplemental Housing Tax Credits

As I mentioned at the September Board Meeting during public comment on the Draft QAP, the last six to seven months have seen dramatic changes to the construction industry. Inflationary pressures have effected nearly every segment of the economy; interest rates are higher than they have been in almost 15 years, with another two 75bps increases projected before year-end; and developers are still facing significant supply chain disruptions, which are causing projects to take longer than they would under normal circumstances. These extended construction schedules further drive up the cost of developments in the form of additional interest carry, at these significantly higher interest rates.

In addition to TAAHP's position on supplemental credits, I have two additional recommendations related to Subchapter F. First, I request that supplemental credits be made available to developments who received force majeure treatment in 2022, regardless of the original year of allocation, provided that they have not already received a supplemental credit allocation. Second, I believe that it is important for the Board to be given the latitude to act in support of 2022 deals, should the economic outlook continue to worsen. These two objectives could be accomplished on a case-by-case basis, with the following suggested language (in two subsections).

11.101

(a) This subchapter applies only to 2023 Housing Tax Credits (HTC) requested to supplement Competitive HTC awards from the ~~2021~~ previous ceilings, hereinafter referred to as Supplemental Credits. Applications receiving 2023 credits as part of the regular 2023 Housing Credit Cycle are not subject to the policies in this subchapter. Applicants with 2018 and 2019 allocations that received Force Majeure treatment in 2021 are prohibited from requesting Supplemental allocations, ~~as are 2022 applicants.~~ Applicants that received Force Majeure treatment in 2022 will be considered for supplemental allocations on a case-by-case basis, as would 2022 Applications.

(f) Developments that have Placed in Service are not eligible to receive Supplemental Credits, as are Applications that previously received a Supplemental Credit Allocation. Applications awarded in 2021 that have already closed their financing, Applications requesting or being awarded Multifamily Development Loans, ~~and~~ Applications originally funded in 2021 that have been approved for force majeure consideration by the Department's Board, and other Applications approved by the Board under subsection (a) of this section are eligible to receive Supplemental Credits. However, for Developments that have contracted for Multifamily Loan funds, the increased expenses must have occurred after the execution date of the Multifamily Contract.

As I discussed at the September board meeting, Richmond Senior Village in Houston, Texas, received an original allocation in 2020, and is currently prohibited from applying for supplemental credits. This transaction was less than two weeks from closing in September of 2021, when a tenant of the existing Class D office building filed suit against the owner/landlord. Our investor and lenders could not move forward until the pending litigation was resolved.

I am happy to report that after receiving force majeure treatment this summer, we were able to close the transaction on September 9, 2022. The existing office building has now been demolished, and construction is underway. Unfortunately, because of the yearlong delay, our construction pricing is approximately \$2MM higher than it would have been if we had closed in 2021 as originally planned. This transaction truly needs supplemental credits.

Please let me know if you have any questions, or would like to discuss this comment further.

Sincerely,



Kathryn Saar
512-828-6413
kathryn@tbsg.com

October 7, 2022

Cody Campbell
TDHCA
MF Finance

RE: 2023 QAP – Public Comment

Mr. Campbell,

Appreciate you considering comments from National Church Residences for TDHCA's 2023 QAP which include:

1. Readiness to proceed

- I concur with the rest of the industry that this scoring item should be removed in its entirety. The current challenges with rising interest rates, hard costs, labor, insurance costs and all-round inflation are more significant in today's environment than any of us have seen in our entire careers. In addition, the fallout of SB19 in the affordable housing industry has continued to wreak havoc on matching investors with certain transactions. We need to be supporting and helping affordable housing transactions and not hindering them with impossible requirements that have proven to not provide any material results.

- Points Ineligible for At-Risk applicants

In the event that this scoring item isn't removed in its entirety, we request that At-Risk applications are ineligible for this scoring item. For HUD transactions, particularly RAD for PRAC, the HUD approval process has been 9 months which is supposed to be initiated after awards. If we were expected to close in November, I would need to submit a full HUD approval package, which is extremely cumbersome, even before my LIHTC application is submitted. This would create an undue burden of work for HUD to review a transaction that may not win an award and create a poor working relationship between National Church Residences and HUD by adding unnecessary work on an already short-staffed federal department.

We have heard of similar months long processing issues with USDA transactions. Since nearly all At-Risk transactions involve USDA or HUD, we request Readiness to Proceed not apply to At-Risk.

- Automatic Points for apps when the majority GP is a Nonprofit defined by IRS S.42 (h)(5)(C).

In the event that this scoring item isn't removed in its entirety, we request applications that have a majority GP owner as a Nonprofit as defined by IRS S.42 receive automatic points for this scoring item. A considerable amount of expenses, typically over a half million dollars, needs to be spent prior to any confirmation of a tax credit award in order to even attempt to meet the November closing deadline. Spending such large sums of money with no guarantee of an award is extremely poor practice with nonprofits as they could be using



these funds towards other successful endeavors serving the community. This item also puts nonprofits at an extreme disadvantage as they often do not have the same capital or ability to create losses as for-profit developers, putting these organizations at risk if they are forced to pay for excessive pre-development expenses without guarantee of an award. By including this scoring item that every applicant must select to be competitive is going to damage nonprofit developers trying to serve vulnerable Texans.

2. Organizational Charts

*Persons having Control should be specifically identified on the chart. ~~Individual board members and executive directors~~ **and board members with Control** of nonprofit entities, governmental bodies, and corporations, as applicable, must be included in this exhibit and trusts must list all beneficiaries that have the legal ability to control or direct activities of the trust and are not just financial beneficiaries.*

We request “individual board members” who do NOT have control be removed from Org Charts and thus signature pages required throughout the application. Non-Profits often have extensive boards made of retired professionals volunteering their time with no financial benefit nor control over a development. There are no reasons why non-controlling board members should be included in the Org Chart identification requirements and asked to sign documentation on behalf of an application.

3. Eligible Basis on Acquisition of Buildings

*If the acquisition cost in the Site Control documents is less than the appraised value, Underwriter will utilize the land value **percentage** from the appraisal and adjust the building acquisition cost accordingly.*

Syndicators use the percentage, not the value, attributed to land in an appraisal when using something other than appraised value for acquisition costs of a building. We ask that TDHCA be in line with our equity partners on this underwriting item.

Thank you for considering our Public Comment,



Tracey Fine
Senior Director
773-860-5747

tfine@nationalchurchresidences.org



October 7, 2022

Mr. Colin Nickells, Administrator 9% Competitive Housing Tax Credit Program
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Via email: Colin.Nickells@tdhca.state.tx.us

Re: Comments to the 2023 Informal Draft Qualified Allocation Plan and Multifamily Rules

Dear Mr. Nickells:

ITEX appreciates the opportunity to submit the below comments to the current draft 2023 Qualified Allocation Plan (QAP) and Multifamily Rules for staff to consider implementing in the next version of the QAP.

§11.302. Underwriting Rules and Guidelines.

Currently the QAP draft states that the Long Term proforma can only adjust rents as follow “(B) A 2% annual growth factor is utilized for income and a 3% annual growth factor is utilized for operating expenses except for management fees that are calculated based on a percentage of each year's EGI.”

ITEX recommends, given the current state of both rising interest rates and construction cost, the QAP should allow developers to trend rents at the maximum of either 5 year average of the county income growth or 2%. This would ensure not only financial viability of deals, but allow developers and lenders to have the flexibility to underwrite deals which the current rule does not allow them.

§11.9(f)(9) — Readiness to Proceed.

The current draft states that if applicants select the Readiness To Proceed points, that applicants would have to close on the transaction by November 30th of the award year and a penalty may apply if applicants elect these points and fail to meet the deadline. This rule does not take into consideration the reality of the world which applicants are developing in.

In Region 6 Urban the permitting process can take up to 6-8 months, which means if an applicant receives the award in July, they have 4 months to close on the transaction, or face penalties.

ITEX recommends that staff elect to give tie-breaker priority to the applicants who are able to close on their transaction by November 30th versus implementing a punitive system which punishes the applicant for not meeting the November 30th date.

Thank you for the opportunity to provide our suggested changes to the 2023 QAP. If you have any questions or would like to discuss any of these items further, I can be reached at Miranda.Sprague@itexgrp.com or (409) 853-3681.

Sincerely,

A handwritten signature in blue ink that reads "Miranda Sprague". The signature is written in a cursive, flowing style.

Miranda Sprague
Senior Vice President
Real Estate Investment and Development

Evolie Housing Partners, LLC
404 E Worth Street
Grapevine, TX 76051

October 7, 2022

Mr. Cody Campbell, Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, TX 78701
cody.campbell@tdhca.state.tx.us

Re: Comment to the 2023 Qualified Allocation Plan and Multifamily Rules

Dear Mr. Campbell:

We believe Supplemental credits should be available to application who received force majeure treatment in 2022, regardless of the original year of allocation, and that the Board should be given the ability to act in support of 2022 developments should economic conditions continue to worsen.

11.101

(a) This subchapter applies only to 2023 Housing Tax Credits (HTC) requested to supplement Competitive HTC awards from the ~~2021~~ previous ceilings, hereinafter referred to as Supplemental Credits. Applications receiving 2023 credits as part of the regular 2023 Housing Credit Cycle are not subject to the policies in this subchapter. Applicants with 2018 and 2019 allocations that received Force Majeure treatment in 2021 are prohibited from requesting Supplemental allocations, ~~as are 2022 applicants.~~ Applicants that received Force Majeure treatment in 2022 will be considered for supplemental allocations on a case-by-case basis, as would 2022 Applications.

(f) Developments that have Placed in Service are not eligible to receive Supplemental Credits, as are Applications that previously received a Supplemental Credit Allocation. Applications awarded in 2021 that have already closed their financing, Applications requesting or being awarded Multifamily Development Loans, ~~and~~ Applications originally funded in 2021 that have been approved for force majeure consideration by the Department's Board, and other Applications approved by the Board under subsection (a) of this section are eligible to receive Supplemental Credits. However, for Developments that have contracted for Multifamily Loan funds, the increased expenses must have occurred after the execution date of the Multifamily Contract.

Thank you for your consideration.

Sincerely,



Evon Harris
817-707-3908

TRUE CASA CONSULTING, LLC

October 7, 2022

Re: Comments to the 2023 Draft of the Qualified Allocation Plan

Thank you for the opportunity to comment on the DRAFT 2023 Qualified Allocation Plan. I want to commend the current TDHCA staff for having such a very open planning process this cycle. I believe their ability to listen, desire to eliminate gotchas and fresh ideas on approaching policy requirements have resulted in a draft QAP with minimal conflicts.

§11.1(d)(125) – Supportive Housing

It has been mentioned at several Board meetings that there is a desire to get more Supportive Housing on the ground in Texas. One very easy and no impact way to help achieve that goal is to remove the §11.1(d)(125)(B)(v)(I) and (II) related to criminal history criteria applicable to Supportive Housing. The Supportive Housing definition has been present in the QAP since 2009 without any discussion related to criminal history criteria. The criminal history criteria was added in 2020 and has only resulted in the homeless service provider community and advocates to voice concerns every QAP public comment period since its addition. The criteria are clearly an issue with the most experienced stakeholders in the Supportive Housing space – service providers for Persons with Special Needs including persons experiencing homelessness. Having this criminal history criteria in place directly impedes a community's ability to house the most fragile.

There are numerous disconnects with the existence of this requirement in the QAP:

- Inserting criminal history criteria into the largest affordable housing program in the State just exasperates unfounded stereotypes of affordable housing and makes the challenge of NIMBY even harder.
- General Population and Senior Housing developments do not have specific criminal history criteria spelled out in the QAP. Why is Supportive Housing singled out to have specific criminal history criteria in place?
- The QAP states that Supportive Housing is meant to have “supportive services tailored for members of a household with specific needs”, such as: “homeless or persons at-risk of homelessness” and “persons unable to secure permanent housing elsewhere due to specific, non-medical, or other high barriers to access and maintain housing”. The population intended to be served by Supportive Housing is in direct conflict with the criminal history criteria in place in the definition. The criminal history criteria acts as a further barrier to housing and only exacerbates homelessness.

This year, staff has been super focused on removing unnecessary “gotchas” and simplifying language in the QAP. In line with these efforts, **please remove §11.1(d)(125)(B)(v)(I) and (II).**

§11.9(c)(4)(B) – Special Needs

Just a quick clarification – only subparagraphs A and B can be combined. The max is 3 points. There is not a combination with C. It always has to be standalone. If you select A, you must select B. You can

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only be eligible for B if you select A. You max out on 3 points from the A and B combo. For this reason and to avoid confusion, I suggest the following language change:

“...under a combination of subparagraphs (A) and (B) of this paragraph for 3 points or (C) alone for 1 point.”

Section 11.9(c)(7) – Opportunity Index

I believe stakeholders and staff were on the same page that all references to physical barriers would be removed from the qualifying subparagraph (A)(ii)(III) for third quartile census tracts. The following sentence is still present and should be removed as it is no longer applicable.

For purposes of this scoring item, a highway is a limited-access road with a speed limit of 50 miles per hour or more; and

§11.9(e)(9) Readiness to Proceed

I fully support TAAHP’s recommendation to fully abandon this concept given the significant challenges of supply chain issues, construction costs, labor shortages and interest rate hikes. Considering Readiness to Proceed in such a climate feels unreasonable and highly unrealistic. If this concept were to stay in the QAP for FUTURE years, I support TAAHP’s recommendation to shift the focus from closing date and carefully craft a policy with the full buy-in of staff and stakeholders.

Section 11.101(a)(3)(D)(ii) – School Mitigation

I noticed that the below mitigation option did not offer an option for elementary children. In my experience with affordable multifamily housing, there is usually a higher concentration of elementary-aged children living in properties than older children and they should also benefit from the programs requested to be required for mitigation below.

*III) The Applicant has committed that until such time the school(s) achieves a rating of A, B, or C it will operate an after school learning center that offers at a minimum 15 hours of weekly, organized, on-site educational services provided to **elementary**, middle and high school children by a dedicated service coordinator or Third Party entity which includes at a minimum: homework assistance, tutoring, test preparation, assessment of skill deficiencies and provision of assistance in remediation of those deficiencies (e.g., if reading below grade level is identified for a student, tutoring in reading skills is provided), research and writing skills, providing a consistent weekly schedule, provides for the ability to tailor assistance to the age and education levels of those in attendance, and other evidence-based approaches and activities that are designed to augment classroom performance. Up to 20% of the activities offered may also include other enrichment activities such as music, art, or technology.*

§11.101(b)(1)(A)(vii) Ineligible Developments

I recommend this section be removed in its entirety. The percentage of efficiencies or one-bedrooms in a development should be set by market demand.

TRUE CASA CONSULTING, LLC

Subchapter F. Supplemental Housing Tax Credits

The award of supplemental credits should be made available as quickly as possible to support the quicker delivery of units. I support TAAHP's recommendation to adopt the same calendar that was utilized for the Supplemental Credits in the 2022 QAP.

Issue with Nonprofit Board Members

I ask that TDHCA please consider just having nonprofit board members who are in "Control" be required to be listed on organizational charts and subsequent paperwork – i.e. credit limit, applicant eligibility certifications and previous participation. I have clients that are nonprofits with boards made up of 15-25 board members with only a few of those board members being designated with "Control." It is an extremely onerous task to list all these board members, disclose their addresses, have them sign the certification, etc. If a board member is a volunteer board member with no compensation and no ability to "Control" the work of the nonprofit organization, then I do not feel they are important in the review of the organization or the Development. Please consider just requiring nonprofit board members in "Control" to provide these certs and show up on these forms.

§11.204(13)(B):

Persons having Control should be specifically identified on the chart. ~~Individual board members and Executive directors and board members with Control of nonprofit entities, governmental bodies, and corporations, as applicable, must be included in this exhibit and trusts must list all beneficiaries that have the legal ability to control or direct activities of the trust and are not just financial beneficiaries.~~

§11.302(e)(1)(C) Eligible Basis on Acquisition of Buildings

Syndicators use the percentage, not the value, attributed to land in an appraisal when using something other than appraised value for acquisition costs of a building. We ask that TDHCA be in line with equity partners on this underwriting item.

*If the acquisition cost in the Site Control documents is less than the appraised value, Underwriter will utilize the land value **percentage** from the appraisal and adjust the building acquisition cost accordingly.*

Thank you so very much on the opportunity to comment on this year's DRAFT QAP and Rules.

My Best,

Jenn Hicks



October 11, 2022

Mr. Cody Campbell, Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
cody.campbell@tdhca.state.tx.us

Re: Comments to the 2023 Formal Draft Qualified Allocation Plan and Multifamily Rules.

Dear Mr. Campbell:

We appreciate the opportunity to submit public comments to the formal draft 2023 Qualified Allocation Plan (QAP) and Multifamily Rules. We respectfully offer the following recommendations for staff consideration and implementation in this formal and final draft of the 2023 QAP that will be submitted to the governor's office for review and final approval.

§11.9(b)(2)(A)(ii) Sponsor Characteristics (HUB) – Blazer requests Staff return this language back to how it was worded in the 2022 QAP. For small, family-owned businesses with active, material participation from various family members across various entities, the newly added 'officer' language is problematic. First, "officer" is not a defined term within the QAP or Section 2306 of the Local Government Code. Therefore, it is not clear who will be labeled as an "officer" in an organization. Plus, there are many HUBs that are materially participating as required by the 2022 QAP rule that could be labeled with "officers" therefore, being deemed ineligible to participate.

Further, IRC Section 42 includes no information about what "sponsor characteristics" means and does not require capacity building or any other specific feature of a sponsor to satisfy this requirement. Historically, TDHCA has determined that it meets the Section 42 sponsor characteristic requirement by providing an incentive to developments including HUBs and nonprofits. We feel that the 2022 QAP language related to HUBs was sufficient to meet TDHCA's Section 42 obligations, and that further narrowing of this section with the "officer" caveats does not provide any meaningful benefit. Therefore, the additional "officer" language proposed in the draft 2023 QAP is unnecessary and should be removed.

§11.9(c)(9)(C) Proximity to Jobs Area – We request the Access to Jobs scoring criteria be further simplified as currently drafted. Blazer proposes the following modification to the draft language.

(C) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for points under this subparagraph if the Development Site is located ~~on a route, with an accessible path for pedestrians, that is~~ within a one half-mile radius from the entrance of a public transportation stop or station with a route schedule that provides regularly scheduled service ~~to employment and basic services~~ (2 points).

We suggest removing the requirement to be located on an accessible route or path because an accessible route or path are not defined and this will result in a flood of RFADs challenging what qualifies as an accessible route or path. This has happened in the past and will put the development community and TDHCA staff in a difficult and time-consuming situation. We further request the removal of the reference to employment and basic services as these should not be qualifiers for the points.

§11.9(e)(9) Readiness to Proceed - Blazer is asking for this point category to be suspended for the upcoming cycle. Many developers are already struggling to meet the statutory placement in service deadline, reducing that time by any amount is unreasonable in light of the supply chain issues still plaguing the global marketplace. Further evidence of this is the number of Force Majeure requests that have been granted this year for 2021 awards. There were 72 awards made in 2021 and 33, or 46%, of those awards have received Force Majeure. This is a clear indication that the development community is facing significant challenges to placing their developments in service, much less at an earlier timeframe.

§11.101(a)(3)(B)(i), (ii), and (iii) Neighborhood Risk Factors – Under 11.101(a)(3)(B)(iii), Blazer recommends an evaluation of school performance over two rating years, as has been done in previous years, to ensure the issues identified with the performance of the schools truly rise to the level of mitigation being required. Blazer suggests the following language modification:

The Development Site is located within the attendance zone of an elementary school, middle school, or high school that has a TEA Accountability Rating of ~~“Not Rated: Senate Bill 1365”^D for 2022, the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or and a TEA Accountability Rating of F for the most recent preceding year available prior to Application, and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.~~

Blazer further recommends the removal of language requiring developments that would have been found to be ineligible to provide Pre-K services to mitigate that ineligible status. The provision of Pre-K services should not be a mitigation tool, especially when it may not be a solution in all cases. For example, if the middle school or high school are having performance issues, the focus needs on those specific campuses and not Pre-K services that will not mitigate or resolve issues identified at the higher-grade campuses. Many campuses have lower ratings due to the impacts of the pandemic and we are likely to see these trends for a few more years. However, it is not for the development community to be burdened to correct the negative impacts of the pandemic and other school district issues beyond the control of the development community.

§11.101(b)(1)(A)(vii) Ineligible Developments – Blazer recommends striking this item in its entirety. If TDHCA wishes to keep this concept, Blazer recommends the percentage to be increased from 30% to 60%. We believe a property’s unit mix should be developed based upon the local market conditions and not mandated in rule. In many instances, two and three-bedroom units can be the hardest to lease. Requiring 70% of units to be allocated to non-one-bedroom units would negatively impact a development’s feasibility. Traditionally, one-bedrooms have accounted for 50-60% of the overall mix in both affordable and market-rate housing because that is what works in the market. Per the 2020 American Community Survey microdata, roughly 55% of all

apartment units, nationally, fall into the zero- and one-bedroom classifications, while two-bedrooms comprise 38% and three- or more bedrooms comprised 7%. If the rule is not removed, it should at least be crafted to align with market norms and provide for flexibility based on local market conditions.

If you have any questions or would like to discuss any of these items further, please do not hesitate to call me at (281) 833-1086 or via email at nkelley@blazerbuilding.com any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nathan Kelley". The signature is fluid and cursive, with the first name "Nathan" and last name "Kelley" clearly distinguishable.

Nathan Kelley

October 10, 2022

Mr. Cody Campbell, Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
cody.campbell@tdhca.state.tx.us

Re: Texas Affiliation of Affordable Housing Providers comments to the 2023 Formal Draft Qualified Allocation Plan and Multifamily Rules.

Dear Mr. Campbell:

The Texas Affiliation of Affordable Housing Providers (TAAHP) appreciates the opportunity to submit public comments to the formal draft 2023 Qualified Allocation Plan (QAP) and Multifamily Rules. Our membership represents a variety of disciplines that work diligently to provide affordable housing to low- and moderate-income families in the State of Texas. It is TAAHP's policy to submit only those recommendations that represent consensus amongst our membership.

We would again like to commend staff for preparing and issuing an unofficial preliminary draft early in the QAP development process. This informal draft allowed the industry to review new concepts with TDHCA staff and have a robust discussion on issues and scoring items that could impact the upcoming cycle. We again encourage TDHCA staff to continue this trend as it was beneficial for all so that we may craft the QAP together.

We would also like to thank staff for considering and adopting many of TAAHP's recommendations. We know that this is a thoughtful process and staff has been very generous with their time and open to not only our recommendations, but the industry as a whole. We are proud to work alongside staff to development the best practices and polices via the QAP for the industry.

On behalf of TAAHP, we respectfully offer the following recommendations for staff consideration and implementation in this formal and final draft of the 2023 QAP that will be submitted to the governor's office for review and final approval.

§11.9(c)(9)(C) Proximity to Jobs Area – TAAHP requests the Access to Jobs scoring criteria be further simplified as currently drafted. TAAHP proposes the following modification to the draft language.

- (C) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for points under this subparagraph if the Development Site is located ~~on a route, with an accessible path for pedestrians, that is~~ within a one half-mile radius from the entrance of a public transportation

President
JEAN MARIE LATSHA
PEDCOR Investments

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ITEX Group

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VALERIE WILLIAMS
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Apartment Marketdata, LLC

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RBC Capital Markets

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BETCO Consulting LLC

STEPHANIE NAQUIN
Novogradac & Company LLP

RICK SHEFFIELD
Rowlett Housing Finance Corp

JANINE SISAK
DMA Companies

DARREN SMITH
MVAH Partners

HECTOR X. ZUNIGA
Key Bank

ROGER ARRIAGA
TAAHP Executive Director



stop or station with a route schedule that provides regularly scheduled service
~~to employment and basic services~~ (2 points).

TAAHP is suggesting the removal of the requirement to be located on an accessible route or path as an accessible route or path are not defined and this will result in a myriad of RFADs challenging what qualifies as an accessible route or path. This puts the development community and staff in a difficult and time-consuming situation. TAAHP is further requesting the removal of mention of employment and basic services as these should not be qualifiers for the points.

§11.9(e)(9) Readiness to Proceed - TAAHP is asking for this point category to be suspended for the upcoming cycle. At a time when developers are already struggling to meet the statutory placement in service deadline, reducing that time by any amount is unreasonable. Further evidence of this is the number of Force Majeure requests that have been granted this year for 2021 awards. There were 72 awards made in 2021 and 33, or 46%, of those awards have received Force Majeure. This is a clear indication that the development community is facing significant challenges to placing their developments in service, much less at an earlier timeframe.

There are other implications such as timeframe issues. For example, requiring earlier closings prohibits developers from utilizing other resources such as HUD 221(d)(4), USDA 538, and now this includes TDHCA's MFDL funding due to longer due diligence timeframes that simply do not line up with earlier closings. At a time when all funding resources need to be explored by the development community, strict timelines for closing preclude the use of many valuable resources to these transactions.

Another implication is related to location. There are municipalities that take a significant amount of time to issue permits. In the City of Austin, it can take up to twelve months or longer to be issued permits. The City of Houston is also becoming a location where permits are taking anywhere between 9 and 12 months or more. While there are some municipalities that may be able to issue permits sooner, as this is a state-wide point category, there are others that cannot and this places Applicants in those municipalities at a disadvantage.

For these reasons, the development community would like for TDHCA to completely abandon this concept. Should TDHCA feel the need to include a strategy in future years to get units on the ground quicker, the development community and TDHCA staff need to work on different strategies to achieve this goal. For example, rather than focusing on early closings, which do not result in developments getting constructed and placed in service faster, perhaps we should focus on a positive reinforcement strategy of rewarding developers bonus points that can be utilized in the next cycle when their developments place in service sooner – 1 point for three months early, 2 points for 6 months early, and 3 points for 9 months early. Equity providers provide upward adjusters when the Developer achieves a benchmark earlier, so perhaps we should look to that type of positive strategy where the development community has an incentive to place in service sooner, if able, rather than deal with punitive measures on a strategy that sets them up for failure. However, this potential strategy raises important questions and issues, including whether early placement in service for a single transaction in a given year should result in incentive points for all of an applicant's applications in a future year. These types of questions and concerns about the details of such implementation demonstrate why careful



consideration and discussion among stakeholders must occur before the implementation of any such policy, and why we support and request the suspension of this point category in 2023.

§11.101(a)(3)(B)(i), (ii), and (iii) Neighborhood Risk Factors – TAAHP would like to thank staff for removing blight as a Neighborhood Risk Factor, as well as the exemption of poverty and crime to developments proposing rehabilitation.

Under 11.101(a)(3)(B)(iii), TAAHP recommends an evaluation of school performance over two rating years, as we have done in previous years, to ensure the issues identified with the performance of the schools truly rise to the level of mitigation being required. TAAHP suggests the following language modification:

The Development Site is located within the attendance zone of an elementary school, middle school, or high school that has a TEA Accountability Rating of “Not Rated: Senate Bill 1365” ~~for 2022, the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or and a TEA Accountability Rating of F for the most recent preceding year available prior to Application, and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.~~

TAAHP further recommends the removal of language requiring developments that would have been found to be ineligible to provide Pre-K services to mitigate that ineligible status. The provision of Pre-K services should not be a mitigation tool, especially when it may not be a solution in all cases. For example, if the middle school or high school are having performance issues, the focus needs on those specific campuses and not Pre-K services that will not mitigate or resolve issues identified at the higher-grade campuses. Many campuses have lower ratings due to the impacts of the pandemic and we are likely to see these trends for a few more years. However, it is not for the development community to be burdened to correct the negative impacts of the pandemic and other school district issues beyond the control of the development community.

§11.101(b)(1)(A)(vii) Ineligible Developments – TAAHP recommends striking this item in its entirety.

If TDHCA wishes to keep this concept, TAAHP recommends the percentage to be increased from 30% to 60%.

§11.302(e)(12) Special Reserve Accounts – TAAHP recommends going back to the deposit amount of up to \$2,500 per unit for Special Reserve Accounts.

Subchapter F. Supplemental Housing Tax Credits – TAAHP is grateful for the inclusion of Supplemental Credits in the draft 2023 QAP. First, TAAHP is strongly recommending that Applicants receive the full 15% of Supplemental Credits. The current draft QAP states that while Supplemental Credits are not to exceed 15% of the original allocation, there is the potential of the final limit on Supplemental Credits may be lower than the reflected 15%. The industry continues to face significant challenges to developing and delivering new, affordable units. Rising construction costs and escalating interest rates have both negatively impacted the 2021 awards and have forced developers to put planned developments on hold until other



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tel 512.476.9901 | taahp.org

sources of capital can be identified to fill gaps. Anything below 15% would create more issues than it would resolve. Additionally, not only is there the potential of a lower percentage, but the industry would not know what that percentage would be until closer to December 1st. The industry needs to know with certainty the percentage in an effort to update financial structures and funding requests and be fully prepared to submit necessary requirements to financial partners and TDHCA.

Second, these allocations should be made available as quickly as possible. TAAHP recommends adopting the same calendar that was utilized for the Supplemental Credits in the 2022 QAP. The sooner the Supplemental Credits can be implemented, the better for these transactions.

On behalf of our membership, we again thank you for the opportunity to provide public comment to the 2023 draft QAP and Uniform Multifamily Rules for your consideration and implementation.

If you have any questions or would like to discuss any of these items further, please do not hesitate to contact Lora Myrick at (512) 785-3710 or via email at lora@betcohousinglab.com any time.

Sincerely,

Lora Myrick
TAAHP QAP Co-Chair

Quinn Gormley
TAAHP QAP Co-Chair

cc: Mr. Bobby Wilkinson, TDHCA
Ms. Brooke Boston, TDHCA
TDHCA Governing Board
TAAHP Membership

From: [GRACE FORD](#)
To: [Matthew Griego](#)
Subject: More Affordable Rent for seniors living on fixed income
Date: Tuesday, October 11, 2022 5:27:14 PM

[You don't often get email from gigi55555@aol.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Sent from my iPad

>

> I am writing to comment on the Qualified Allocation Plan. As a retiree on a fixed income of Social Security living in a tax credit property (The Hills at Leander) I want to urge you to give more points for applications that include units at 40% and 50% of the median income. This year my rent went up by \$200, which is a 20% increase! I qualify for a 50 % but I am being charged at the 60% rate and would need to get on a waiting list and then have to move to a different apartment, should one become available. I would then incur moving expense, to include movers, electric and internet. It is difficult to pay my rent now, my increased rent goes into effect beginning December. I am unsure how I will be able to pay rent of almost \$1100.

>

> I am handicapped and unable to work, as I cannot walk or stand for any period of time, I also have difficulty breathing, due to scar tissue in my lungs.

>

> Any assistance that can be given will be greatly appreciated.

>

> Sincerely

> Grace Ford

> 960 Merrill Drive #6207

> Leander, Texas 78641

>

> 512-922-9750

> Gigi55555@aol.com

>

From: [Joan Hill](#)
To: [Matthew Griego](#)
Subject: Qualified Allocation Plan
Date: Tuesday, October 11, 2022 9:36:40 PM

[You don't often get email from bionichips3@att.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

My name is Joan Hill and I live at the Hills at Leander. This is a tax credit property. I have qualified for a 50% apartment since moving to Texas. This complex has raised the rent for some residents to almost \$200. My rent is increasing to over \$70.00 a month starting in December. I am handicapped and on a fixed income. Something has to be done for the seniors. With the help of the Texas Tenants Union I'm able to stay here for another year but without more affordable rents I don't know what I will do at renewal time

Sincerely
Joan M Hill
Hills at Leander
Apartment 1203
Leander, Texas

Sent from my iPad



RURAL RENTAL HOUSING ASSOCIATION OF TEXAS, INC.

October 11, 2022

ATTN: Matthew Griego
TDHCA, Multifamily Finance
221 E. 11th Street
Austin, Texas 78701-2410
Email: matthew.griego@tdhca.state.tx.us

RE: 2023 QAP COMMENTS

Dear Matthew:

Please find the Rural Rental Housing Association's comments to the Draft 2023 Qualified Application Plan attached to this letter. It was a pleasure to have Colin Nickells attend our Convention and consider our concerns. We always appreciate Multi-Family Staff requesting our input and we look forward to many years of working with Staff annually.

The Rural Rental Housing Association of Texas, Inc. ("RRHA") currently represents over 660 rural properties consisting of approximately 23,500 units that house more than 33,000 residents. Our Development Committee members have attended the QAP Planning meetings and reviewed the Draft of the 2023 QAP that was approved by the Board in September and published for public comment. A significant focus of Chapter 2306, Texas Government Code, is the preservation of existing affordable multifamily housing and our portfolio represents existing properties, many of which are in need of rehabilitation. In consideration of the residents we serve, we are very grateful for your consideration of the attached comments.

If you need any additional information or clarification, please feel free to contact Robbye Meyer, Development Committee Chair, at 512-963-2555 or via email at robbye@arxadvantage.net. Thank you for consideration of our concerns.

Very respectfully,

A handwritten signature in black ink that reads "Cheryl Adams Rogers". The signature is written in a cursive, flowing style.

Cheryl Rogers
President

1. Tie-Breakers – 11.7

We appreciate the change made by staff in the Draft to the Board in September to have a fixed poverty percentage at 20% with the additional percentage increases for Regions 11 and 13. At this point in the process, we believe any further changes would be significant and should be considered for the next QAP.

Our Development Committee agrees with the general industry consensus regarding the “Tie-Breakers.” We advocate for the three-prong approach and that approach should be considered in the next QAP rules discussion.

1. 20% poverty threshold
2. Rent burden
3. Distant to nearest tax credit development serving same population

2. Construction Costs – 11.9(f)(2)

We appreciate Staff’s diligence and recognition of the need for an increase in allowable costs based on the current economic environment. Moving forward we encourage Staff to continue to review the data supporting the dramatic increases in cost(s) the construction industry has faced in recent years. We will continue to provide input and data as requested to support further increases in allowable costs.

3. Residents with Special Needs - 11.9(c)(4)(B)

We request the language be returned to the 2021 language and exempt USDA developments from these points. USDA developments are located in small rural areas that do not have Continuum of Care or local homeless service providers to participate with and will have to let units sit needlessly vacant for six months to comply with the requirements.

4. Underserved Areas Revisions: Age-Based Points- 11.9(c)(6)

Again, we appreciate the consideration in the past to assist RRHA in providing more opportunities for older/aspiring properties to rise to the top of the scoring chart. As stated previously, we do believe that changes in this scoring item would be significant and should be considered for the next QAP.

We would ask that Staff consider the following for the next QAP discussion:

(H) An At-risk or USDA Development placed in service 25 or more years ago, that is still occupied, and that has not yet received federal funding, or LIHTC equity, for the purposes of Rehabilitation for the Development. If the Application involves multiple sites, the age of all sites will be averaged for the purposes of this scoring item. (4 points).

(I) An At-risk or USDA Development placed in service 20 or more years ago, that is still occupied, and that has not yet received federal funding, or LIHTC equity, for the purposes of Rehabilitation for the Development. If the Application involves multiple sites, the age of all sites will be averaged for the purposes of this scoring item. (3 points).

5. *Readiness to Proceed - 11.9(f)(9)*

We again request Staff exempt USDA from this scoring item since these developments are rehabilitation of existing units and are not providing new units. These developments are completely dependent on USDA processing and are unlikely to be able to meet the November 30th closing deadline under their new regional processing.

6. *Neighborhood Risk Factors – Education Requirements – 11.101(a)(3)*

We request Staff undelete the exemption for “Developments encumbered by a TDHCA LURA on the first day of the Application Acceptance Period or date the pre-application is submitted”. We recommend the same language that is under Undesirable Site Characteristics “Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (VA) and Developments encumbered by a TDHCA LURA the earlier of on the first day of the Application Acceptance Period for HTC, Application Acceptance Date for Direct Loan, or date the pre-application is submitted (if applicable).”

Further, poverty and crime are exempted as Neighborhood risk factors for rehabilitation developments, why not schools? Especially those with an existing TDHCA LURA or that is already affordable with the use of federal funding. These existing tenants should have the opportunity to have their units improved even though their surroundings may not be the best. Applying school ratings is an insurmountable obstacle to preserving the USDA portfolio in towns with little or no other housing available for those on a limited-income. The mitigation requirements for schools would be financially infeasible for most USDA developments because there is no budgetary item for education in a USDA budget.

7. *Common Amenities – 11.101(b)(5)(C)(v)(I)*

We strongly recommend that Staff add back gazebos as a common amenity scoring item. This is an important amenity to the communities we serve. The nature of our properties in rural areas is inherently different than metropolitan areas. Our residents enjoy being outside and many are elderly. Our general consensus was that the gazebos at our properties are constantly used. Please re-consider and add this common amenity for the residents whom we care about.

8. Sponsor Characteristics (11.9(b)(2))

We request Staff return the language back to the 2022 QAP (p. 46). The “officer” language is still problematic. First, “officer” is not a defined term with TDHCA. It is not clear who will be labeled as an “officer” in an organization. Second, there are many Historically Under-utilized Businesses (“HUB”) that are fully participating, as required by TDHCA, that could be labeled with “officers”; therefore, being deemed ineligible to participate.

9. Supplemental Credits – Subchapter F

We appreciate the Boards willingness to continue to provide Supplemental Credits. RRHA members support the maximum percentage the Board will allow up to fifteen (15) percent.

[END]

From: [Denise Day](#)
To: [Matthew Griego](#); [Texas Tenants Union](#)
Subject: Qualified Allocation Plan
Date: Wednesday, October 12, 2022 10:41:37 PM

You don't often get email from deniseday214@gmail.com. [Learn why this is important](#)

I am writing to comment on the Qualified Allocation Plan for tax credit builders.. As a retiree living in tax credit property, I want to urge you to give more points for applications that include units for tenants at 30% of the Area Median Income and 40% of the Area Median. My income is limited and it is difficult for me to pay the higher rent.

*I am a 69-year-old lady that wanted to tell part of my story due to affordable housing. I have moved 16 times due to housing not being affordable to live in. I've been on Social Security since I had to retire early from being a nurse . I was not able to work anymore from an injury when I was nursing. Every time I would move to somewhere at a low income affordable apartment / tax credit property I would stay there a year and then the rent would go up
I have found that so many of these tax credit properties that investors build is anything but affordable living The investors of these tax credit properties say they will offer low-income affordable rates by having a 30 40% and 50% rate.*

But when reality is when you go to lease one of these apartments there may only be one apartment at that 30% or 40% rate.

I live in the Dallas-Fort Worth area born and raised here and then in 2021 the tax credit place I was living went up so much my Social Security was not even enough to live there anymore.

I had to move a 3-hour one-way trip to a place that I found in Gatesville Texas. It was so hard to move away when Dallas being the only place I ever lived. Only one apartment @ 30% and 1 @ 40%. I lived there a year and had to move back due to problems at that location.

There has to be a better way especially for seniors on fix Social Security for you to offer better incentives/points for these tax credit builders to be able to offer more affordable living.

I could talk so much about it but I know it's only one email but there's got to be another way to give more incentives or points to these investors for them to really provide affordable living as they're getting tax credits to provide, when they're not providing affordable living. I have been in that issue for the last 13 years. There is very little out there for the lower % and they are rented before most even open.

Most have to go live with family, but like myself I did have anyone to live with.

Thank you for your time in reading this and hope changes can come.

Denise Day



3700 Buffalo Speedway, Suite 1010
Houston, TX 77098
P: 713.963.8660 F: 713.963.8164

October 13, 2022

Texas Department of Housing and Community Affairs
Attn: Matthew Greigo
QAP Rule Public Comment
PO Box 13941
Austin, Texas 78701

Via email: matthew.griego@tdhca.state.tx.us

Re: Comments to the 2023 10 TAC Chapter 11

Dear Mr. Greigo:

ITEX appreciates the opportunity to submit the below comments to the 10 TAC Chapter 11 for staff to consider implementing in the next version.

§11.9(c)(9)(C) Proximity to Jobs Area: ITEX recommends removing the following text “on a route, with an accessible path for pedestrians that is” in order for this point item to read as follows “...is located within one half-mile from the entrance...” This follows how the Opportunity Index points read.

Subchapter B §11.101(a)(3)(B)(ii): ITEX recommends revising the rule to allow developers to mitigate census tracts which have a violent crime threshold below 18 per 1,000 persons but are contiguous to census tracts which have violet crime rates above 18 per 1,000 persons. Housing stock is still needed, and given that the rule currently does not allow developers with New Construction or Reconstructions the ability to mitigate the crime creates a burden on low-income families from being able to live in quality housing.

Thank you for the opportunity to provide our suggested changes to the 2023 QAP. If you have any questions or would like to discuss any of these items further, I can be reached at Miranda.Sprague@itexgrp.com or (409) 853-3681.

Sincerely,

A handwritten signature in blue ink that reads "Miranda Sprague".

Miranda Sprague
Senior Vice President
Real Estate Investment and Development



October 13, 2022

Jon Galvan & Matthew Griego
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Dear Jon & Matthew:

Thank you for the opportunity to contribute feedback on the Preliminary Draft of the 2023 Texas Department of Housing and Community Affairs (TDHCA) 10 TAC Chapter 12 Multifamily Housing Revenue Bond Rule (“Bond Rule”) as well as the 2023 Qualified Allocation Plan (“QAP”). Lincoln Avenue Capital is a mission-driven affordable housing developers currently active in twenty-one states. In Texas, we are focused on developing ground-up new construction and preservation using 4 percent LIHTCs and tax-exempt bonds (TEBs).

Market Context

As affordable housing developers, the biggest challenge we face today is inflation and the escalating cost environment. The combination of rapidly rising land costs, building acquisition costs, construction materials costs and labor costs is a significant barrier to financing and delivering quality affordable housing developments to the market. Increases in construction costs have been well documented but we are experiencing cost inflation in many other critical areas affecting development proformas. Over the past 12 months we have experienced:

- 42.7% increase in property casualty insurance premiums
- 31.8% increase in property management payroll
- 61.2% increase in contract services costs
- 54.2% increase in general & administrative (G&A) expenses
- 59.9% increase in turnover related expenses
- 63.7% increase in owner-paid utilities
- ~50%+ YOY increase in projected development costs for projects around the country

At the same time, rising interest rates have reduced the debt proceeds we are able to leverage to offset these rising costs.¹ 4 percent LIHTC transactions are financed primarily with tax-exempt debt, making up approximately 70 percent of the capital stack, so the impact of even small increases in interest rates is magnified significantly for these transactions. We believe the current market dynamics are important to share as they provide context and urgency for many of our recommendations below.

¹ Our industry had benefited in recent years from historically low interest rates; however, as monetary policy has shifted, we believe there is an added sense of urgency to take additional action. Since the beginning of the year, the yield on the 10-year Treasury has tripled increasing from 1.5% to as high as 4.08% on October 13, 2022. Given the latest inflation reports (8.2% in September) and the signaling from the Federal Reserve, we anticipate rates to continue to rise in the coming year.





Bond Rule Comments

§12.6. Pre-Application Scoring Criteria – (2) Cost of Development per Square foot

We appreciate that TDHCA is proposing to increase the threshold achieve the “cost of development per square foot” point from \$95 to \$125 per square foot of net rentable area. Encouraging cost containment is an important policy priority; however, given current market conditions and the trending in rising construction costs and inflation we suggest that even cost-efficient units will exceed this threshold. Based on our current experience in the market-place bidding projects, we recommend TDHCA raise the threshold from the proposed \$125 to \$145 per square foot.

§12.6. Pre-Application Scoring Criteria – (12) Waiting List

We appreciate the change in scoring proposed in the Bond Rule giving higher preference to pre-applications that took part in the prior year Private Activity Bond Lottery. Given the oversubscription of bond deals in Texas we think giving some preference to applications that submitted in previous years but were not funded because of lack of availability feels is.

Qualified Allocation Plan Comments

We appreciate that TDHCA has created mechanisms for 9 percent LIHTC projects to apply for supplemental allocations of LIHTC to fill project gaps under exigent circumstances. Given that this option is not available to 4 percent transactions, we recommend TDHCA consider further modifications to its developer fee structure to generate additional eligible basis for financially stress bond transactions as an alternative strategy. We recommend that TDHCA allow developers to increase the developer fee by as much as five percent above the current posted amounts for bond financed projects with gaps resulting from cost increases and/or inflation. We recommend that TDHCA require that developer fees above the current posted amounts be deferred. This is an approach that was recently adopted by the Arizona Department of Housing in their administration of the 4% LIHTC program.

The additional eligible basis generated by this recommendation will produce more tax credit equity which will help offset reduced debt proceed brought on by rising interest rates and help plug gaps brought on by rising construction costs. Unlike 9 percent transactions, the additional eligible basis generated by increase fee will not deplete the overall supply of 4 percent credits. These “hardship” developer fees would also be in line with total developer fee caps adopted by other state HFAs for bond deals including Arizona, Tennessee, Kentucky, Ohio, and Oklahoma. Note, we typically defer a substantial portion of our developer fee to fill project gaps and with uncertainty in the construction cost environment the additional fee effectively serves as additional construction contingency.

Conclusion

LAC appreciates the work of THDCA in the issuance of its draft 2023 Multifamily Bond Rules and QAP. We welcome the opportunity to discuss them with you further at your leisure and/or answer any





questions you may have regarding our feedback. I can be reached at 860-287-1635 or tamdur@lincolnavecap.com.

Regards,

A handwritten signature in black ink on a light-colored background, appearing to read "Thom Amdur".

Thom Amdur
Senior Vice President, Policy & Impact

[About Lincoln Avenue Capital](#)

Lincoln Avenue Capital is one of the nation's fastest-growing developers, investors, and operators of affordable and workforce housing, providing high-quality, sustainable homes for lower- and moderate-income individuals, seniors, and families nationwide. LAC is a mission-driven organization that serves residents across 21 states, with a portfolio of 112 properties comprising 20,000+ units.





October 13, 2022

Cody Campbell, Director of Programs
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701
Cody.Campbell@tdhca.state.tx.us

Dear Mr. Campbell,

On behalf of the staff at BETCO Housing Lab, we appreciate the opportunity to submit public comments to the formal draft 2023 Qualified Allocation Plan (QAP) and Uniform Multifamily Rules. BETCO Housing Lab is an affordable housing consulting firm, which provides multifamily development services to a wide range of clients who develop affordable housing across the state of Texas. Please consider the following public comments to specific provisions of the formal draft 2023 Qualified Allocation Plan & Uniform Multifamily Rules.

Comments related to the Qualified Allocation Plan 2023

We would like to start by thanking the Texas Department of Housing & Community Affairs (TDHCA) staff for the multiple roundtables seeking stakeholder engagement and for releasing the preliminary draft of the 2023 QAP early in the summer for review and public feedback. The stakeholder engagement process has provided ample opportunities for thoughtful exchange, allowing the Housing Tax Credit (HTC) program to evolve from year to year and continue to meet the needs of tenants and the affordable housing industry, as a whole.

1. Subchapter A – General, Section 11.1(c)(124) Definitions
2. Subchapter A – General, Section 11.9(b)(2)(A)(ii) Sponsor Characteristics

Comment: *The 2023 Supplemental Credits are for 2021 HTC awards. The following language edit is to update the definition for Supplemental Credits.*

“Supplemental Credits--2023 Housing Tax Credits awarded through Subchapter F of this chapter is to assist ~~2019 and 2020~~ 2021 Competitive Housing Tax Credit Developments.”

3. Subchapter A – General, Section 11.9(c)(5) Opportunity Index

Comment: *Please remove the last sentence related to a highway since the language related to physical barriers was removed.*

(III) is contiguous to a census tract that is in the first or second quartile among tracts for median household income in the region, and that has a poverty rate of less than the greater of 20% or



the median poverty rate among tracts for the region, whichever is greater ~~without physical barriers such as (but not limited to) highways or rivers between,~~ and the Development Site is no more than 2 miles from the boundary between the census tracts. ~~For purposes of this scoring item, a highway is a limited access road with a speed limit of 50 miles per hour or more;~~ and (1 point).

4. Subchapter A – General, Section 11.9(c)(7)(C) Proximity to Jobs

Comment: We are requesting a modification to the “access to jobs” language to be simplified, as shown below. Also, please see comment for language clean-up.

(C) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for points under this subparagraph if the Development Site is located ~~a route, with an accessible path for pedestrians, that is~~ within a one half-mile radius from the entrance of a public transportation stop or station with a route schedule that provides regularly scheduled service ~~to employment and basic services.~~

Justification: We suggest removing the requirement for a transit stop to be on an accessible route or path as an accessible route or path is not defined within the QAP, and could be easily confused with ADA accessible route requirements. This may result in numerous RFADs challenges. This would put the development community and staff in a difficult and time-consuming situation. Additionally, it is assumed that public transit will take people to their preferred designation or service. We request the qualifier, “to employment and basic services” be removed.

Language Clean up:

~~For Development Sites in Urban subregions aFor Development Sites within the boundaries of a municipality of 499,999 or less, or the unincorporated areas of a county with a population of less than 1 million, A~~ a Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) – (iv) ~~(vi)~~ of this subparagraph.

~~For Development Sites in Rural subregions a~~ Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) – (iv) ~~(vi)~~ of this subparagraph.

5. Subchapter A – General, Section 11.9(e)(9) Readiness to Proceed

Comment: We request that this point category be suspended for the upcoming cycle and to reimagine how “Readiness to Proceed” could be utilized for future cycles, see explanation below.



Justification: (1) Suspension of point category - At a time when developers are struggling to meet the statutory placement in service deadline, reducing that time is unreasonable. This is evidenced by the number of Force Majeure requests granted by the Board and the number of applications seeking gap financing for 2021 awards. (There were 72 – 2021 awards and 33, or 46%, of those awards have received Force Majeure, as of the date of this letter.) We anticipate that number will continue to grow.

Secondly, there are other implications such as timeframe issues. Requiring an earlier closing prohibits developers from utilizing other financing resources such as HUD 221(d)(4) and USDA 538 loans and TDHCA MFD loans due to extended time frame it currently takes to close with the various agencies.

Third, other issues with a shortened time period attributed to this point category is the issuance of building permits, which is beyond the control of the owner/developer. In major metros, such as the City of Austin and the City of Houston, issuance of permits is taking up to 12 months, or even longer, to receive. While there are municipalities that are able to issue permits sooner, this is a state-wide point category and will create a disadvantage for certain cities. Generally, and especially in the current market when all funding resources are being explored by the development community, strict timelines for closing preclude many valuable resources for these transactions.

(2) Reimagine Readiness to Proceed - Instead of focusing on early closings with a punitive consequence if a developer is unable to meet the point category's requirement, we would like to propose an approach that would reward developers who are able to construct and place-in-service (PIS) units faster. If a developer is able to PIS:

- i. three (3) months early, they would receive an additional one point in the upcoming cycle
- ii. six (6) months early, they would receive an additional two points in the upcoming cycle
- iii. nine (9) months early, they would receive an additional three points in the upcoming cycle

At full application, the developer will check the point category and provide supporting documentation to receive those points. This would be a positive incentive for developers to achieve an earlier PIS date, getting units on the ground faster, and meet the goal of the point category.

This potential new strategy for Readiness to Proceed raises important questions, including whether early placement in service for a single transaction in a given year should result in incentive points for one or all of an applicant's applications in the subsequent year. Thoughtful discussion and careful consideration among stakeholders must occur before the



implementation of such policy, and is the reason why we support and request the suspension of this point category in 2023.

6. Subchapter B – Site and Development Requirement and Restrictions, Section 11.101 (a)(3)(A) Neighborhood Risk Factors

Comment: *In section 11.8(b) Pre-Application Threshold Criteria, the language was removed for disclosure of neighborhood risk factors for crime and schools. However, the disclosure language remains in the section stated above. We are asking for language clean-up in this section 11.101(a)(3)(A) Neighborhood Risk Factors or clarification of which Neighborhood Risk Factors need to be disclosed at Pre-Application.*

7. Subchapter B – Site and Development Requirement and Restrictions, Section 11.101 (a)(3)(B)(i), (ii), and (iii) Neighborhood Risk Factors

Comment: *We recommend an evaluation of school performance over two rating years, as we have in previous years, to ensure the issues identified with the performance of Texas schools truly rise to the level of mitigation being required. We suggest the following language modification:*

The Development Site is located within the attendance zone of an elementary school, middle school, or high school that has a TEA Accountability Rating of “Not Rated: Senate Bill 1365”~~D for 2022, the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or and a TEA Accountability Rating of F for the most recent preceding year available prior to Application. and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.~~

We further recommend the removal of language requiring developments that would have been found to be ineligible to provide Pre-K services to mitigate that ineligible status. The provision of Pre-K services should not be a mitigation tool, especially when it may not be a solution in all cases. For example, if the middle school or high school are having performance issues, the focus needs on those specific campuses and not Pre-K services that may not mitigate or resolve issues identified at the higher-grade campuses. Many campuses have lower ratings due to the impacts of the pandemic and we are likely to see these trends for a few more years. However, it is not for the development community to correct the negative impacts of the pandemic and other school district issues beyond the control of the development community.

8. Subchapter B – Site and Development Requirement and Restrictions, Section 11.101(b)(1)(A) (vii) Ineligible Developments.

Comment: *Please consider removing this item. If Staff would like to keep this item, a more reasonable limitation would be “[...] proposing more than 50% efficiency and/or one-bedroom units.”*



Justification: A limit of 30% efficiency and/or one-bedrooms is quite restrictive considering every application must be accompanied by third-party market study. There are various factors that contribute to the best unit mix for a development and this decision should retain with the developer.

9. Subchapter B – Site and Development Requirement and Restrictions, Section 11.101(b)(6)(B)(XI) Unit, Development, and Energy and Water Efficiency Features

Comment: Please provide clarification and a possible example for the following unit feature:

“(XI) Solar panels installed, with ~~at least four~~ a sufficient number of panels with to reach a rated power output of at least 300 watts for each Low-Income Unit. (2 points).”

Justification: When reviewing this item, we are unsure the correct interpretation for implementation. We have proposed the above stated language change, if we are interpreting the language correctly. Clarification would be appreciated.

10. Subchapter C – Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules, Section 11.204(11) Zoning

Comment: The added language to (A) does not provide clarity. Counties do not have zoning authority, with the exception of a few counties stated in Local Government Code, Title 7, Chapter 231. We suggest the following language revision:

(A) No Zoning Ordinance in Effect. The Application must include a letter from a local government official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision that has no zoning. This requirement does not apply to a Development Site located entirely in the unincorporated area of a county. ~~and not within the ETJ of a municipality.~~

11. Subchapter D – Underwriting and Loan Policy, Section 11.302(e)(12) Special Reserve Accounts

Comment: We recommend returning the deposit amount to up to \$2,500 per unit for Special Reserve Accounts.

Justification: Allowing developers to deposit up to \$2,500 per unit into the Special Reserve Account ensures that developers are able to provide financial relief to tenants in the event of a future market downturn. Secondly, the special reserve account offers the ability to offset over sourcing issues at cost certification that could result in the reduction of the development’s tax credits. By reducing the per unit deposit amount, you limit a developer’s



ability to protect their expected tax credit allocation. Lastly, though not applicable to the 2023 draft QAP, we recommend that TDHCA review asset management protocols for releasing funds from this account. We find this process to be quite arduous, particularly when relief is required in an expeditious fashion.

12. Subchapter F – Supplemental Housing Tax Credits

Comment: We strongly recommend that Applicants receive the full 15% of Supplemental Credits. The 2023 draft QAP states that Supplemental Credits are not to exceed 15% of the original allocation indicating that there is the potential for the final limit on Supplemental Credits may be lower than 15%. The industry continues to face significant challenges to delivering new, affordable units across the state. Rising construction costs and escalating interest rates continue to negatively impact the 2021 awards and have forced developers to put planned developments on hold until other sources of capital can be identified to fill gaps. Anything below 15% would create more issues than it would resolve.

Additionally, the industry will not know the percentage will be until December 1st. The industry needs to know with certainty the percentage in order to update financial structures, funding requests, and be fully prepared to submit necessary requirements to financial partners and TDHCA. We recommend adopting the same calendar utilized for the Supplemental Credits in the 2022 QAP and make these allocations available as quickly as possible.

On an additional note, and in connection with Supplemental Credits, although Multifamily Direct Loan (MFDL) fund requirements, such as maximum requests, are not outlined in the QAP, we are also asking that staff consider increasing the maximum request for MFDL funds from the current \$4MM maximum request to \$8MM maximum request. While we are incredibly grateful to staff and the governing board for the inclusion of Supplemental Credits to offset increased costs for the 2021 awards, interest rates have recently been climbing and becoming a concern for the development community as these rising interest rates are making transactions infeasible. The Supplemental Credits at 15% of the original allocation, in many cases, may now not be enough to cover the gap in financing due to the sharp interest rate increase. In order to ensure that they 2021 allocations remain feasible, we not only need the entire 15% of Supplemental Credits, but we need substantial assistance from MFDL funds and are requesting an increase of \$8MM in maximum request, but no less than \$6MM in max request to keep these transactions stable for closing and get much needed affordable housing on the ground.

Thank you for the opportunity to provide public comment to the formal draft 2023 Qualified Allocation Plan and Uniform Multifamily Rules. If you have any questions or would like to discuss these items further, please do not hesitate to contact me directly at (512) 785-3710 or via email at lora@betcohousinglab.com.

Sincerely,

Lora Myrick (512) 785-3710

lora@betcohousinglab.com | 2201 Northland Drive Austin, Texas 78756 | 812 San Antonio Street, Suite L-14, Austin, Texas 78701



A handwritten signature in blue ink that reads "Lora Myrick". The signature is written in a cursive style and is positioned above a thin horizontal line.

Lora Myrick, President
BETCO Housing Lab

Lora Myrick (512) 785-3710

lora@betcohousinglab.com | 2201 Northland Drive Austin, Texas 78756 | 812 San Antonio Street, Suite L-14, Austin, Texas 78701

From: [Demetrio Jimenez](#)
To: [Matthew Griego](#)
Cc: [Danny Perea](#); [Eva Davalos](#); [Marci Almodovar](#); [Jacob](#)
Subject: Public Comment on the Draft 2023 QAP
Date: Thursday, October 13, 2022 5:14:00 PM

You don't often get email from djimenez@tropicalanaproperties.org. [Learn why this is important](#)

This email is in response to the draft of the proposed 2023 Qualified Allocation Plan Rule (10 TAC Chapter 11) that was approved by the TDHCA Governing Board on September 1, 2022.

Specifically, I email to recommend changes to Section 11.101(b)(7)(C).

First, we propose that, among the list of adult supportive services listed in Section 11.101(b)(7)(C), the following service be added and awarded 3.5 points: “one-on-one homebuyer counseling provided virtually or in person by a person qualified to analyze income eligibility for any government program.”

In many cases, onsite staff, certain nonprofits, and others regularly work with individuals seeking governmental aid, such as an FHA mortgage loan, rental of LIHTC units, etc. If, as part of this work, these individuals assist applicants with analyzing their income to determine eligibility, then they are almost certainly qualified to provide homebuyer counseling to residents of LIHTC properties. They could also likely assist such residents in determining whether they may qualify for a home loan.

As residents increase their income overtime, they often become excellent candidates for homeownership. This is an enormous benefit, not only to new homeowners realizing the American Dream and those families who are able to then move from a wait list into one of our affordable apartments, but to the community as a whole. Indeed, when our residents work their way from government subsidized housing into home ownership, everyone benefits.

TDHCA has a unique Texas Homebuyer Program in which the family can seek a Mortgage Credit via TDHCA which can be converted and considered as income for the participating borrower. Perhaps as part of homebuyer counseling offered as a service to residents, the residents could be assisted in getting in contact with the participating mortgage companies after they watch and pass a mandatory TDHCA Homebuyer Education Course.

Second, we propose that Section 11.101(b)(7)(C)(iii) be amended to allow career training and placement partnerships to be provided by property management companies that provide on-site job training with potential employment.

Our industry is experiencing huge labor shortages and is in desperate need of both property managers and maintenance personnel. As such, many management companies provide formal training to all new employees, most whom do not have prior experience in the field. We are the experts in property management, leasing, and property maintenance. Therefore, we believe that it would be mutually beneficial to the industry and LIHTC residents for management companies to be able to provide valuable training, and possibly employment, to their residents.

We appreciate the opportunity to comment on these important issues.

Respectfully Submitted,

Demetrio Jimenez
Tropicana Properties
(915) 472-2020

October 14, 2022

Matthew Griego
Texas Department of Housing and Community Affairs
QAP Rule Public Comment
221 E. 11th Street
Austin, Texas 78701

RE: Comment on the Draft 2023 Qualified Allocation Plan

Dear Mr. Griego:

The following comments are in response to the draft 2023 Qualified Allocation Plan (QAP). I thank Staff for their work on this document and the opportunity to provide input.

11.1(e) Data

Because some data required is census data but not necessarily “American Community Survey” data, such as the data required for Proximity to Jobs, I suggest that this language be changed to “Where this chapter requires the use of ~~American Community Survey~~ US Census or Housing & Urban Development data, the Department shall use the most current data available as of October 1 of the year prior to Application.....”

Additionally, I propose that that a deadline be published in the QAP for the final posting of the Site Demographics Report. Now that 4% HTC awards may be administratively approved and may not go to the Board for approval, the development community is not always aware of which and when awards are made. For a competitive process that starts many months prior to the Pre-Application submission date in early January, there should be a definitive Site Demographics Report that can be relied upon as of a certain date that still gives time for Applicants to use the Report to evaluate potential development sites. If HTC awards are being added to the list at all times, sites that were evaluated and would have received points in November or December may not if a new Report is released in January.

In 2019, when I inquired about December 4% HTC awards impacting census tract points for the upcoming 9% cycle, I have confirmation from Sharon Gamble (and can forward that email upon request) that states “For the last five years we have considered the November posting of the Site Demographics report to be the go-to document for the next cycle. Since we have not told anyone that we would be doing anything differently this year, the December awards will wait for the 2021 cycle.” Because the QAP already requires a December 1 date for several items including the credit amounts available in the subregion for Maximum Funding Request Amount, I would request that the Site Demographics Report be finalized and published for use in the 2023 round no later than December 1, 2022.

11.7 Tie Breaker Factors

Though you may receive comment to change the tiebreaker to something that includes credits per tax credit unit, at this point in the rulemaking process, any change to the original concepts that were included in the draft for public comment would be substantial change. Any concept change or addition to the tiebreaker would not have been posted for public comment and would not have gone through the formal public comment process. Any change in concept would be a policy shift that needs further discussion and official public comment and should not be considered until the development of the 2024 QAP.

11.8(b)(2)(C)Pre-Application Notification Contents and §11.203 Public Notifications.

The QAP includes a requirement that the HTC Notification letters contain “(VII) The residential density of the Development, i.e., the number of Units per acre.” Section 11.203 states that “However, re-notification is required by all Applicants who have submitted a change from pre-application to Application that reflects a total Unit increase of greater than 10% or a 5% increase in density (calculated as units per acre) as a result of a change in the size of the Development Site.”

At the time of pre-application, most development sites do not have a survey and Applicants are relying on county appraisal district data or acreage approximations to calculate the density, which is not always accurate. This re-notification requirement presents a “gotcha” situation in certain cases where the county or assumed acreage was incorrect and might result in a density change that could then result in the termination of an application.

I have found no requirement in Texas Government Code Chapter 2306 that the notification letters must contain a density calculation or that the required entities must be re-notified due to a change in density. I propose that the re-notification requirement due to a change in density be removed from the QAP.

11.9(c)(7)(C) Access to Jobs

I thank Staff for the addition of a transportation option that would provide points for those areas that do not already have a significant number of jobs. However, I ask that staff clarify the transportation language so that there is less subjectivity and ambiguity over what would qualify for these points in order to avoid RFADs and Appeals. First, because the transportation is allowing areas with fewer jobs to qualify, the transportation should, at a minimum, be available with a frequency that would allow a person to use the transportation to get to work. I propose that the language be specific on hours and days like the language contained under Opportunity Index. I would also propose a tiered point system like that contained under Opportunity Index.

Second, I propose that the “accessible path” requirement be deleted. Several years ago, accessible paths were required for a scoring item and there were several RFADs where competing developers went out and measured curb heights and sidewalk slopes to argue that the sidewalks were not accessible and therefore points should not be awarded. In order to avoid that type of scenario, I would propose that the accessible path language be deleted. Because the local transportation provider and city are responsible for sidewalks and transit stops, they are outside of the Applicant’s control and an Applicant would effectively be penalized for something outside of its control.

Finally, I propose that “on-demand transportation” be specifically excluded from qualifying for the scoring item. Some on-demand services are restricted to seniors or persons with disabilities only, some on-demand services are based on availability due to limited drivers or vans, on-demand services require users to schedule in advance which may be prohibitive for normal use, and there is not a “schedule” or “stop/station” for on-demand transportation.

Suggested language is below:

(C) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for points under this subparagraph if the Development Site is located ~~on a route, with an accessible path for pedestrians, that is~~ within one half-mile from the entrance of a public transportation stop or station with a route schedule that provides regularly scheduled service to employment and basic services. “On-demand transportation” or any transportation that does not have a regularly scheduled and mapped route does not qualify under this point item. Only one of the following may be selected:

- (i) The Development Site is 1/2 mile or less from the stop or station and the scheduled service is available at least 5 days per week beginning each day no later than 8 a.m. and ending no earlier than 5 p.m. (1 point).
- (ii) The Development Site is 1/2 mile or less from the stop or station and the scheduled service is available all 7 days per week beginning each day no later than 8 a.m. and ending no earlier than 5 p.m. (2 points).

11.9(f)(9) Readiness to Proceed

Due to uncertainty in the financial markets, inflation, and increased cost and continued supply chain problems for building materials, I propose that this scoring item be deleted for 2023. Furthermore, this scoring item was originally for certain FEMA Disaster Counties generally located near the coast and implemented specifically to speed up the completion of replacement housing in counties directly impacted by natural disasters. Has an analysis been done on the applications that received points for the scoring item in prior years to confirm that the scoring item did indeed achieve the faster completion of developments?

11.101(a)(3)(A) Neighborhood Risk Factors

The QAP states that "(A) If the Development Site has any of the characteristics described in subparagraph (B) of this paragraph, the Applicant must disclose the presence of such characteristics in the Application submitted to the Department. For Competitive HTC Applications, an Applicant must disclose at pre-application as required by §11.8(b) of this chapter (relating to Pre-Application Requirements (Competitive HTC Only))." However, the requirement that Neighborhood Risk Factors be disclosed was removed from §11.8(b) Pre-Application Requirements.

11.101(a)(3)(B)(iii) Neighborhood Risk Factors for Certain School Attendance Zones

The draft currently states that a Development Site that is located within the attendance zone of an elementary school, a middle school or a high school that has a TEA Accountability Rating of "Not Rated: Senate Bill 1365" for 2022 would be required to provide mitigation. This appears to only look at the 2022 Ratings and not at least 2 years of school ratings as has been done in prior QAPs. It is my understanding that schools that had a *history* of poor performance were added as a Neighborhood Risk Factor and that is why prior QAPs looked at multiple years of ratings. To make mitigation required based only on the 2022 ratings (which has "Not Rated" instead of "F" and "D" grades because the TEA recognized that COVID provided unique challenges for some schools and districts) is an extreme decision. This would also impact entire school districts, examples of which include Beaumont ISD and Abilene ISD, which have all campuses at a certain grade level "Not Rated: Senate Bill 1365" even though some of those same campuses were rated "C" or better in 2019. I propose that this language be revised to require mitigation for schools that have 2022 "Not Rated: Senate Bill 1365" and 2019 "F" or "D" ratings.

Furthermore, the school mitigation that is proposed in the QAP states as follows:

~~(iv) Evidence of mitigation for each of the schools in the attendance zone that has a TEA Accountability Rating of "Not Rated: Senate Bill 1365" for 2022 a TEA Accountability Rating of D for the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or a TEA Accountability Rating of F for the most recent year available prior to Application and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding must meet may include satisfying the requirements of subclauses (I) and (II)-(III) of this clause which will be a requirement of the LURA for the duration of the Affordability Period and cannot be used to count for purposes of meeting the threshold requirements under subparagraph (7)(B)(ii) of this paragraph.-~~

This section seems to indicate that subclauses (I) and (II) will be a requirement in the LURA for the entire Affordability Period. However, subclause (II) states as follows:

(###) The Applicant has committed that until such time the school(s) achieves a rating of A, B, or C it will operate an after school learning center that offers at a minimum 15 hours of weekly, organized, on-site educational services provided middle and high school children by a dedicated service coordinator or Third-Party entity which includes at a minimum: homework assistance, tutoring, test preparation, assessment of skill deficiencies and provision of assistance in remediation of those deficiencies (e.g., if reading below grade level is identified for a student, tutoring in reading skills is provided), research and writing skills, providing a consistent weekly schedule, provides for the ability to tailor assistance to the age and education levels of those in attendance, and other evidence-based approaches and activities that are designed to augment classroom performance. Up to 20% of the activities offered may also include other enrichment activities such as music, art, or technology.-

Subclause II states that the Applicant would need to commit to operate an after school learning center until "such time the school(s) achieves a rating of A, B, or C." If the after school learning center is only required until the schools achieve a rating of A, B, or C, then I would suggest that the earlier language regarding the requirement for the duration of the Affordability Period be revised.

Finally, the exemption for Developments encumbered by a TDHCA LURA was removed. Was there a specific reason for this? A development with a TDHCA LURA is an existing affordable development that has been housing children for years and might not have the existing building or budget or room on the development site to provide the required after school learning center as mitigation. I propose that the exemption for Developments with a TDHCA LURA be reinstated. Additionally, because At-Risk and USDA applications are also existing affordable developments that may also not have the existing building, budget, or room for a leaning center, I would propose that At-Risk and USDA applications also be exempt from the Neighborhood Risk Factor concerning schools.

Subchapter F Supplemental Housing Tax Credits

First, Section 11.1001(a) states that the subchapter applies to Competitive HTC awards from 2021 ceiling and that 2022 Applicants are prohibited from requesting Supplemental Allocation. In the 2021 Application round, there were two applications that were submitted in 2021, awarded in 2021, but then were awarded a forward commitment of 2022 tax credits due to an error in the 2021 award allocation process. Based on the language in 11.1001(a), it would appear that those two applications would not be eligible to apply for Supplemental Credits because they were not awarded from the 2021 "ceiling." Those two applications were submitted with the same information and financing assumptions as all of the other 2021 applications and are also in need of supplemental credits. I request that language be added to this section that would allow the 2021 Applications that were awarded 2022 forward commitments to be eligible to apply for supplemental credits.

Second, Section 11.1001(f) seems to indicate that only those 2021 awards that have already closed their financing, are requesting or being awarded Multifamily Development Loans, or have been approved for force majeure are eligible for supplemental credits. If this is the case, I am not clear on the date that the awards would have already needed to have closed their financing in order to be eligible. However, I would propose these conditions be removed or revised such that any and all 2021 awards be eligible for supplemental credits.

Thank you for your attention to these comments. Please contact me with any questions.

Regards,



Alyssa Carpenter
ajcarpen@gmail.com
512-789-1295



3000 S IH 35, Ste 300
Austin, TX 78704

tel: 512-447-2026
fax: 512-447-0288

foundcom.org



October 14, 2022

Cody Campbell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: Comments for the 2023 QAP Draft

Dear Cody,

Thank you for the opportunity to comment on next year's QAP. See attached for Foundation Communities' comments.

Sincerely,

Tillie Croxdale
Housing Finance Manager
Foundation Communities



a Partner Agency of



United Way for Greater Austin

11.7 Tie Breaker Factors

We expect tie breakers to be increasingly important this year because the changes to Proximity to jobs scoring opens up the map. We urge staff to add a tie breaker that can achieve a substantive policy goal. We propose adding a tie breaker for lowest average income. We think this would fit well after the 1st tie breaker related to poverty and keep distance as the last tie breaker. With all else equal, the development that is providing deeper affordability should get prioritized.

11.9(b)(6)(B)(iii) Energy and Water Efficiency Features

We urge the Department to make EPA WaterSense or equivalent toilets, showerheads, and faucets mandatory rather than a scoring criteria. The cost of these fixtures continue to drop and the savings in water far outweigh the slightly higher premium at the front end. This is a crucial strategy for energy efficiency, resiliency and conservation.

11.9(c)(8) Underserved

We are ok with the underserved section, but would like to reiterate some shortcomings of the scoring. The combination of scoring for census tracts that are underserved, high opportunity, and close to amenities has incentivized the development of a lot of HTC projects in highly desirable areas over the last several years. The downside is that the underserved point structure leaves these census tracts uncompetitive after a project is awarded. Because denser census tracts need more HTC units we would like to see the state move towards a HTC density per census tract concept. We argue that a high opportunity census tract with 2,000 households and only 100 HTC units is an underserved census tract. **Proposed Topic for 2024 QAP:** We understand that this is a big shift and requires data analysis and developer feedback, but would like to propose this a conceptual change in the 2024 QAP.

11.9(c)(9)(C) Proximity to Jobs Area

We echo TAAHP's comment to remove the requirement for a "route, with an accessible path for pedestrians" because this could create a lot of subjective interpretations and RFADs. We also suggest adding an option for municipal sidewalk programs or developer commitments to build sidewalks. Several years ago, Foundation Communities split the cost with the City to add sidewalks that connect the property to the nearby major corridor. A site may not have sidewalks at the time of application but the project itself and development process can showcase and prioritize the need for sidewalks in that area.

§11.9(e)(9) Readiness to Proceed

We echo TAAHP's request to remove this scoring from the QAP entirely. This scoring concept is out of line with the realities of constructing affordable housing in the current environment. Developers are already struggling to meet placement in service deadline so reducing that time by six months is unreasonable. If readiness to proceed points remains in the QAP, we support TAAHP's alternative idea to provide future scoring benefits to developers that achieve Placed in Service Dates on a faster timeline. This rewards best efforts that are successful rather than punishing best efforts that are unsuccessful.

11.9(f)(2) Cost of Development per Square Foot

We are supportive of the changes to Cost per SF as this better reflects reality. However, this may allow smaller projects to become eligible for more tax credits and reduce the productivity of the program. We ask that the Department add a tax credit per unit concept to Tie Breakers as a guardrail to incentivize developers that are producing more units per tax credit.

11.101(a)(3)(B)(ii) Rehabilitation developments exempt from crime as a Neighborhood Risk Factor

We recommend that the Department limit this exemption to rehabilitations that have existing LURAs. We agree that the Department should invest in rehabs of developments that have LURAs, but want to make sure that tax credits are otherwise being invested in areas below the crime requirements.

11.1001 - Supplemental Housing Tax Credits

We ask that you include a specific allowance for Developments that received a 2021 award and a 2022 forward commitment. These Developments are experiencing the same construction cost and interest rate increases as other 2021 Developments. As an example, Parker Lane Apartments #21063 received a 2021 award and a forward commitment. Between the 2021 tax credit application and HUD financial closing, our construction costs increased by \$7million and we lost over \$2 million in HUD loan proceeds due to interest rate increases.

11.302(i)(4)(B) Negative Cash flow for A Development financed with a Direct Loan will not be re-characterized as feasible with respect to paragraph (4)(B) of this subsection.”

Supportive housing developments without committed subsidy are commonly unable to demonstrate positive cash flow past 30 years. In the past, applicants have committed to funding operating deficits as a way to demonstrate feasibility. In a recent MFDL roundtable, we discussed this issue and TDHCA staff verbally communicated that HUD requires positive cash flow during the affordability period, rather than the term of the Direct Loan. The Affordability Periods, depending on the funding is 15, 20, or 30 years and the term of Direct Loans is commonly 35 or 40 years and the Affordability. Given this, we request that TDHCA allow supportive housing developments to be feasible IF they have positive cash flow during the affordability period, rather than the term of the Direct Loan, and commit to fund operating deficits during the term of the Direct Loan.

The 2023 QAP Must Address Texas' Greatest Housing Need: Units Affordable and Accessible to the Lowest Income Texans

Disability Rights Texas (DRTx) is Texas' federally-designated Protection and Advocacy (P&A) agency for persons with disabilities. We provide a wide range of services for people with disabilities to ensure that their rights are upheld and that they are not discriminated against based on their disability. We also work to ensure that the needs of people with disabilities are met so that they can live as independently as possible.

People's health and financial stability suffered during the pandemic, and many are facing imminent eviction or homelessness. People with disabilities are facing these realities acutely since people at risk of complications from COVID-19 had to choose between income or their health. The 2023 Qualified Allocation Plan (QAP) must reflect the most critical housing needs of the state: housing that works for the lowest income Texans, including people with disabilities.

Pairing Access to Transportation with Proximity to Jobs Will Help People with Disabilities

Many people with disabilities participate in the workforce: a large number of their jobs are frontline positions that tend to be low-wage, resulting in employed persons with disabilities being considered low or very low income, and therefore qualified residents for LIHTC properties. However, if a person's home is close to jobs but doesn't have reliable transportation options, employment is not feasible. Oftentimes people with disabilities do not have cars and rely on public transportation to get to where they need to go, including work. **The agency's decision to consider accessible and reliable transportation via the "Access to Jobs" subcategory within "Proximity to Jobs" will make the category more meaningful to people who rely on public transportation to get to work, including people with disabilities.** This is a change we applaud, and one we hope will remain in the 2023 QAP.

A Tie-breaker for Extremely Deeply Affordable Units Reflects Texas' Real Housing Needs

Currently, Texas has only 29 housing units affordable and available at or below 30% AMI per 100 households who need them; major metro areas like Austin, Dallas-Fort Worth and Houston have considerably less.¹ Texas also has just 51 units affordable and available at or below 50% AMI per 100 households that need them: major metro areas like Austin, Dallas-Fort Worth, Houston and San Antonio all have fewer available.² These income brackets include people with disabilities who receive disability-related assistance, and some who participate in the workforce.

Right now, there is no shortage of affordable, available housing units to households at or below 80%, 100% or 120% AMI.³ It is clear that Texas needs housing affordable to people at or below 50% AMI, including people with disabilities. Members of the TDHCA Board expressed genuine interest in a tie-breaker that helps to strike a balance between developing the maximum number of units possible, and prioritizing the development of deeply affordable units. At a time when evictions

¹ The National Low Income Housing Coalition. (April 2022). The Gap: The Affordable Housing Gap Analysis 2022. Available from: <https://nlihc.org/gap>

² Ibid.

³ Ibid.

are high and housing stock is low, incentivizing developers to create more deeply affordable units will help to address the current housing needs of low income Texans. **We support adding a tie-breaker to the 2023 QAP to incentivizing developers to create more deeply affordable units.**

Granting Automatic Awards for Supportive Housing Developments Will Help Address Texas' Vast Shortage of Housing Specifically for People Experiencing Homelessness

Eviction protections in Texas during the pandemic were insufficient, resulting in eviction rates exceeding pre-pandemic levels in many parts of Texas, including large urban areas where housing markets are more competitive and the homeless populations (both sheltered and unsheltered) tend to be higher.⁴ In 2020 the Government Accountability Office (GAO) published a report finding that for every \$100 increase in median rent, there is an associated 9% increase in the rate of homelessness.⁵ From June 2021 to June 2022, the median rent increase in Texas was \$161/month with some municipalities having significantly higher numbers.⁶ Texas needs to increase its stock of supportive housing, sometimes referred to as Permanent Supportive Housing (PSH), to help address the needs of our growing homeless population.

A 2020 study of US Continuums of Care (CoC) found that “LIHTC units and PSH conducted together within a CoC decrease homeless persons relative to CoCs only using PSH or LIHTC,” and that LIHTC combined with PSH is particularly effective for reducing sheltered and family homelessness.⁷ The original 2023 Draft QAP included a stipulation automatically awarding the highest supportive housing application, but it was later removed. Recent changes to state law, like camping bans, have left people experiencing homelessness with no place to find shelter. It is critical that TDHCA use all available tools, especially the LIHTC program, to assist this extremely vulnerable population. **We support the original proposal to automatically award the highest-scoring supportive housing application, increasing the stock of PSH to help people experiencing homelessness become stably housed.**

Questions? Please contact Tanya Lavelle, DRTx Policy Specialist tlavelle@drtx.org

⁴ Princeton University Eviction Lab. (2022). Data available for Austin, Dallas, Ft. Worth and Houston from: <https://evictionlab.org/eviction-tracking/>

⁵ Government Accountability Office (GAO). August 25, 2022. *How Covid-19 Could Aggravate the Homelessness Crisis?* Available from: <https://www.gao.gov/blog/how-covid-19-could-aggravate-homelessness-crisis>

⁶ Apartmentlist.com. (June 27, 2022). Data and Rent Estimates, available from: <https://www.apartmentlist.com/research/category/data-rent-estimates>

⁷ Kim, S., & Sullivan, A.A. (5 August 2020). Complementary policies for multidimensional problems: Does the low-income housing tax credit complement homeless services in the USA? *Urban Studies*. 58(5), 903-921.



**TEXAS
HOUSERS**
TEXAS LOW INCOME HOUSING
INFORMATION SERVICE

📍 1800 W 6th Street
Austin, TX 78703

🌐 [TexasHousers.org](https://www.texas-housers.org)

October 14, 2022

Attn: Matthew Griego
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

RE: QAP Rule Comment

Dear Mr. Griego:

Thank you for the opportunity to comment on next year's QAP. Texas Housers offers the following comments on the 2023 Draft QAP.

Sincerely,

Ben Martin
Research Director
Texas Housers
Email: ben@texashousing.org

Texas Housers is a 501(c)(3) nonprofit organization founded in 1988 to work for housing justice and fair and equal treatment by government of communities. Our mission is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood of their choosing. We work toward these goals through research, policy, and collaboration with community organizations.

§11.7 Tie Breaker Factors:

Texas Housers supports the introduction of a Tie Breaker formula that prioritizes deeply affordable units to better address severe housing needs for extremely low-income households. NLIHC’s Gap Report shows that Texan households making at or below 30% AMI have the fewest available, affordable units compared to higher-income households. This year’s sharp increase in HUD rent limits have outpaced tenant income growth, which raises concerns that tenants may be priced out of subsidized units once rents are increased to reflect HUD’s new limits. Supporting the creation of more 30% AMI units will help ensure that lower-income households can afford to remain in their homes. Such a tie breaker could also serve as a guardrail around the increase in eligible building costs (§11.9(f)(2), Cost of Development per Square Foot) to support the creation of additional affordable units in competitive areas.

Given the greatest need for affordable housing for 30-60% AMI populations, lower income average should be a policy priority for TDHCA. TDHCA could utilize a tie breaker formula that awards one point per unit at 60% AMI, with the points increasing as the affordability deepens and partial points awarded for units at 80% AMI. Under this proposal, each property’s tie breaker score would be determined by the following formula:

$$(Number\ of\ 30\%\ Units * 3) + (Number\ of\ 50\%\ Units * 2) + (Number\ of\ 60\%\ Units * 1) + (Number\ of\ 80\%\ Units * 0.5)$$

This formula balances between the needs for more units and deeper affordability and can award smaller developments if they have deep affordability. The table below provides examples for the proposed tiebreaker model. The weights reflect the need for deeper affordability.

Tiebreaker Formula (Hypothetical Properties)

Total Units	Total Aff. Units	Market Rate	Number of 30% Units Weight: 3	Number of 50% Units Weight: 2	Number of 60% Units Weight: 1	Number of 80% Units Weight: 0.5	Tiebreaker Score
80	70	10	10	40	20	0	130
150	120	30	10	55	40	15	187.5
120	80	40	40	30	10	0	190
135	135	0	15	65	55	0	230

§11.9(c)(6) Underserved and §11.3 Housing De-Concentration Factors:

Texas Housers supports reform to de-concentration and underserved provisions to allow more tax credit housing to be built in high opportunity areas. However, these rules must remain in some form to ensure that HTC awards do not follow historical trends and cluster in low-opportunity neighborhoods and contribute to concentrated poverty and racial segregation.

Any change to De-Concentration Factors or Underserved provisions that allows more concentrated HTC development should only apply to high opportunity areas as defined by the QAP. Before considering removal of any one rule, TDHCA should research best practices and strategies for relaxing de-

concentration or underserved rules in high-opportunity areas while maintaining them in low-opportunity areas.

§11.101(a)(3) Neighborhood Risk Factors:

Exempting rehabilitation applications from poverty and crime Neighborhood Risk Factors risks allowing awards in low-opportunity areas that are harmful to tenant health and well-being. TDHCA should maintain Neighborhood Risk Factors for rehabilitation tax credit properties. If exemptions are included in the QAP, they should be limited to ensure that problematic developments in unsuitable areas are not awarded rehabilitation funds. Exemptions should be limited to LIHTC properties and enforcement history, inspection scores, and complaints should be considered as part of exemption determinations.

The QAP currently has separate Neighborhood Risk Factor criteria for developers applying for new construction applications (the majority of which are 9% tax credits) and rehabilitation applications (the majority of which are 4% tax credits). TDHCA could create metrics for rehabilitation applications to ensure that preservation targets worthwhile housing in environmentally safe areas that tenants want to continue living in.

§11.6(3)(C)(iv) (of the 2023 Preliminary Draft QAP) Highest Scoring Supportive Housing:

The State of Texas needs more PSH units. The automatic award provision that was included in the 2023 Preliminary Draft QAP could help build supportive housing in areas where applications struggle to get awards. TDHCA should put the automatic award provision back in the QAP. If TDHCA elects not to place the automatic award provision back in the QAP, it must articulate a clear plan for increasing PSH in Texas and growing the pool of qualified PSH service providers.

§11.9(c)(7)(A) Proximity to Jobs:

The new Accessibility to Jobs provision should help developers who want to put more affordable housing near transit connection points throughout the state. Once applications have been submitted and evaluated with this rule in effect, TDHCA should compile and analyze applicant submissions under Access to Jobs to determine if frequency of service provisions are necessary to ensure meaningful mobility. Analysis should be made available to the public for review. Frequency of service provisions, like those included in the 2023 Preliminary Draft, should be added to the QAP if analysis indicates that this is an important factor impacting the benefit that tenants receive.

§11.101(b)(5) Common Amenities:

TDHCA should conduct a well-prepared tenant survey to ask tenants about on-site amenities that are and are not important to them for future QAP development. Although a tenant survey cannot be completed for the 2023 QAP cycle, TDHCA should begin planning for a new tenant survey in line with department recommendations following the 2017 LIHTC resident survey to seek resident input on more targeted issues.



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October 12, 2022

Mr. Matthew Griego
Multifamily Policy Research Specialist
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

RE: QAP Rule Public Comment

Dear Mr. Griego,

We appreciate the opportunity to make public comments to the 2023 Qualified Allocation Plan (“QAP”). Arx Advantage (“Arx”) is a member of the Texas Affiliation of Affordable Housing Providers (“TAAHP”) and of Rural Rental Housing Association (“RRHA”). Arx supports the comments made by both TAAHP and RRHA.

§11.7 Tie Breaker Factors. Arx supports the comments from RRHA. We appreciate the change made by the Board in September to have a fixed poverty percentage at 20% with the additional percentage increases for Regions 11 and 13. At this point in the process, we believe any further changes would be significant and should only be considered for a future QAP. Arx agrees with the general industry consensus regarding the “Tie Breaker,” and advocate for the three-pronged approach for future QAP rules discussions as outlined by the RRHA and TAAHP in their original comments to the 2023 Draft QAP.

§11.9(b)(2) Sponsor Characteristics, HUB Sponsor Characteristics. Arx supports the RRHA comments in returning the language to that of the 2022 QAP. The lack of a definition of the term “Officer” is immediately problematic, and it potentially places a great number of Historically Under-utilized Businesses (“HUB”) that have acted in good faith for years at risk of being ineligible.

§11.9(c)(4)(B) Residents with Special Needs. Arx supports the comments from RRHA in requesting a return to the 2021 language which exempted USDA developments from these points. USDA developments are located in small rural areas that lack access to Continuum of Care or local homeless service providers to participate with and will be forced to let units sit needlessly vacant for six months to comply with the requirements as written.

§11.9(c)(6) Underserved Areas Revisions: Age-Based Points. Arx supports the RRHA comments in that we believe the changes in this scoring item would be a significant departure and should only be considered for the next QAP. Additionally, we join RRHA in their request to have discussions regarding scoring options for At-risk or USDA Developments placed in service 25 years or more years ago and At-risk or USDA developments placed in service 20 or more years ago for the 2024 QAP.

§11.9(c)(9)(C) Proximity to Jobs Area. Arx supports the TAAHP position to strike the “accessible path” and “employment and basic services” language to avoid potential needless and time-consuming challenges and difficult situations.

§11.9(e)(9) Readiness to Proceed. Arx joins TAAHP in their comments regarding suspending the Readiness to Proceed point category for the upcoming cycle and supports the reasoning given by TAAHP. If this point category is to continue, we very strongly stand with the comments provided by RRHA in requesting that Staff exempt USDA developments from this scoring item since these developments are rehabilitation of existing housing stock. Additionally, these developments are completely subject to USDA’s processing timeline and are unlikely to be able to meet the November 30th closing deadline under their new regional processing structure.

§11.9(f)(2) Cost of Development per Square Foot. Arx supports the comments from RRHA and join them in thanking Staff for their diligence and recognition of the need for increases in allowable costs based on current economic conditions. Like RRHA, we would encourage Staff to continue to review data supporting the dramatic increases in construction related costs through the development industry in recent years.

§11.101(a)(3)(B) Neighborhood Risk Factors. Arx supports the comments made by TAAHP regarding evaluation of school performance over two rating years, as has been done in previous years and recommending the removal of language requiring developments that have been found to be ineligible to provide Pre-K services to mitigate their ineligible status.

Arx additionally supports RRHA’s request to undelete the exemptions for “Developments encumbered by a TDHCA LURA on the first day of the application acceptance period or date the pre-application is submitted.” We support RRHA and recommend the same language that is under Undesirable Site Characteristics, for consistency, “Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (VA) and Developments encumbered by a TDHCA LURA the earlier of on the first day of the Application Acceptance Period for HTC, Application Acceptance Date for Direct Loan, or date the pre-application is submitted (if applicable).”

§11.101 (b)(1)(A)(vii) Ineligible Developments. Arx supports TAAHP’s comments recommending that this item be struck in its entirety. Unit mix is a fundamental principal of marketing in real estate development. Having an arbitrary cap on the percentage of units with no regard to the market needs of the area does not make prudent real estate sense. At the end of the day, an affordable housing development still needs to be a good real estate decision. Otherwise, it will be a long-term problem.

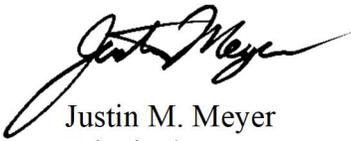
§11.101(b)(5)(C)(c)(I) Common Amenities. Arx supports the RRHA position to restore gazebos as a common amenity scoring item. This is an important amenity to the rural communities we serve as residents, many of whom are elderly, enjoy having an outside shaded seating area.

§11.302(e)(12) Special Reserve Accounts. Arx supports the TAAHP comments in recommending that the QAP revert to a deposit amount of up to \$2,500 per unit for Special Reserve Accounts.

Subchapter F. Supplemental Housing Tax Credits. Arx appreciates the Board's willingness to continue to assist previously awarded developments during these difficult economic and financial times our country and the housing industry is facing. We support both the comments from TAAHP and RRHA in strongly recommending that Applicants receive the maximum percentage the Board will allow up to fifteen percent (15%). We also the need to move the process quickly (1) so that 2023 applicants will understand the impact these credits will have on the 2023 cycle and (2) so those potential awardees can move forward sooner than later with their developments.

Thank you for the opportunity to make public comment to the 2023 QAP. We look forward to our continued work with TDHCA staff in furthering affordable housing options to Texans.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Meyer", with a stylized flourish extending from the end.

Justin M. Meyer
Principal



SIERRA CLUB

LONE STAR CHAPTER

October 14th, 2022

To: Texas Department of Housing and Community Affairs

Attn: Matthew Griego

QAP Rule Public Comment

P.O. Box 13941

Austin, Texas 78711-3941

Email: matthew.griego@tdhca.state.tx.us

Re: Proposed 2023 QAP for multi-family housing

The Lone Star Chapter of the Sierra Club is the Texas chapter of the Sierra Club, a 501-C-4 advocacy organization with over 3 million members and supporters. In Texas, we have more than 180,000 members and supporters. The QAP is an important tool for the construction of affordable multi-family units in Texas. With a changing climate assuring that these buildings are modern, water and energy efficient and resilient is important.

While the Sierra Club is not a housing or service provider, we have an interest in assuring that affordable multi-family housing is built in a way that will be affordable, be sustainable, and built to proper codes so that it can withstand climate extremes and offer a high quality of life. As a conservation organization, anything we can do to promote green building, and conservation of both water and energy, and promotion of alternative energy solutions will help our state and our planet.

Our comments are limited to sections dealing with green building and other efficiency measures. Our main and most important comment is that we believe TDHCA should and must

adopt minimum energy efficiency standards for overall energy use as well as for installed appliances that all applicants should meet as a threshold criteria. TDHCA should as part of both the QAP but also for all of its programs related to multifamily standards adopt minimum energy efficiency standards, as required by Texas Government Code 2306.187 and by Chapter 388 of the Texas Health and Safety Code. Indeed, recently TDHCA has already taken this action for its single-family programs, a proposal supported by the Sierra Club.

Thus, we would suggest that as we have stated previously, TDHCA should adopt the 2015 IECC as a minimum standard for all applicants applying to the QAP, as required by state law, while also making sure that new and replacement fans, electrical fixtures, equipment and appliances, as well as ductless heating and cooling systems and windows meet Energy Star certification requirements and that plumbing fixtures are WaterSense. These should be required for all applicants.

While we had expected the State Energy Conservation Office to have already taken up a rulemaking to adopt the 2021 IECC - as several local cities have already done - a clarification in state statute is apparently needed to complete this rulemaking, so we expect the state will have adopted the 2021 code sometime in late 2023 assuming the legislature makes needed changes to state statutes.

That being said, TDHCA could consider giving developers that meet the 2021 IECC additional points in their scores.

Second, we support several of the proposed additions in 11.001 (Site and Development Requirements and Restrictions). For example, we are supportive of the changes that add access to onsite bike sharing services and smart thermostats.

§11.101(b)(5)(D)(v) — *Community Resources*. (I) Gazebos have been removed from list of community resources. (XV) Access to onsite bike sharing services has been added.

§11.101(b)(6)(B) — *Unit, Development Construction, and Energy and Water Efficiency Features*. (iii) Wi-Fi enabled, Energy-Star or equivalently rated “smart” thermostats have been added to list of Energy and Water Efficiency Features.

We are also very supportive of the addition of solar panels to the list of features for which developers can receive points. Specifically, the new section 11.101 (b) (6) (B) includes this language - - (XI) Solar panels installed, with at least four panels with a rated power output of at least 300 watts for each Low-Income Unit. (2 points).

We also note and appreciate that in (4) Mandatory Development Amenities the QAP does require certain efficient appliances. However, we are concerned by the words “or equivalently” when discussing required Energy Star appliances and measures found in the 2023 QAP. While there might be a legitimate reason for including these words, we believe it could undermine efforts to improve energy efficiency as part of the QAP. We are concerned there will be no way

to measure energy efficient appliances without them being designated as “Energy Star.” Again, we would also support adding water-sense plumbing appliances to the these required mandatory development amenities rather than having them be “extra” points to be earned.

We do support the continued inclusion of the 2018 IGCC as a new “Green Building Standard” that applicants can earn additional points if they show they can meet these standards. We believe the addition of the 2018 IGCC will encourage some developers to seek additional points by meeting these standards, which represent an above-code green building program. We would also encourage the TDHCA to also add passive solar standards as another standard that could earn up to four points, as well as adding the 2021 IECC as we have mentioned. In the U.S., the certification for such buildings is known as the PHIUS+ 2015 passive building energy standard.

As mentioned, we appreciate the special attention put in the document to “(B) Unit, Development Construction, and Energy and Water Efficiency Features” added to the document in Section 11.101 (b) (6) (B). However, we believe many of these measures are already required as mandatory and it doesn’t make sense to give additional points for these measures. Thus, energy-star dishwashers and refrigerators are already required as mandatory, so why give additional points just because they have an ice-maker or are front-loading?

We also question the need to give points for LED recessed lighting or LED lighting fixtures in kitchen and living areas. LED lights are now the standard are in essence required for all new construction in Texas under the 2015 IECC. In fact, under the 2021 IECC, all indoor lighting must be high-efficacy. We favor making such amenities to be required, rather than subject to additional points. Giving developers extra points for what is essentially the standard is unnecessary.

We would also suggest that an even higher rated HVAC system such as an 18 or 20 SEER HVAC system be added for up to two points, and TDHCA should also consider extra points for high efficiency air or geothermal heat pumps, which are an alternative to HVAC systems and gas heating.

Finally, we would suggest adding additional points for developments that adhere to “One Water” principles. While some points are included for water conservation strategies in the proposed QAP such as low-flow fixtures, TDHCA should also add features related to water-efficient native landscaping and most importantly, water reuse features so that developers that have alternative water strategies are considered. Measures like recapturing rain water, rainwater reclamation systems, green roofs, and reusing laundry water for irrigation are examples. A good recent report from the National Wildlife Federation - *Ensuring One Water Works For All* - outlines some of these suggestions. A copy of the report is available here - <https://texaslivingwaters.org/wp-content/uploads/2022/04/Opportunities-for-Realizing-Water-Reuse-in-Affordable-Housing.pdf>. Granting developers points for water reuse systems would be a great way to make these developments more sustainable and offer lower operating costs, while creating amenities for residents.

The Lone Star Chapter is pleased to offer these comments, and hopes you will consider modifications to the proposed 2023 QAP based upon these comments. Again, our main comment is that TDHCA should add the 2015 IECC as the minimum threshold standard, and consider adding the 2021 IECC for some additional points since it is likely to become the standard soon. We appreciate the addition of solar panels to the list of potential points, but would also suggest adding points for water reuse features among other suggestions.

Please don't hesitate to contact me if you have questions or concerns.

Sincerely,

Cyrus Reed

Conservation Director

Lone Star Chapter, Sierra Club.

512-740-4086

cyrus.reed@sierraclub.org

October 14, 2022

Texas Department of Housing and Community Affairs
Attn: Matthew Griego
QAP Rule Public Comment
P.O. Box 13941
Austin, Texas 78711-3941
Email: matthew.griego@tdhca.state.tx.us

RE: Public Comments to Texas Department of Housing and Community Affairs Draft 2023 Housing Tax Credit Qualified Allocation Plan

Matthew:

Please accept this correspondence as our (Katopody, LLC) formal submission of public comments relating to the draft of the Housing Tax Credit Program Qualified Allocation Plan (QAP).

Our comments relate to changes in competitive scoring criteria which we think will negatively impact the policy outcomes of the QAP. Specifically, we would like to comment on the Access to Jobs and the Readiness to Proceed scoring items.

§11.9. Competitive HTC Selection Criteria. (c) (7) Proximity to Jobs Areas

The language proposed under the Access to Jobs scoring item for transit stop qualification is too ambiguous. The originally proposed language provided specific requirements for transit stops with two classes of stops and differing thresholds for frequency and time requirements for transit availability. The lack of specific requirements under the current language causes uncertainty and variability amongst Applicants and will require qualitative determinations for each Application as opposed to a single requirement of transit service for all Applications. Route and stop schedules for transit stops are widely available on the websites of the various Transit Agencies across the state. Transit agencies that do not have this information readily available are less likely to provide regularly scheduled service to employment areas and other services. The language released in the latest draft invites Applicants to determine if a transit stop qualifies themselves, as opposed to relying on an independent standard of service. We anticipate that these changes will result in uncertainty as to which transit stops qualify and may result in an uneven application of this scoring item across Applicants. Our view is that the language released in the Preliminary Draft Qualified Allocation Plan should be used. The original language (below) was well considered and provided clear guidance on what stops will qualify for Access to Jobs points.

(C) Access to Jobs. A Development site which qualifies for at least 2 points under subparagraph (A) or (B) may qualify for points under this subparagraph if the Development Site is located on a route, with sidewalks for pedestrians, that is within a specified distance from the entrance of a public transportation stop or station with a route schedule that provides regular service to employment and basic services. Only one of the following may be selected:

(i) The Development Site is 1/2 mile or less from the stop or station and the scheduled service is beyond 8 a.m. to 5 p.m., plus weekend service (both Saturday and Sunday) (1 point); or

(ii) The Development Site is 1/2 mile or less from the stop or station and the scheduled service arrives every 30 minutes, on average, between 6 a.m. and 8 p.m., every day of the week (2 points).

§11.9. Competitive HTC Selection Criteria. (e) (9) Readiness to Proceed

We think that the addition of Readiness to Proceed works against the goals of the Tax Credit program in Texas. While the purpose of this scoring item seems to be to incentivize Applicants to move forward with development as soon as possible, in practice, it forces all Applicants to commit to timelines that are rarely achieved. As a consequence, zoning is elevated to the same level as policy-driven objectives such as Opportunity Index, Underserved Areas, and Proximity to Jobs. Our view is that this works against the efforts of the community and the objectives of the program to balance these competitive scoring criteria.

We appreciate the opportunity to comment on changes to the QAP and thank TDCHA staff for their dedicated efforts in drafting the QAP and administering the Housing Tax Credit program in Texas.

Respectfully,

David T. Katopody, Director - Consulting Services
Katopody, LLC.

From: [Public Affairs](#)
To: [HTC Public Comment](#)
Cc: [Route, Neal](#); [Duckett, Khayree](#)
Subject: QAP Public Comments
Date: Friday, October 14, 2022 4:08:06 PM
Attachments: [dominium_logo_signature_d64f1bb7-40ca-4413-9d51-95647cdd7ca5.png](#)

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October 14, 2022

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Dear Mr. Campbell and Ms. Morales,

Thank you for the opportunity to provide feedback on the proposed 2023 Qualified Allocation Plan (QAP). With 50 years of experience helping communities achieve successful affordable housing solutions, Dominion's overriding objective is to build and improve communities that people are proud to call home. On behalf of Dominion, I respectfully offer comments for staff consideration in the final drafting of the QAP concerning the market analysis rules and guidelines.

As stated in the QAP, market analyses must evaluate the need for decent, safe, and sanitary housing at rental rates or sales prices that eligible tenants can afford. The analysis must determine the feasibility of a subject development and state conclusions as to the impact of a development with respect to the determined housing needs. While TDHCA and the National Council of Market Analysts (NCHMA) have standard demand calculations and market study procedures, we are concerned that the QAP's implementation of such standards places greater emphasis on retrospective considerations rather than forward-looking analyses, possibly proving detrimental to the state's rapidly growing suburban and exurban environments.

General occupancy capture rate standards only factor in existing renters in an area without considering whether that area already has adequate existing rental housing inventory, making it difficult to achieve a reasonable capture rate. Additionally, this analysis pushes development towards urban areas where land is more expensive. Land costs contribute significantly to aggregate basis for the purposes of the 50%, thus more expensive land requires more bonding authority for individual developments, resulting in less housing production.

Lastly, the rural threshold of 120 units results in smaller developments and reduces economies of scale that can be achieved on larger bond transactions. Costs associated with cost of issuing tax-exempt bonds include fees associated with trustees, bond counsel, underwriters, and credit raters or enhancers, all before mentioning these developments rely heavily on leverage, the most significant portion of whose capital stack is hard foreclosable debt. As such, Dominion's developments are typically 2-3 times the size of the rural 120-unit standard.

Dominium encourages TDHCA to prioritize capture rate analysis as staff consider the 2024 QAP work plan. Furthermore, Dominion would appreciate further clarification from TDHCA on the genesis and justification of the 120-unit threshold considering the increased risk and transaction costs associated with 4 percent housing credits.

Dominium greatly appreciates TDHCA's extensive outreach efforts through the convening of working groups, roundtables, our meeting with Ms. Jeanna Adams to discuss our specific input, and staff consideration of our comments. We look forward to working with you to develop high quality affordable housing which allows Texas communities to thrive and please contact Khayree Duckett should you have any questions regarding our feedback at khayree.duckett@dominiuminc.com or 763-401-4359.

Sincerely,

Neal Route
Vice President & Project Partner
Dominium Development

Public Affairs

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