



**Multifamily Finance Production Division  
Housing Tax Credit Program  
2004 Qualified Allocation Plan and Rules (QAP)  
Frequently Asked Questions & Answers**

---

*The following represent some of the more frequently asked questions and answers that have been received by the Multifamily Finance Production Division regarding the Housing Tax Credit (HTC) program at the application workshops and in writing since that time. Questions and answers are in order by QAP section. The final interpretation and application of the QAP is for the determination of the Department's Governing Board.*

**§50.3(47)(G) Ineligible Building Types**

Q1: Does the limitation for 1, 2, or 3 bedrooms under *Ineligible Building Types* apply to transitional housing Developments that only have 25% of the units in the Development designed solely for transitional housing for homeless persons?

A1: No. The limitation does not apply. The QAP exempts transitional housing developments from this requirement. The Department considers a development to be *transitional* if it would qualify for transitional points by having at least 25% of the property housing transitional families.

Q2: How should Applicant's round when calculating unit percentages for this section?

A2: For the purposes of this section, always round up. For example, pursuant to this section, a development cannot have more than 45% of the total units with two bedrooms. Therefore, on a 99-unit development, no more than 44 two-bedroom units are allowed. If the Applicant applied for 45 two-bedroom units, then the development would be comprised of 45.45% two-bedroom units, which would exceed the 45% two bedroom maximum and would therefore be ineligible.

**§50.5(a)(8), Ineligibility AND §50.6(f), Limitation of the Location of Developments**

Q1: When mapping for the purposes of defining "one linear mile", is the one mile distance measured from edge to edge of a development or by the development's coordinates as determined by the Department?

A1: First, the Department will utilize its mapped coordinates to evaluate developments within one linear mile. If the coordinates of a proposed development are close to the one mile restriction with another development, the Department will further research the boundaries of the properties to ensure that the closest edge of the proposed development is not within one linear mile of the closest edge of the other development. For information on mapping, contact Robbye Meyer at 512-475-2213.

## Housing Tax Credit Program - 2004 Application Cycle Frequently Asked Questions & Answers

### **§50.6(d)- Credit Amount**

Q1: How will the Department prorate the credit amount allocated for the Applicant, Developer, Related Party, or Guarantor in situations where an Application is submitted in the Rural Regional Allocation?

A1: The Department will take the greater of the entity's percentage of ownership in the development or the entity's percentage of the developer fee being received. That amount will be applied to the \$2 Million cap.

### **§50.6(f)- Limitation of the Location of Developments**

Q1: Does the one mile radius rule for allocating credits within one calendar year have an exception for the type of development being proposed?

A1: No. The rule does not differentiate by type of development. Staff will only recommend, and the Board may only allocate, housing tax credits to more than one Development in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. Therefore, an elderly development can not be awarded within one mile of a family development in the same calendar year in one of the four following counties: Bexar, Harris, Dallas and Tarrant.

### **§50.7(b)- Non-Profit Set-Aside**

Q1: At the November 2003 Board Meeting, staff recommended (and the Board agreed) that the description of a nonprofit under the set-aside definition would be the same as the one under Qualified Nonprofit Development - that "controlling" was the key, and that the nonprofit did not have to be the Sole General Partner. This change has not been picked up on Page 26 of the QAP where it talks about Nonprofit participation exhibit and references "sole general partner" and again in the legal opinion exhibit letter where it says "sole general partner." What will be the operative definition for nonprofits to be eligible for the nonprofit set-aside?

A1: §50.7(b)(1) of the QAP (regarding the description of the Nonprofit Set-Aside) and §50.3(66) of the QAP (the definition of a Qualified Nonprofit Development) both indicate that the Nonprofit entity must have the controlling interest in the Development to qualify in the Nonprofit Set-Aside. As those two references more fully govern the issue, and the two instances of the word "sole" are found in relation to exhibits (not actual definitions), the Department's interpretation will be that the nonprofit need only have the controlling interest. Both exhibits can be worded for "control" and will not be penalized for not utilizing "sole general partners."

### **§50.9(e)(1)- Required Pre-Certification and Acknowledgement Procedures**

Q1: Are Experience Certificates received in a prior application year still valid or do Applicants need to get re-certified this year?

A1: Because the requirements for experience have changed this year, all Applicants must be re-certified.

### **§50.9(f)(8)(B)- Public Notifications**

Q1: For the purposes of submitting evidence for this section at Pre-Application, §50.8(c)(3) of the QAP requires that the Applicant notify everyone under §50.9(f)(8)(B) and provide notice of such notification with the Pre-Application. Subpart (ii)(I) of §50.9(f)(8)(B) states that the city and county clerks (and subsequent neighborhood organizations identified by the clerks) are one of the parties that must be notified. However, that subpart also specifically states that the Applicant is not required to request a list of such organizations from the city/ county clerk until January 15, 2004,

## Housing Tax Credit Program - 2004 Application Cycle Frequently Asked Questions & Answers

which is after the Pre-Application due date. Does an Applicant submitting a Pre-Application still need to make the Clerk notifications under subpart (I) at the time of Pre-Application?

A1: Yes. The Department requires for Pre-Application Threshold that ALL notifications in paragraph (B) be made including subpart (I). The Clerk notifications are NOT exempt. At Pre-Application, all notifications to all entities described in §50.9(f)(8)(B) must be made and evidence must be submitted in the Pre-Application behind Tab PA4. However, the Department realizes clerks may not have responded to the request for information by the Pre-Application deadline. Therefore, if no response has been received from the City and/ or County Clerk by the submission of the Pre-Application, then the Applicant should include a clarifying statement to that effect behind Tab PA4. If responses from the clerks are received by the Applicant after the Pre-Application deadline, the Applicant will need to provide the response and the subsequent neighborhood organization notifications at the time the full Application is submitted.

Q2: What is a City Clerk? All Texas Counties have elected County Clerks, but we aren't aware of a City Clerk position, especially in small rural cities. There is usually a City Secretary that supports the Mayor and Council, but sometimes not even that. Who do we notify if there is no City Clerk?

A2: If there is no official title of City Clerk, the notification of individuals in a similar position who would be responsible for keeping information on neighborhood organizations would be required (for example a secretary to the City Council). However, for simplicity, applicants can address the letter to the City or County Clerk and allow the city to do whatever routing they feel is most appropriate.

Q3: §49.9(f)(8)(B)(ii) requires notification to the presiding officers of the governing bodies of the municipality and the county and to all elected members of the governing bodies of the municipality and the county. How extensive is this – does it include constables, etc.?

A3: The Department interprets the “presiding officer” of the governing body of the municipality to be the mayor and the “presiding officer” of the governing body of the county to be the county judge. The Department interprets “all elected members of the governing body” of the city and county to be all city council members and all county commissioners. Constables and other elected officials are not included.

Q4: Is a registered mail receipt from the US Postal service acceptable as evidence of notification for the purposes of this section?

A4: Pursuant to the QAP, proof of delivery can be in the form of a signed certified mail receipt, signed overnight mail receipt, or confirmation letter from the official. The Department will accept a mail receipt only if it has been signed as being received. The Department will accept Federal Express overnight receipts printed from the Internet if the receipt confirms that the document was signed for and delivered.

Q5: For the HTC Applications associated with Tax Exempt Bond Developments, by when must the notifications to the clerks be sent out since the January 15 date is not applicable? When must all other Public Notifications under this section be sent out?

A5: For HTC Applications associated with Tax Exempt Bond Developments, the clerk notifications must be sent out within 15 business days of the date of the reservation. All other notifications must be made prior to the submittal of Volume III and VI of the application.

## **Housing Tax Credit Program - 2004 Application Cycle Frequently Asked Questions & Answers**

### **§50.9(f)(8)(C)- Signage on Property or Alternative**

Q1: Is the signage requirement required at Pre-Application?

A1: No. Only notifications and evidence as required by §50.9(f)(8)(B) are required to be submitted at Pre-Application. Signage evidence or evidence of the alternative are not due until full Application.

Q2: If an Applicant is electing the alternative to signage and mailing notifications “to all addresses” as required and there is an apartment complex in that required notification radius, is the Applicant required to notify all units in the complex or just the main office?

A2: The Applicant is required to mail notifications to “all addresses” in the area meaning every unit in the complex. Similarly, the Applicant would also notify all offices in a commercial office building.

### **§50.9(f)(14)- Supplemental Threshold Reports**

Q1: How many copies of the Market Study, Environmental Site Assessment and Appraisal are required for submittal?

A1: Only one of each.

Q2: For Applicants submitting an HTC application associated with Tax Exempt Bond Developments, are the third party reports allowed to be submitted after Volume III is submitted (since the 9% credit Applicants are permitted to submit these one month after their Volume III)?

A2: No. All third party reports must be submitted at the same time that Volumes III and VI of the Application are submitted.

### **§50.9(g)(2)(B)- Quantifiable Community Participation**

Q1: Multiple questions have been asked on whether specific entities or groups count as neighborhood organizations and how they will be score.

A1: Guidelines are currently being generated which will address in greater detail how the Department will score Quantifiable Community Participation. It is anticipated that this document will be released prior to February 1, 2004.

Q2: For the purposes of this section, does “on record with the county or state in which the development is proposed” include a homeowner having a property deed recorded with the county in which a neighborhood organization is referred to within the deed?

A2: Yes, if the neighborhood organization’s letter and evidence includes a copy of the recorded deed showing the neighborhood organization is on record with the county. Note that the submission from the neighborhood organization would still need to meet all other requirements of this section of the QAP.

### **§50.9(g)(4)(A)(viii)- Proximity of Site to Amenities**

Q1: If land is donated for a city park as part of the development, does that count as having a park within 1 mile of the development for the application points?

A1: No, the park must be established at the time of application.

## Housing Tax Credit Program - 2004 Application Cycle Frequently Asked Questions & Answers

### **§50.9(g)(4)(B)- Negative Site Features**

Q1: What is an “active railroad” as stated in this section?

A1: A railroad with any activity of passing railroad cars.

Q2: What is a “high voltage transmission power line”?

A2: Any power line defined as “high voltage” by the Development’s local utility provider.

Q3: Does an “Interstate Highway” include Texas Highways?

A3: No, because they are not specifically mentioned in the QAP, Texas Highways would not be considered Interstate Highways.

Q4: What is “heavy industrial use”?

A4: If locally zoned as “heavy industrial”, the points will be deducted for this item. If a city does not have local zoning, the applicant should elect points for this deduction based on their own judgment. Final determination in these cases will be made by the Department during the site inspection.

Q5: What is a “sanitary landfill”?

A5: A sanitary landfill is a landfill designated as such by the city or county in which the development will be located.

### **§50.9(g)(6)(C)- Community Support from Local Officials**

Q1: If an application receives a letter of opposition from a mayor (-3 points) and a resolution from the City Council (+3 points), what will the score for this item be?

A1: The score will be zero (0) as each item will negate the other. It should be noted that the Board will still be provided a summary of both instances of public input.

### **§50.9(g)(7)(A)- Square Footage Minimums**

Q1: For the purposes of unit square footage minimums, is the square footage based on the gross or the net square footage?

A1: The net square footage.

### **§50.9(g)(7)(B)- Cost Per Square Foot**

Q1: Does the \$73 per square foot maximum for elderly and transitional developments apply to transitional housing Developments that only have 25% of the units in the Development designed solely for transitional housing for homeless persons?

A1: Yes. The points would be permitted. The Department considers a development to be *transitional* if it would qualify for transitional points by having at least 25% of the property housing transitional families.

### **§50.9(g)(12)- Low Income Targeting**

Q1: Provide an example of the highest score possible for a 100-unit, 100% Housing Tax Credit development that is not receiving any points for 30% units under §50.9(g)(13)?

A1: The following is an example of the highest score possible for a 100-unit 100% HTC development under **Weight B**.

**Housing Tax Credit Program - 2004 Application Cycle Frequently Asked Questions & Answers**

% of AMGI	# of Rent Restricted Units (a)	Percentage of Rent Restricted Units (a/b)	Weight A	OR	Weight B	Points
50%	<u>(a) 25</u>	<u>25%</u>	X <u>10</u>		<u>15</u>	<u>3.75</u>
40%	<u>(a) 15</u>	<u>15%</u>	X <u>20</u>		<u>30</u>	<u>4.5</u>
					<b>TOTAL POINTS=</b>	<u>8.25</u>
TOTAL LI TARGETED UNITS* <u>(b) 100</u>					<b>ROUNDED TOTAL POINTS =</b>	<u>8</u>

\*Includes all Low Income Units

Q2: On the Low Income Targeting Points in Paragraph 12, does the limitation on no more than 40% of the total number of low income units serving units at 50% of AMGI or below and the limitation on no more than 15% of the total number of low income units serving units at 40% of AMGI or below apply in calculating the numerator? What about the denominator? On a 100-unit 100% HTC Development, in which an applicant is requesting the maximum points under Paragraph (13), which is 9% at 30% of AMGI (9 units), are the 9 units included in your 40% or 15% max?

A2: The 30% units claimed under Paragraph (13) must be deducted from the permitted number of units so that with the 30% units added in, the limitations are not exceeded. Therefore, they are excluded from the numerator (but still restrict the cap). They are included in the denominator. The 9 units at 30% can not be counted for points in the Low Income Targeting for 40% or 50% units in your example. The table below reflects this response utilizing **Weight B**.

% of AMGI	# of Rent Restricted Units (a)	Percentage of Rent Restricted Units (a/b)	Weight A	OR	Weight B	Points
50%	<u>(a) 25</u>	<u>25%</u>	X <u>10</u>		<u>15</u>	<u>3.75</u>
40%	<u>(a) 6</u>	<u>6%</u>	X <u>20</u>		<u>30</u>	<u>1.8</u>
					<b>TOTAL POINTS=</b>	<u>5.55</u>
TOTAL LI TARGETED UNITS* <u>(b) 100</u>					<b>ROUNDED TOTAL POINTS =</b>	<u>6</u>

\*Includes all Low Income Units

Q3: What would be the appropriate unit mix needed for an applicant that wants to maximize their points for mixed income points under §50.9(g)(7)(F), Low Income Targeting for 40% and 50% Units under §50.9(g)(12) and Low Income Targeting for 30% units under §50.9(g)(13)?

A3: The following is a maximum point sample of a 100-unit, mixed income development. The Development receives the maximum points for mixed income units (80% of the units are market rate for 8 points), the maximum for 30% units (9% of the total units are at 30% AMGI for 12 points), and the maximum points for the 40% and 50% units in **Weight B**. **Note: The 9 units at 30% awarded under §50.9(g)(13) are not shown in the table, but calculations are appropriately made for their deductions.**

**Housing Tax Credit Program - 2004 Application Cycle Frequently Asked Questions & Answers**

<b>% of AMGI</b>	<b># of Rent Restricted Units (a)</b>	<b>Percentage of Rent Restricted Units (a/b)</b>	<b>Weight A</b>	<b>OR</b>	<b>Weight B</b>	<b>Points</b>
50%	<u>(a) 20</u>	<u>25%</u>	X <u>10</u>		<u>15</u>	<u>3.75</u>
40%	<u>(a) 3</u>	<u>3.75%</u>	X <u>20</u>		<u>30</u>	<u>1.125</u>
					<b>TOTAL POINTS=</b>	<u>4.875</u>
TOTAL LI TARGETED UNITS* <u>(b) 80</u>					<b>ROUNDED TOTAL POINTS =</b>	<u>5</u>
*Includes all Low Income Units						

**§50.9(h)(1)(B)- Tie Breaker Factors**

Q1: It would seem that the 2<sup>nd</sup> tie breaker under this section for “number of points awarded for amenities under subsection (g)(7)(D) of this section”, is unfair to smaller developments because the total points will naturally be lower than the larger Developments who have a higher threshold.

A1: Total points will not be compared. Only points that are awarded for additional amenities beyond threshold will be considered for this section. Thus, there is no unfair advantage.

**Tax Exempt Bonds (for Applicants with TDHCA as the Issuer)**

Q1: When should my Volume VI be submitted to the Department?

A1: The Volume VI, which is the additional documentation required for those Tax Exempt Bond Developments using TDHCA as their Issuer must be submitted with Volume III.

**In General:**

Q1: There is some confusion about what QAP a forward commitment falls under. What QAP do the 2004 Forward Commitments (that applied in 2003 under the 2003 QAP) fall under?

A1: The 2004 Forward Commitments (that applied in 2003 under the 2003 QAP) are actually held to the 2004 QAP. Whenever forward commitments occur they are held to all aspects of the year that the credits come from (NOT the year the Board decision is made). This applies to 4% and 9% credits. The 2004 Forward Commitment are currently being reviewed to ensure consistency with the 2004 QAP.