

SECOND SUPPLEMENT TO BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

NOVEMBER 12, 2015

Staff has continued to receive, following the supplemental posting, additional enquiries which, although not treated as official comment, have pointed to areas possibly in need of further refinement. As part of staff's efforts to ensure that the QAP is understandable and that it reflects both statute and sound policy, staff has identified the following additional changes which it believes improve upon the previously-posted draft, and presents this second supplement to the November 12, 2015 Board Action Request regarding adoption of the 2016 QAP.

Staff has concluded that if either the proximity to tenant services for elderly developments in the Opportunity Index score criterion (proposed 10 TAC §11.9(c)(4)(A)(i)) or the tenant services coordinator in the Aging in Place score criterion (proposed 10 TAC §11.9(c)(8)(B)) were combined with the Tenant Services scoring criterion (proposed 10 TAC §11.9(c)(3)) the maximum combined score would exceed the point value that is available to Cost of Development per Square Foot score criterion (proposed 10 TAC §11.9(e)(2)), the latter of which has a statutory requirement to have a higher score/point value priority.

Therefore staff proposes the following additional changes to the sections of the QAP identified below and recommends that such changes are also incorporated into the reasoned responses to be published with the final 2016 QAP after it has been sent to the Governor for review and approval:

§11.4. Tax Credit Request and Award Limits

(b) Maximum Request Limit (Competitive HTC Only). For any given Development, an Applicant may not request more than 150 percent of the credit amount available in the sub-region based on estimates released by the Department on December 1, or \$1,500,000, whichever is less, or \$2,000,000 for Applications under the At-Risk Set-Aside. In addition, ~~For Elderly Developments in an urban~~ Uniform State Service Regions containing a county with a population that exceeds one million, the request may not exceed the final amount published on the Department's website after the release of the Internal Revenue Service notice regarding the 2016 credit ceiling. ~~The~~ For all Applications, the Department will consider the amount in the Funding Request of the pre-application and Application to be the amount of Housing Tax Credits requested and will automatically reduce the Applicant's request to the maximum allowable under this subsection if exceeded. Regardless of the credit amount requested or any subsequent changes to the request made by staff, the Board may not award to any individual Development more than \$2 million in a single Application Round. (§2306.6711(b))

Description of change: The change clarifies the previously included additional limitation on elderly developments. The word “urban” is removed to be consistent with the language in the statute and the words “In addition” were added to reflect that this limitation is that it is in addition to the limitation in the preceding sentence.

§11.9.Competitive HTC Selection Criteria.

(c) Criteria to serve and support Texans most in need.

(3) Tenant Services (§2306.6710(b)(1)(G) and §2306.6725(a)(1)) A Supportive Housing Development proposed by a Qualified Nonprofit or Developments participating in the HPSH program may qualify to receive up to eleven (11) points and all other Developments may receive up to ten (10) points. A Development participating in the HPSH program and electing eleven (11) points under this paragraph must have applied for HPSH funds by the Full Application Delivery Date, must have a commitment of HPSH funds by Commitment, must qualify for [a minimum of five \(5\) ~~or seven \(7\)~~](#) points under paragraph (4) of this subsection, and must not have more than 18 percent of the total Units restricted for Persons with Special Needs as defined under paragraph (7) of this subsection. By electing points, the Applicant certifies that the Development will provide a combination of supportive services, which are listed in §10.101(b)(7) of this title, appropriate for the proposed tenants and that there is adequate space for the intended services. The provision and complete list of supportive services will be included in the LURA. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application will remain the same. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item.

Description of change: The change a minimum of five (5) corrects the scoring requirement in this item to reflect the addition of a six (6) point scoring option in (c)(4) Opportunity Index (proposed 10 TAC §11.9(c)(4)(A)(i)).

(4) Opportunity Index.

(A) (i) The Development Site is located in a census tract with income in the top quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement; ~~or for Elderly Developments, the Development Site has access to services specific to a senior population within 2 miles.~~ (7 points);...

(B)(i) ~~Except for an Elderly Limitation Development, t~~ The Development Site is located within the attendance zone ~~(or in the case of a choice district the closest)~~ of an elementary, middle, or high school that has achieved the performance standards stated in subparagraph (B); ~~or for Elderly Developments, the Development Site has access to services specific to a senior population within 2 miles.~~ (Note that if the school is more than 2 miles from the Development Site, free transportation must be provided by the school district in order to qualify for points. For purposes of this subparagraph only, any school, regardless of the number of grades served, can count towards points; however, schools without ratings, unless paired with another appropriately rated school will not be considered.) (3 points);

Description of change: These changes eliminates the potential combination with 11 points for Tenant Services to exceed the 12 points for Cost of Development per Square Foot (proposed 10 TAC §11.9(e)(2)) score criteria which statutorily must have a higher prioritized score. Other service references in Rural are not being changed because they refer to proximity to facilities rather than the provision of services

(5) Educational Excellence. ~~Except for Supportive Housing Developments, a~~An Application may qualify to receive up to five (5) points for a Development Site located within the attendance zones of public schools meeting the criteria as described in subparagraphs (A) ~~and (B)~~ - (C) of this paragraph, as determined by the Texas Education Agency. ~~A Supportive Housing Development may qualify to receive no more than two (2) points for a Development Site located within the attendance zones of public schools meeting the criteria as described in subparagraphs (A) and (B) of this paragraph, as determined by the Texas Education Agency.~~ An attendance zone does not include schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, in districts with district-wide enrollment an Applicant may use the rating of the closest elementary, middle, or high schools, respectively, which may possibly be attended by the tenants. The applicable school rating will be the 2015 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), middle schools (typically grades 6-8 or 7-8) and high schools (typically grades 9-12), the school will be considered to have the lower of the ratings of the schools that would be combined to meet those conventions. In determining the ratings for all three levels of schools, ratings for all grades K-12 must be included, meaning that two or more schools' ratings may be combined. For example, in the case of an elementary school which serves grades K-4 and an intermediate school that serves grades 5-6, the elementary school rating will be the lower of those two schools' ratings. Also, in the case of a 9th grade center and a high school that serves grades 10-12, the high school rating will be considered the lower of those two schools' ratings. Sixth grade centers will be considered as part of the middle school rating.

Description of change: This change clarifies and amends the change made as a result of public comment to limit a Supportive Housing Development to just two (2) of the five (5) points potentially available for Educational Excellence. As discussed in the reasoned response the cap on these points offsets the three point advantage Supportive housing developments receive for Rent Levels (proposed 10 TAC §11.9(c)(2)) and Tenant Services (proposed 10 TAC §11.9(c)(3)).

(6) Underserved Area. (E) A census tract that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development [serving the same Target Population](#) that remains an active tax credit development [or if it is serving the same Target Population then it has not received the allocation](#) within the past 10 years (1 point);

Description of change: Clarification was needed to ensure that a development would not be ineligible for the point if an existing tax credit development less than 10 years old targeting a different population existed in the same census tract.

(7) Tenant Populations with Special Housing Needs.(B)

(iv) The Development Site must be located in one of the following areas: Austin-Round Rock MSA, Brownsville-Harlingen MSA, [Corpus Christi MSA](#); Dallas-Fort Worth-Arlington MSA; El Paso MSA; Houston-The Woodlands-Sugar Land MSA; McAllen-Edinburg-Mission MSA; ~~Corpus Christi MSA~~; or San Antonio-New Braunfels MSA; and

Description of change: Corpus Christi MSA was added as a result of public comment, however it was not included in alphabetical order and therefore is being moved to be in alphabetical order.

(8) Aging in Place. (§2306.6725(d)(2) An Application ~~for an Elderly Development~~ may qualify to receive up to ~~three (3)~~[five \(5\)](#) points under this paragraph. ~~An Application for a Supportive Housing Development may qualify to receive up to two (2) points under subparagraph (A) only if no points are elected under subsection (c)(5) of this section (related to Educational Excellence).~~

~~(A) All Units are designed to be fully accessible (for both mobility and visual/hearing impairments) in accordance with the 2010 ADA Standards with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities”. (2 points). In addition to meeting all of the accessibility and design standards under Section 504 of the Rehabilitation Act and the 2010 ADA Standards (with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities”), the Applicant will include (3 points):~~

- (A) ~~(i)~~ Walk-in (also known as roll-in) showers of at least 30" x 60" in at least one bathroom in each unit;
- (B) ~~(ii)~~ 100% of units include blocking in showers/tubs to allow for grab bars at a later date if requested as a reasonable accommodation;
- (C) ~~(iii)~~ Chair or seat height (17-19") toilets in all bathrooms; and
- (D) ~~(iv)~~ A continuous handrail on at least one side of all interior corridors in excess of five feet in length.

~~(B) The Property will employ a dedicated full-time resident services coordinator on-site for the duration of the Compliance Period and Extended Use Period/Affordability Period. If elected under this subparagraph, points for service coordinator cannot be elected under subsection (c)(3) of this section (related to Tenant Services). For purposes of this provision, full-time dedicated is defined as an employee that is reasonably available exclusively for service coordination to work with residents during normal business hours at posted times follows (12 points):~~

Description of change: In order to comport with HB 3311, the limitation specific to an Elderly Development was removed in the first Supplement. In addition this item has been decoupled from the Educational Excellence (proposed 10 TAC §11.9(c)(5)) score criteria. The deletion of the 2 point in (B) also eliminates the potential combination with 11 points for Tenant Services to exceed the 12 points for Cost of Development per Square Foot (proposed 10 TAC §11.9(e)(2)) score criteria which statutorily must have a higher prioritized score.