

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

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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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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
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